



## Equality Commission for Northern Ireland

### Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment

December 2011

#### 1. Introduction

- 1.1 The Equality Commission for Northern Ireland ("the Commission") is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
- 1.2 The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 and the positive disability duties.
- 1.3 Further, the Commission has also been designated to act as an 'independent mechanism' jointly with the Northern Ireland Human Rights Commission, to promote awareness of, and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities with regard to Government's obligations in relation to Northern Ireland.
- 1.4 The Commission welcomes the opportunity to respond to the Department for Social Development's (the Department) public consultation on the Equality Impact Assessment for the Welfare Reform Bill (Northern Ireland) 2011. Our response addresses the following:
  - A consideration of the broad policy aims of the Welfare Reform Bill (Northern Ireland) 2011 (the Bill); and
  - The potential impact of welfare reform in an economic downturn
  - The extent to which the Impact Assessment is carried out in a manner consistent with the principles enshrined in our *Practical Guidance on Equality Impact Assessment*.

1.5 Our response is also focused on a number of selected policy issues addressed in the EQIA, where these have identifiable equality implications, in accordance with our priorities. This response therefore also includes consideration of:

- Universal Credit;
- Housing Benefit Cap;
- Lone Parent Conditionality; and
- Disability Living Allowance Reform

## **2. Policy aims of the Welfare Reform Bill (Northern Ireland) 2011**

2.1 While the Commission agrees with the policy aim to *'seek to make the social security system fairer, more affordable and better equipped to deal with poverty and welfare dependency'*, we recommend that the Department reconsiders and clarifies the statement that *'by accepting personal responsibility for our individual circumstances, it is considered that each person has the ability to improve their situation'*.<sup>1</sup> It is recognised and widely evidenced that many barriers to employment exist for groups, including women, older people and people with disabilities. These barriers are often institutional or societal, and without appropriate support, it is incorrect to assume that everyone has the ability to improve their situation. Unfortunately, within this consultation document we are unable to see what additional measures the Northern Ireland Government will put in place to assist these individuals into skilled and well paid employment to ensure that welfare reform does not simply increase their experience of poverty and social exclusion.

2.2 The overarching intention *"to promote the fact that work always pays and to incentivise individuals to enter the labour market"* is of merit. We welcome any supportive measures from Government that will have the effect of improving access to employment for traditionally marginalised and excluded groups. However, the Commission is genuinely concerned that many of the proposed measures may have the effect of creating further poverty, particularly for already traditionally marginalised groups in Northern Ireland.

## **3. The potential impact of welfare reform in an economic downturn**

3.1 At a United Kingdom level, despite the current economic recession, the number of children in poverty among workless families fell during the

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<sup>1</sup> Department for Social Development (2011): *Equality Impact Assessment for the Welfare Reform Bill* (Northern Ireland) page 16.

period 2008-09, but those from working families rose slightly. Therefore, access to work is not necessarily the sole measure by which poverty can be reduced. The annual report on poverty and social exclusion by Joseph Rowntree Foundation and the New Policy Institute concluded that the Government faced a number of challenges including in-work poverty, the number of children/young adults with few/no qualifications, young adult unemployment, health inequalities, and low income households' lack of access to essential services<sup>2</sup>.

- 3.2 A key issue arising from the Commission's own research<sup>3</sup> suggests that the issue of welfare reform combined with the recession will have a serious impact on those already vulnerable in the labour market; in particular, the long term unemployed, disabled people, lone parents, young unemployed, and older workers. Of significant concern is the emphasis on conditionality and sanctions and benefit cuts as opposed to the need for investment in the support infrastructure needed to assist people to access work, such as affordable and flexible childcare to help lone parents find sustainable employment<sup>4</sup>. The Department's equality impact assessment consultation paper provides no substantive analysis of the proposals nor does it provide any real consideration of the potential adverse impact.
- 3.3 While recognising and endorsing parity, the consultation document does not consider the changes in the context of Northern Ireland policy and legislation not subject to parity. For example, unlike England and Wales where the Childcare Act 2006 imposes a duty on local authorities to

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<sup>2</sup>Parekh, A., MacInnes, T. and Peter Kenway (2010), *Poverty and Social Exclusion Report 2010*, concluded that despite the current recession, the number of children in poverty in workless families fell in 2008/09, to 1.6m, the lowest since 1984, but those in working families rose slightly to 2.1m, the highest on record the thirteenth annual report in the Monitoring poverty and social exclusion series. See link <http://www.jrf.org.uk/sites/files/jrf/poverty-social-exclusion-2010-summary.pdf>

