

Law Centre NI response

Work and Pensions Committee Inquiry into the cost-of-living support payments.

May 2023

1. Introduction: About Law Centre NI

Law Centre NI (LCNI) welcomes the opportunity to respond to the Work and Pensions Committee Inquiry into the cost-of-living support payments. Since 1977, LCNI has provided free and independent legal services in social welfare law areas - providing legal advice and representation, professional learning, legal information, and policy advocacy. Today, our specialist areas of law are **social security, immigration and employment**.

LCNI services are available to both the public and to advisers, with a particular focus on specialist support services to the advice sector across Northern Ireland (NI). As a regional law centre, we have an overview of the impact of law, policy, and practice areas across communities in NI. We convene the *Cliff Edge Coalition NI* – a group comprising of over 100 civil society organisations committed to upholding social security rights.

A copy of LCNI's most recent Impact Report is available here: [Our impact | Law Centre Northern Ireland \(lawcentreni.org\)](https://www.lawcentreni.org/our-impact)

2. Cost of Living payments in Northern Ireland

The cost-of-living support payments were introduced in NI by the *Social Security (Additional Payments) Act 2022*.¹ This legislation enabled one-off payments to those on income related benefits, disabled claimants, and pensioners. The payments were intended to provide support with the current rise in the cost of living. Recent available data shows just how many people in NI were eligible to benefit from these cost-of-living support payments – 661,00 households. Data is not yet available on how many of those households went on to make a claim.

¹ [Social Security \(Additional Payments\) Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2022/12)

While initial support consisted of one-off payments, legislation to allow further cost-of-living support payments to be paid in NI during 2023 and 2024, was passed in March 2023.² Roll out of these payments began in April 2023 and will continue through to Spring 2024.³

LCNI has, first-hand, witnessed the lifeline these cost-of-living support payments have been to individuals who access our service. LCNI **welcome the Government's decision to extend these much-needed cost-of-living payments**, *particularly considering the announcement in NI this week of how acute budgetary cuts may impact NI social security.*⁴

In this submission LCNI wish to address some areas of concern relating to **determining entitlement to and administration of, the cost-of-living support payment.**

Having regard to the Committee's Terms of Reference, together with the Call for Evidence Guidance, it is apparent that the Committee's remit is broad in nature - considering both entitlement to and administration of the payment.

LCNI wishes to address the following Committee questions:

Question 2: The role certain factors played in access to the cost-of-living support payments

a) Passporting: Not already being in receipt of certain means-tested benefits, despite being eligible, and consequentially being prevented from accessing emergency support.

e) Any other technicality you believe the Committee should investigate

Question 3: How has the Department's ad-hoc payment system and its design and use benefitted or limited the delivery of cost-of-living support?

LCNI are concerned that the Government may not have made adequate provision for certain individuals who are in need of the cost-of-living payment. This submission focuses on three issues:

- **Impact of Housing Benefit (HB) not being a qualifying entitlement to cost-of-living support payments;**
- **The restrictive nature of entitlement to cost-of-living support payments for carers;**

² [Social Security \(Additional Payments\) Act 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)

³ [Cost of Living Payments | nidirect](#)

⁴ [Stormont Budget: Housing and benefits department faces huge cuts - BBC News](#)

- **The impact of employment payment cycles and entitlement to cost-of-living support payments.**

3. Summary of recommendations relating to the cost-of-living support payments

- **HB is added to the list of qualifying benefits for the cost-of-living support payments, on a par with other means tested benefits;**
- **or alternatively, cost-of-living support payments are paid to those in temporary accommodation, who would have otherwise been entitled to the payment if not in temporary accommodation (by virtue of getting housing costs calculated via Universal Credit (UC) and not HB)**
- **Extend the cost-of-living payment to unpaid carers to alleviate the financial strain for those unable to claim Carers Allowance (CA) or carers element of UC due to the restrictive entitlement requirements; or to provide other support to unpaid carers.**
- **Review and extend of the period defined in Section 2 of the *Social Security (Additional Payments) Act 2023*, to cover a longer period to allow flexibility for circumstances when claimants payment cycles do not align with the normal payment dates.**

4. Areas of concern regarding cost-of-living support payments entitlement.

- **Impact of Housing Benefit (HB) not being a qualifying entitlement to cost-of-living support payments.**

LCNI is concerned about the impact of HB not being a qualifying entitlement for receiving cost-of-living support payments and how this may lead to the cost-of-living support payment not capturing all those in need. HB is a means tested benefit, however, it is not listed with other means tested benefits, such as UC, as a qualifying entitlement.