<sup>3</sup>McQuaid, R., Hollywood, E. and Canduela, J. (July 2010): *Employment Inequalities in an Economic Downturn* (ECNI). The overall aim of this research was to: update understanding of the effect of the economic downturn on the employment status and prospects of relevant groups across the nine equality grounds in Northern Ireland (NI). It was carried out by the Employment Research Institute at Edinburgh Napier University for the Equality Commission Northern Ireland. <http://www.equalityni.org/archive/pdf/EconDownturnSummaryReport.pdf>

<sup>4</sup>NI Welfare Reform Group (July 2011): *Briefing Paper - Welfare Reform Bill, Second Reading House of Lords*, page 4. <http://www.lawcentreni.org/Publications/Policy%20Briefings/WelfareReformGroupHoL.pdf>. Evidence suggests that forcing lone parents of children under 5, the majority of whom are as the consultation paper acknowledges are women, would have an adverse impact on both the parent and the child / and older siblings - limiting educational and training opportunities to enable good quality work opportunities as opposed to a low pay unskilled job, as well address the need for quality child care that meets the 'best interests' of the child. It should also be noted the correlation between low income families and the increased likelihood of child poverty. Save the Children research points out that 21% of children in Northern Ireland live in persistent child poverty which is double the GB percentage rate, and severe child poverty stands at 40,000, almost 10%.

identify and meet childcare needs, Northern Ireland has no corresponding childcare legislation. There is thus no statutory requirement for the provision of childcare in Northern Ireland where it is recognised that the situation on both availability and affordability of childcare is the worst in the UK<sup>5</sup>. Whilst the proposals indicate that some flexibility can be included for lone parents<sup>6</sup>, it is not clear how this will be determined and how such a discretionary measure will be delivered fairly.

#### 3.4 The Commission wishes to bring the following statistics to the Department's attention in respect to employment, unemployment and economic inactivity in Northern Ireland:

- The seasonally adjusted figures for Northern Ireland show that the economic inactivity rate for people aged between 18-64 currently stands at 26.6 per cent which is 2.3 percentage points lower than the rate 5 years ago which was at an all time high of 28.8 per cent. However, Northern Ireland has the highest economic inactivity rate of all regions in the UK (UK average 23.2 per cent)<sup>7</sup>.
- UK-wide research concluded youth unemployment (16-24 year olds) was at 20.0 per cent<sup>8</sup> in 2010; the highest figure in 18 years. The statistic was slightly higher in Northern Ireland at 20.4 per cent youth unemployment<sup>9</sup>. Our own research concludes that the Welfare Reform proposals are likely to impact on single people, the greatest group largely composed of young people<sup>10</sup>.
- Prior to the current recession disabled people were twice as likely to be unemployed as non-disabled people<sup>11</sup> - this statistic is unlikely to change in the current economic climate. Over 184,500 people in Northern Ireland currently receive Disability Living Allowance (DLA), representing 10.3 per cent of working age population in Northern Ireland - approximately twice the level in GB<sup>12</sup>. Furthermore, disabled people have a tendency to be over-represented in entry level jobs and

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<sup>5</sup> Employers for Childcare Charitable Group (2011): *Northern Ireland Childcare Cost Survey 2011* <http://www.new.killercontent.net/media/EmployersForChildcare/Website%20Version%20-%20Childcare%20Cost%20Survey%202011.pdf>

<sup>6</sup> Department for Social Development (2011), op cit., page 59 paragraph 1 and page 60 paragraph 1.

<sup>7</sup> Department of Finance and Personnel (2011) *Labour Force Survey 2011 1<sup>st</sup> Quarter* [http://www.detini.gov.uk/lfs\\_quarterly\\_supplement\\_-\\_april\\_-\\_june\\_2011\\_with\\_logo\\_.pdf](http://www.detini.gov.uk/lfs_quarterly_supplement_-_april_-_june_2011_with_logo_.pdf)

<sup>8</sup> Parekh, A., MacInnes, T. and Peter Kenway (2010) op cit.

<sup>9</sup> McQuaid, R., Hollywood, E. and Canduela, J. (July 2010) op cit., page 39.

<sup>10</sup> Ibid page 97

<sup>11</sup> ECNI (2007): *Statement on Key Inequalities*, page 12.

[http://www.equalityni.org/archive/pdf/Keyinequalities\(F\)1107.pdf](http://www.equalityni.org/archive/pdf/Keyinequalities(F)1107.pdf)

<sup>12</sup> Department for Social Development (August 2010): *Disability Living Allowance Statistics – Summary of Statistics* [http://www.dsdni.gov.uk/dla\\_publication\\_august\\_10.xls](http://www.dsdni.gov.uk/dla_publication_august_10.xls)

under-represented in higher level occupations which is evidence that employment in itself is not a quality indicator of a reasonable level of income<sup>13</sup>.

- While the unemployment rate in Northern Ireland is lower at present than the UK average, our own research indicates that continuing redundancies in the public sector will have a significant impact on women who make up the greater number of employees in the public sector. Most economists agree that the economy is overly dependent on the public sector and that redundancies in this area are set to continue for some time. As a result, Northern Ireland is likely to experience the highest level of unemployment throughout the UK. There is also a growing consensus among leading economists that Northern Ireland will take much longer to come out of the current economic recession because of its over reliance on the public sector in comparison with all other regions in the UK.
- The proportion of lone parents in employment in Northern Ireland is well below the average for the United Kingdom, with female lone parents at the highest risk of poverty. Only one in seven lone parents in Northern Ireland are currently working. This is a smaller proportion of lone parents than for any other region within the United Kingdom<sup>14</sup>.
- Welfare Reform proposals will also place significant demands on other people with dependents Parents with one or more children will be obliged to seek and find employment, requiring them to access high quality affordable childcare. However, unlike England and Wales where the Childcare Act 2006 imposes a duty on local authorities to identify and meet childcare needs, Northern Ireland has no corresponding childcare legislation and, therefore, there is no statutory obligation on the part of local or public authorities to provide high quality affordable childcare. Broadly, the consultation paper does not fully recognise the often complex and individual needs of children and/or the flexibility required by all parents, including those on low incomes and in receipt of benefits, both to work and to raise a family<sup>15</sup>.

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<sup>13</sup> McQuaid, R., Hollywood, E. and Canduela, J. (July 2010) op cit., page 62.

<sup>14</sup> Equality Scheme for Office of the First Minister and deputy First Minister (draft) (2011), Para 1.10, page 67. [http://www.ofmdfmi.gov.uk/ofmdfm\\_equality\\_scheme\\_sept\\_2011.pdf](http://www.ofmdfmi.gov.uk/ofmdfm_equality_scheme_sept_2011.pdf)

<sup>15</sup> Northern Ireland Welfare Reform Group (2011): *Joint Briefing Paper– Welfare Reform Bill 2<sup>nd</sup> Reading House of Lords*, page 6. The Briefing also noted that between 2002-2009 the overall number of daycare places in Northern Ireland fell by 6% and further added that the decrease of the Childcare element of the Working Tax Credit from 80-70% from April 2011 was also having an adverse impact on low income family households.

<http://www.lawcentreni.org/Publications/Policy%20Briefings/WelfareReformGroupHoL.pdf>

- The Commission is also concerned that the Welfare Reform proposals are likely to undermine the UK Government’s commitment to its international obligations, with respect to the impact of these reforms on children (arising from the conditionality requirement on lone parents) and disabled people. Specifically Government’s obligations under the United Nations Convention on the Rights of Persons with Disabilities (e.g. Article 19 Independent Living) and the United Nations Convention on the Rights of the Child (Article 3) which requires government to consider the ‘best interests’ of the child in all actions that impact on children.
- Also, statistics show older people currently in receipt of welfare support are unlikely to find it easy to return to the job market. The emphasis on finding employment for younger workers may detract from government’s efforts to find suitable employment for those other benefit recipients under pension age<sup>16</sup>.

#### **4. Comments on the Equality Impact Assessment process**

- 4.1 First of all we wish to point out that (in Chapter 1 of the EQIA) the text of Section 75 has not been quoted correctly.
- 4.2 Section 75 (1) requires that public authorities, when carrying out their functions relating to Northern Ireland, have due regard to the need to promote equality of opportunity between the listed groups. The term “due regard” was intended to be, and is, stronger than regard. Every public authority is required by the statute to take these specific matters properly into account and to give them the required weight when carrying out its functions relating to Northern Ireland.
- 4.3 Section 75 (2) requires that a public authority shall have regard to the desirability of promoting good relations.

#### **General**

- 4.4 The Commission acknowledges that the structure of the consultation document follows the 5 steps of the 7 steps process for Equality Impact Assessments as detailed in the Commission’s *Practical Guidance on*

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<sup>16</sup> McQuaid, R., Hollywood, E. and Canduela, J. (July 2010) op cit., page 44. The research also notes that older people are likely to face discrimination from employers when trying to return to work after redundancy and that there was also evidence of a lack of flexible working conditions for older people compared to other age groups. It is likely there will be a higher percentage of older unemployed people as the ongoing redundancies in the Northern Ireland public sector take effect and this presents particular challenges for government, for while older people are valued while they are in work after redundancy or loss of occupation statistics show a lower rate of return to employment for the above reasons (page 43).