LCNI wish to illustrate a particular example we have encountered of how this restrictive criterion can impact people in need – those in temporary emergency accommodation.

UC consists of several elements, including the housing cost element. This is paid if someone is entitled to help with rent and is paid as part of their UC entitlement. However, for those in temporary accommodation who are entitled to help with their rent, housing costs are calculated by a separate claim for HB.

The background for this decision is found in the April 2021 House of Commons Report, '*Housing Costs in Universal Credit*'.⁵ The report explains that early reports of delays in processing UC for those in temporary accommodation, ultimately leading to rent arrears, was the rationale for this decision. To avoid this, claimants in temporary accommodation must make a separate claim for HB to cover their housing costs.

*Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018*⁶ changes the payment process of housing costs for households who were living in temporary accommodation. This process applies both in Great Britain (GB) and NI.

This approach, while helpful in the context of safeguarding against the risk of accrual of rent arrears, when viewed through the prism of entitlement to cost-of-living support payments, may inadvertently act as a barrier to vulnerable individuals claiming additional financial support.

By way of illustration, an individual will be entitled to a cost-of-living support payment if they have a small income, but also have an entitlement to UC, when the housing costs are included in the calculation. The UC is the entitling benefit. However, this entitlement to the cost-of-living support payment may then be lost when the UC entitlement is lost due to the housing costs being treated as separate to UC, and instead form part of a HB claim instead.

Due to the aforementioned administrative decision, HB must be claimed in order to receive help with housing costs in temporary accommodation. However, if the individual were not in temporary accommodation, they would have entitlement to the cost-of-living support payment, as housing costs would form part of their UC calculation.

People who need to access temporary emergency accommodation are facing an extremely difficult time, often with family members being separated. This, coupled with the resulting potential loss of financial assistance afforded by the cost-of-living payment, inadvertently places an unfair disadvantage on the individual that would not have happened if they were not living in temporary accommodation.

The consequential financial disadvantage can mean some claimants turn to other social security support, perhaps in the form of assistance from the Discretionary Support Fund in NI. However, the ability to do this may be limited: As previously mentioned, an announcement earlier this week in NI points to acute budgetary pressures that may impact NI social security, including the level of support available from the Discretionary Support Fund which is a vital safety net. This is against the backdrop of foodbank reliance in Northern Ireland increasing by 29% from 21/22 figures.⁷

⁵ [SN06547.pdf \(parliament.uk\)](#)

⁶ [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018 \(legislation.gov.uk\)](#)

⁷ [Microsoft Word - EYS Northern Ireland Factsheet 2022-23 - FINAL \(trusselltrust.org\)](#)

In light of the above LCNI invites the Committee to:

- Explore HB being added to the list of qualifying benefits for the cost-of-living support payments, on a par with other means tested benefits.
- Recommend, alternatively, that cost-of-living support payments are paid to those in temporary accommodation, who would have otherwise been entitled to the payment if not in temporary accommodation (by virtue of getting housing costs calculated via UC and not HB)

These measures would ensure that the intention of the administrative policy to protect against rent arrears is safeguarded, while also not unduly penalising the individual by preventing access to the cost-of-living payment. It is difficult to understand how the current distinction in treatment is justified, and unfairly impacts on those who have found themselves in temporary emergency accommodation.

- **The restrictive nature of entitlement to cost-of-living support payments for carers**

LCNI is concerned about the restrictive nature of entitlement to cost-of-living support payments, in relation to unpaid carers. Unless unpaid carers have an entitlement to another qualifying benefit, they are not entitled to cost-of-living support payments.

Unpaid carers represent a sizeable proportion of the population in NI with one person in eight (or 222,200 people) providing unpaid care to a relative or friend who has a health condition or illness.⁸ This is thought to save the local economy an estimated £4.4 billion every year.⁹ *Carers UK* in January 2023¹⁰, estimated one in three unpaid carers in NI are struggling to make ends meet. This is further being exacerbated by the ongoing cost-of-living crisis.