*Equality Impact Assessments.* This process, however, is not an end in itself and we have considerable concerns regarding the way in which some of the steps have been completed.

- 4.5 The aim of an equality impact assessment to identify any potential adverse impacts and take steps to address these. Therefore, the consideration of mitigating measures and alternative policies is at the heart of the EQIA process as it is the outcomes from an enhanced policy that are of primary concern. Unless different options can be developed for delivering the policy aims, options which have a less adverse effect on or which better promote equality of opportunity for the relevant equality category, an equality impact assessment remains a ‘box-ticking’ exercise.
- 4.6 The Commission is aware that the prevailing view of parity is that it applies both to the rate of benefits and the conditions for receipt of benefits. However, the legislation does not *require* social security parity, but does signal the *desirability of providing coordinated systems* of social security.<sup>17</sup> Social security remains a transferred matter with separate primary and secondary legislation with its own separate administrative arrangements.
- 4.7 The Committee for Social Development was advised by DSD that “[u]nder the Northern Ireland Act 1998 and the principle of parity [...] we will bring forward a Northern Ireland-specific Welfare Reform Bill in 2012 [emphasis added]. That will be the enabling legislation, which will then need to be followed by detailed regulations on a number of the points in it.”<sup>18</sup> We do not see however, how the subsequent proposals contained in the consultation document are Northern Ireland-specific.
- 4.8 We would also query why there are no proposals contained in the document for a replacement scheme for the Social Fund or possible arrangements for the Northern Ireland equivalent of the Council Tax Benefit (by way of parity with GB arrangements), despite the fact that the Westminster Welfare Reform Bill proposes to remove this discretionary fund from the ambit of social security.
- 4.9 The Commission appreciates that, due to the financial implications of breaking parity and other reasons,<sup>19</sup> there is limited scope for Northern Ireland to depart significantly from the current Westminster proposals. However, it is the Commission’s firm view that wherever “breathing

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<sup>17</sup> Law Centre (NI).Committee for Social Development (2011): *Parity – Legislation – Social Security Parity – a Note for the Social Development Assembly Committee from the Law Centre (NI)*.

<sup>18</sup> Heather Cousins, DSD quoted from Committee for Social Development Official Report (Hansard) Welfare Reform Bill: Social Security Agency, 10 November 2011.

<sup>19</sup> As outlined in Department of Social Development (2011): *Committee for Social Development ‘Parity – Legislation; Understanding “Parity” – Departmental Briefing Paper*.

space”<sup>20</sup> between the two systems can be developed, this should be done. Furthermore, it should be done on the basis of a thorough and comprehensive equality impact assessment.

- 4.10 Therefore, the Commission considers it crucial that the Department is absolutely clear about the extent to which the policy options presented in the EQIA can still be altered/amended in light of the outcomes of the EQIA and what the possible alternative policy options are. Clearly setting out the available policy options in the EQIA would ensure a more effective focus by consultees on those issues where a positive difference can still be made.
- 4.11 The Commission notes the Minister’s comments that “[i]t is difficult to be clear about the precise impact at this stage. Any precise measurement will be very difficult until we are further down the track and have seen more detail on the precise changes being made”<sup>21</sup> The Commission’s guidance *Section 75 of the Northern Ireland Act 1998- A Guide for Public Authorities* (ECNI: 2010) advises that “*For more detailed strategies on policies that are to be oput in place, through a series of stages, a public authority should then consider screening at various stages during implementation*” (page 52).

#### **Consideration of available data and research**

- 4.12 In order to determine how the proposed policies will impact on people on the ground, it is essential to gather and consider a wide range of qualitative and quantitative data. Given that the current welfare reform will have major impacts for the people of Northern Ireland [a recent report by the Institute of Fiscal Studies found that Northern Ireland as one of the poorest regions of the UK will inevitably be hardest hit from the welfare cuts <sup>22</sup>] the data considered by the Department is extremely limited.
- 4.13 We have already highlighted some additional data sources [see above at 3.4]. But there are many more that should be considered, in particular data specific to issues of poverty and deprivation. Existing quantitative data constitutes only a minimum base from which to judge the impacts and outcomes of a policy and the Commission is particularly concerned that qualitative data is completely absent from the current document.

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<sup>20</sup> Law Centre (NI) op cit.

<sup>21</sup> Minister for Social Development , Nelson McCausland, during NI Assembly Debate on 15 November 2011; <http://www.theyworkforyou.com/ni/?id=2011-11-15.3.25>

<sup>22</sup> James Browne, *The Impact of Tax and Benefit Reform to be introduced between 2010/11 and 2013/14 in Northern Ireland* , Institute of Fiscal Studies Briefing Note 114, p 5, available at <http://www.ifs.org.uk/bns/bn114.pdf>

We would query why the wealth of qualitative information provided by sectoral groups since the Welfare Reform Bill and its implications for NI were first debated well over a year ago have not been considered in the EQIA.

- 4.14 We are also concerned that the Department has not taken any steps to address the existing data gaps it has identified in relation to religious belief, political opinion, racial background and sexual orientation. It is not acceptable for an EQIA to merely record that no data are available<sup>23</sup>. Furthermore, in the absence of any data no comments can be made on potential effects. It is incorrect to simply assume that “social security benefits are paid to individuals on the basis of entitlement and conditions which are in no way affected by affiliation to any of these 75 categories.” [page 23 of consultation document; emphasis added. Indeed, previous analyses suggest that characteristics like religious belief, political opinion, racial background or sexual orientation can put individuals at higher risk of exclusion and poverty<sup>24</sup> which in turn could impact on an individual’s need for support through social security benefits.

#### **Assessment of impacts**

- 4.15 While the Commission appreciates that assessing the impacts of a policy can be particularly challenging, we wish to emphasise again that a proper analysis of the impacts of the proposed policy is at the core of any EQIA, the purpose of which is to identify any potential negative impacts and take steps to address these. The Commission is therefore particularly concerned with the minimalist approach taken by the Department to this part of the EQIA.
- 4.16 The Minister himself has admitted that “[t]here will, undoubtedly, be a major impact”,<sup>25</sup> yet the Department’s equality impact assessment consultation paper provides no substantive analysis of the impact of the proposals or any real consideration of the potential adverse impact.
- 4.17 In fact, in some instances, no assessment is made at all.<sup>26</sup> Instead, the Department relies heavily on percentage figures and statistical information, often simply focussing on whether or not a particular group is more or less likely to be affected. But while establishing a

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<sup>23</sup> ECNI (2005): *Practical Guidance on Equality Impact Assessment*, paragraph 2.9, page 14.

<sup>24</sup> See, for example OFMDFM (2006): *Lifetime Opportunities*, p. 81; and: [http://www.stonewall.org.uk/what\\_we\\_do/research\\_and\\_policy/2880.asp](http://www.stonewall.org.uk/what_we_do/research_and_policy/2880.asp)

<sup>25</sup> Minister for Social Development, Nelson McCausland, during NI Assembly Debate on 15 November 2011; <http://www.theyworkforyou.com/ni/?id=2011-11-15.3.25>

<sup>26</sup> Department for Social Development (2011), op cit., for example, page 38: Persons with /without dependants; page 58: Lone Parent Conditionality and persons with/without a disability.

differential impact is a starting point, the focus of the EQIA should in the first place be on potential adverse impacts. Figures alone do not provide any information on the nature of the effect nor do they provide reasons or explanations for difference.

- 4.18 The document, for example, states that “As there is a higher number of single male claimants, any change to Housing Benefit can reasonably be expected to have a greater impact on male claimants.”<sup>27</sup> But no information is provided as to what this may actually mean for the affected group. But, as we highlight further down in our response (see below at 5.4) claimants, for example, who are the non-primary carer (in most cases a father) who has separated / divorced from their partner / spouse will be unable to exercise their right of access to their family as a result of moving to single room accommodation – in other words, a parent will not be able to accommodate their children overnight.
- 4.19 Similarly, the fact that certain changes will apply irrespective of a particular characteristic does not mean that therefore the impact will be neutral for this group. Such characteristics could, directly or indirectly, either exacerbate negative effects on the individual or, in some cases, they may have a positive effect. This is highlighted in the contradiction contained in the assessment of the impacts of the time-limiting of contributory employment and support allowance at 7.4, page 43. On the one hand the document states with respect to the Marital Status category that it is not envisaged that the proposed changes present any inequitable treatment on the grounds of marital status yet on the other hand, as noted in the paragraph above with respect to the age category, it is assumed that older recipients are likely to have e.g. a working partner and thus will not be left without income.
- 4.20 The assessments also fail to consider the cumulative effect the different proposals could have on individual groups. For example, the combined effect of the benefit cap and housing policies could be significantly adverse for those affected, particularly for families with children but this has not been assessed.
- 4.21 Similarly, Disability Living Allowance, which is a passport to other benefits, including Carers Allowance, is considered in this consultation. While we know that Disability Living Allowance claimants are comprised of approximately equal numbers of males and females, there are significantly more women than men claiming Carers Allowance. Again, the impact of this has not been assessed.

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<sup>27</sup> Ibid. page 34.