By way of illustration, an example where a carer may be voluntary unpaid is when the carer has an entitlement to a carers element of UC or Carers Allowance (CA) (and therefore a pathway to entitlement to the cost-of-living support payment) **but does not want to apply for this as it would have a financial detrimental impact on benefits of the person they are caring for.** I.e., the potential loss of a disabled person's entitlement to Severe Disability Payment and other benefits. This arguably gives rise to a situation whereby groups of the community (carers and the vulnerable) are falling through gaps in the system and a failure to provide a safeguard to protect both groups simultaneously.

Worryingly, according to *Carers NI*, the available statistics of people in this cohort are not routinely collected so it is difficult to assess the real impact.

⁸ [Census 2021 Main Statistics for Northern Ireland Phase 2 press release \(nisra.gov.uk\)](https://www.nisra.gov.uk/press-releases/census-2021-main-statistics-for-northern-ireland-phase-2)

⁹ [Social care in Northern Ireland \(bma.org.uk\)](https://www.bma.org.uk/social-care-in-northern-ireland)

¹⁰ [‘Obscene’ impact of poverty on NI’s unpaid carers blasted | Carers UK](https://www.carersuk.org/news/obscene-impact-of-poverty-on-nis-unpaid-carers-blasted)

In light of the above LCNI invites the Committee to:

- **Extend the cost-of-living payment to unpaid carers to alleviate the financial strain for those unable to claim Carers Allowance (CA) or carers element of UC due to the restrictive entitlement requirements; or to provide other support to unpaid carers.**

This would help to alleviate the financial strain suffered due to the restrictive nature of CA entitlement conditions, and as a result of being unable to avail of benefits to reflect their circumstances due to protecting the disabled persons finances. LCNI acknowledge that the identification of carers in this category may be difficult, however, we feel that it is important that the cost-of-living payment provides targeted support and reaches everyone impacted by the cost-of-living crisis.

- **The impact of employment payment cycles and entitlement to cost-of-living support payments.**

Section 2 of the *Social Security (Additional Payments) Act 2023*¹¹ defines the qualification criteria that must apply in order to make cost-of-living support payments to people entitled to eligible social security benefits. It provides that a person has a qualifying entitlement in respect of a qualifying day if they are entitled to a payment of at least 1p in respect of an assessment period ending during the period of one month ending with the qualifying day (for people in receipt of Universal Credit).¹²

Payment through employment may cause difficulty with regards to UC entitlement, and as a consequence result in otherwise eligible individuals, precluded from access to cost-of-living support payments. This is particularly evidenced where a claimant is paid other than monthly.

By way of illustration, examples where a claimants pay structure may impact entitlement to cost-of-living support payments, are set out below:

When paid on:

- i. A weekly basis: for four months of the year, they will receive five payments per calendar month.
- ii. A fortnightly basis: On two occasions per year, they will receive three payments in one calendar.
- iii. Four weekly basis: On one occasion per year, they will receive two payments in one month.

The knock-on effect of the above, is that due to the assessment period having more than the 'normal wage' payment, this may mean that the claimant does not have entitlement to UC during the eligible assessment period for cost-of-living payment and therefore are not eligible for the payment.

¹¹ [Social Security \(Additional Payments\) Act 2023 \(legislation.gov.uk\)](https://legislation.gov.uk)

¹² Explanatory Memorandum: [72850 Chapter 7 EN 2023 Cover.indd \(legislation.gov.uk\)](https://legislation.gov.uk)

This could potentially affect a significant number of people and result in a greater number of claimants losing out on targeted support. LCNI consider this to be a regressive approach and inconsistent with the spirit of the cost-of-living support payment.

In light of the above LCNI invites the Committee to:

- **Review and extend of the period defined in Section 2 of the *Social Security (Additional Payments) Act 2023*, to cover a longer period to allow flexibility for circumstances when claimants payment cycles do not align with the normal payment dates.**

This will ensure that claimants who would ordinarily have received the payment continue to do so and are not impeded by the payment cycle set by their employer.

5. Concluding Remarks

LCNI welcomes the opportunity to provide this response to the Committee. We trust you will find our evidence and recommendations helpful. If there is any further way in which we can assist in the inquiry process, we would welcome the opportunity to do so.

For further information about this response contact:

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