- 4.22 As was pointed out to the Committee for Social Development<sup>28</sup>, the welfare reform agenda has seen an increasing interdependency between social security and areas which are the responsibility of other Departments. This has been particularly apparent in areas which fall to the Department for Work and Pensions in GB but which fall to several Departments in Northern Ireland, for example, work-focused interviews (DEL), health and safety at work (DETI) etc. It was also highlighted that increasingly, there are interdependencies with a number of other areas, for example, health and affordable child care.
- 4.23 However, there is little concrete evidence in this impact assessment of Departments “currently working together to address issues arising from further proposals for welfare reform”.<sup>29</sup>

### **Mitigating measures/ alternative policies**

- 4.24 As we have already pointed out above, the consideration of mitigating measures and alternative policies is at the heart of any EQIA process. Where negative impacts are identified, a course (or courses) of action should be considered in order to moderate or lessen any such impacts.
- 4.25 The Commission is therefore extremely concerned about the high number of assumptions, expectations and vague possibilities which are put forward as mitigating measures, without any evidence to support these.<sup>30</sup>
- 4.26 Furthermore, on a couple of occasions the document states that the Department is currently considering what mitigating measures might be necessary or available<sup>31</sup> without providing any detail on what these might look like.

No detail is provided on how the social protection fund and other mechanisms could be utilised to ensure that the already vulnerable will not be further disadvantaged and marginalized by these proposals

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<sup>28</sup> Department of Social Development (2011), op. cit.

<sup>29</sup> Ibid.

<sup>30</sup> Department of Social Development (2011) op. cit., for example on page 35: “*the change could act as a stimulus [...]*”; page 43: assumption that older recipients “*will generally either have a working partner or capital over £ 16,000*”; pages 46 and page 59: support to continue to move towards work assumes that jobs are readily available; page 58 : “*there is a possibility that younger lone parents are likely to have more recent experience of the labour market*” ; page 60: “*it is envisaged that flexibilities and operational easements in place will ensure that no one will be penalised [...]*”.

<sup>31</sup> Department of Social Development (2011),op. cit., for example pages 28, 29.

## **Formal consultation**

- 4.27 The Commission appreciates that the consultation document is available in a number of alternative formats. We are concerned, though, that the Department has restricted responses to those made in writing or by email and that no provision seems to have been made for face- to-face engagement with consultees, in particular those who may find it difficult or daunting to provide their views in a written document.
- 4.28 The Department will be aware that as part of the process of considering the potential impact of the Welfare Reform policies there is a requirement in accordance with equality scheme commitments for the Department to consult directly with affected groups and provide evidence of the contribution in the development of these proposed measures. What effort has the Department made to ensure maximum access of those equality groups affected by the proposals, such as disabled people, children and young people or carers?
- 4.29 As regards the list of consultees, we would note the following:
- the list still includes Economic Research Institute for Northern Ireland (abolished) and the Civic Forum (suspended)
  - it includes neither the Older Persons Commissioner or the Older Persons Advocate
  - MLAs are not included
  - only women in greater Belfast area seem to be included
  - the Presbyterian Church does not seem to be included

## **5. Policy Issues**

- 5.1 The Commission strongly disagrees with the Department's view that "many provisions proposed, e.g. increased conditionality, are not considered as having a direct equality impact on benefit customers and merely facilitate the establishment of the legislative framework under which a number of the proposals [...] will be introduced." [p 23 of consultation document]
- 5.2 Below are our comments on selected aspects of the proposed reform and the impacts they may have.

### **Universal Credit**

- 5.3 The Commission welcomes the aim of the reform to simplify the benefits system. However, we are concerned that the equality impact assessment has not identified the negative impact on women. Paying the new

Universal Credit to the main earner following joint claim and joint assessment will, in many instances, leave women without income. Payment of benefit to women in their 'caring for dependents role' was an important social security reform introduced in the 1970's. It was considered necessary to allow certain benefits, including Child Benefit, to be paid to women, recognising that women more readily spend on children and the household essentials. We expect the Department to consider this matter.

- 5.4 This position is made more serious given the cuts in Child Benefit and in the childcare element of Working Tax Credit already planned.
- 5.5 We are concerned that no consideration appears to be given to weekly payments of Universal Credit where that is preferred. Weekly payments would be a no or low cost provision that would assist those families on the least income<sup>32</sup>.

### **Housing Benefit Cap – Social Housing Rented Sector**

- 5.6 From the 1<sup>st</sup> of April 2013, it is intended to introduce size criteria for new and existing working age claimants on housing benefit for those in the social housing rented sector will replicate the size criteria that apply to claimants in the private rented sector. Under this measure, claimants will have their housing benefit reduced on the basis of 'under-occupancy' of tenancy in line with the private sector. While we agree in principle that under occupancy within the social housing sector should be addressed, the Commission is deeply concerned that this measure will have a serious impact on a range of equality groups. This measure may force claimants, of working age, to leave their homes if they no longer can justify the need for the rooms available in their property. Hence, someone at 59 years old, who may or may not have adaptations to their home as a result of their own circumstances, will receive reduced housing benefit or will have to seek alternative one bedroom accommodation if they have no dependents in their home. The Commission understands that several potential negative impacts may arise from this measure and raises a number of key issues:
- Claimants who are the non-primary carer (in most cases a father) who has separated / divorced from their partner / spouse will be unable to exercise their right of access to their family as a result of moving to single room accommodation – in other words, a parent will not be able to accommodate their children overnight.

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<http://www.wrda.net/Documents/The%20NI%20Economy%20%20Women%20on%20the%20Edge%20Report.pdf>

- Similarly, a disabled person who does not necessarily require personal support on a continuing basis will be unable to obtain overnight support during short periods when they do need assistance.
  - Potentially, claimants would have to move from their local community, regardless of their longevity of tenancy, causing undue stress.
  - The consultation paper acknowledges that there is very limited mobility in the social rented sector. Therefore, a tenants' ability to move may be severely restricted. Restricted mobility is particularly relevant to Northern Ireland as social housing is often segregated on the basis of community background. There is a risk of placing all social housing tenants in financial hardship, as the tenants maybe unable to move because of the de-facto lack of available alternative but still be subject to a reduction in their housing benefit.
- 5.7 The Commission recommends that the Department ensures that housing benefit assessments of disabled people, with non-residential carers, fully takes into account the needs of disabled people, particularly when the effects of a disability may change within a time period. Similarly, assessments of parents separated from their children should also take into account that these claimants will be required to accommodate their children in their home to allow them full access to their offspring.

### **Lone Parent Conditionality**

- 5.8 Childcare is an essential feature in the eradication of child poverty, the removal of barriers to and in employment, achieving equal pay and protecting against poverty in later life. Despite this the UK, and Northern Ireland, failed to meet the Barcelona childcare targets<sup>33</sup>. Recent research<sup>34</sup> across the UK found that parents in Britain spend almost a third of their income on childcare – more than anywhere else in the world. Research to be published at the end of last month<sup>35</sup> will show that Northern Ireland remains the most expensive part of the UK to secure childcare. The UK study<sup>36</sup> pointed to the paucity of policy in Northern Ireland and the historical underinvestment – early years spend in 2007-2008 amounted to £630 per child in Northern Ireland compared with around £2,000 in Great Britain.
- 5.9 Broadly, the welfare reform measures developed at Westminster are predicated on the statutory obligation in Great Britain, under the Childcare Act 2006, to deliver good quality childcare and a more effective pattern of provision. This will therefore require the Minister for Social Development

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<sup>33</sup> European Commission (2008): *Childcare services in the EU* [EUROPA - Press Releases - Childcare services in the EU](#)

<sup>34</sup> Save the Children (September 2011): *Making Work Pay – The Childcare Trap*.

<sup>35</sup> Employers for Childcare Charitable Group (2011), op cit.

<sup>36</sup> Save the Children (September 2011) op cit..

to allow an element of discretion, if it considers that appropriate affordable childcare is not available. In Northern Ireland, £12m<sup>37</sup> has been allocated over the current Budget period<sup>38</sup> to address the childcare need through a Childcare Strategy, currently being developed by the Office of the First and deputy First Minister. However, at the time of making response to this consultation, the Childcare Strategy had not been published to enable anyone to determine if the strategy can deliver accessible, appropriate and affordable childcare to all children in Northern Ireland.

- 5.10 The lone parent conditionality provision requires that lone parents be available for work when their child reaches the age of 5 years. However, this conditionality assumes that there is an affordable and appropriate childcare infrastructure in place in Northern Ireland available to the individual claimant – looking at the evidence above, this is currently not the case. The Department should urgently address this matter through liaison with OFMdFM to ensure that all lone parents can access appropriate and affordable childcare to enable access to, and continued employment.
- 5.11 The lone parent conditionality provision may also restrict a claimant’s ability to seek education and training opportunities as lone parents will be required to claim Jobseeker’s Allowance or Employment and Support Allowance. This approach may deny lone parents the opportunity to seek appropriate education or training to enable them into gain skilled, higher paid, employment to enable them to reach a reasonable level of income; to fulfill the rights of the child, and of the parent, to raise a child through an adequate standard of living and level of social protection. It should also be added that while there is a statutory legal obligation on public authorities in Great Britain to consider the welfare of the child no such obligation exists for public authorities in Northern Ireland.
- 5.12 The lone parent conditionality provision may undermine, or be counter to, the plan within the Northern Ireland Executive’s Economic Strategy<sup>39</sup> to “improve the skills and employability of the entire workforce so that people can progress up the skills ladder, thereby delivering higher productivity and increased social inclusion”. The lone parent conditionality provision may deny lone parents the additional training as outlined within the strategy’s ‘key rebalancing measure’ to “delivery of 210,000 qualifications at Levels 2, 3, 4 and above by 2015, through Further Education, Higher Education, Essential Skills and Training”. The Commission strongly

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<sup>37</sup> This is £3m in each of the four years of the budget , compared with, for instance, £30m pa in Wales

<sup>38</sup> Northern Ireland Executive: *Budget 2011-15*.

[http://www.northernireland.gov.uk/revised\\_budget\\_-\\_website\\_version.pdf](http://www.northernireland.gov.uk/revised_budget_-_website_version.pdf)

<sup>39</sup> Northern Ireland Executive(2011): *Economic Strategy: Priorities for sustainable growth and prosperity. Building a better future* [http://www.detini.gov.uk/economic\\_strategy\\_web\\_.pdf](http://www.detini.gov.uk/economic_strategy_web_.pdf)

advises the Department to consult with the Department of Enterprise, Trade and Investment in regards to how the lone parent conditionality provision may affect the objectives outlined within the economic strategy. Similarly, the Department should seek advice from the Department of Employment and Learning on this issue.

## **Disability Benefit Reform**

- 5.13 The Commission has previously made a number of public policy interventions on the issue of welfare reform as it may impact on disabled people, including our submission to the Department on the Independent Review of the Work Capacity Assessment. The Commission, jointly with the Northern Ireland Human Rights Commission, in our collective role as the Independent Mechanism for Northern Ireland to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), has also highlighted our concerns on this issue to the Joint Committee on Human Rights, Parliamentary Inquiry on the implementation of the right of disabled people to independent living as guaranteed by Article 19 of UNCRPD.
- 5.14 In summary, the Commission has a number of concerns in this area:
- The higher qualification criteria for the Disability Living Allowance (DLA) equivalent Personal Independence Payment (PIP);
  - The assessment process and the very high percentage rate of successful appeals for those refused Disability Living Allowance; and,
  - We note there will only be two components under Personal Independence Payment (PIP) in relation to daily living. We believe that people who are currently in receipt of the old DLA care component will lose out given the strict and objective criteria laid out in the proposed new test which determines whether or not a person receives support under PIP.

## **6. Conclusion**

- 6.1 The Commission has advised policy makers of the critical importance of assessing the equality implications of their budget decisions and of ensuring that the most vulnerable people in our society are not affected to an unfair extent by reductions in public expenditure.<sup>40</sup> This applies equally to the current Welfare Reform.
- 6.2 Section 75 is a continuous duty and this EQIA should not be considered as a one-off exercise. Throughout the process of reforming the welfare

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<sup>40</sup> See for example the Equality Commission's Response to draft Budget 2011-2015, February 2011.

system in Northern Ireland, which includes subsequent benefit specific reforms requiring further legislation to enact, every effort must be made to ensure that decisions are based on the needs of people, that the vulnerable are protected and that equality of opportunity is promoted. The Department is under an obligation to continuously consider the potential impact of its current and future proposals on affected groups, to seek and carefully consider input from consultees to gain a better understanding of the issues relating to equality of outcomes and to address potentially adverse impacts.

- 6.3 We are also concerned that there is no account taken within the consultation paper of the wider agenda in relation to pensions. Nor does the paper consider the implications of the proposed reform for other government strategies like Lifetime Opportunities or the Child Poverty Strategy.
- 6.4 Finally we would like to highlight the following studies which may be important in informing the way forward:
- The Forthcoming J Rowntree Foundation study: Monitoring Poverty and Social Exclusion in Northern Ireland, to be published in Spring 2012 <sup>41</sup>
  - The Social Security Advisory Committee's guiding principles for the design of passported benefits in relation to the universal credit, report to be published in January 2012. <sup>42</sup>
- 6.5 This response is made without prejudice to any consideration or determination which the Commission might make in performance of its statutory function to investigate individual complaints under Schedule 9 of the 1998 or conduct any other investigation under that Schedule.

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<sup>41</sup> <http://www.jrf.org.uk/work/workarea/monitoring-poverty-and-social-exclusion>

<sup>42</sup> <http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/111005-wms0001.htm>