

## Law Centre NI response

### Budget 2023 – 2024: Equality Impact Assessment

June 2023

1. Law Centre NI (LCNI) welcomes the opportunity to respond to the Department for Communities (DfC) “Budget 2023 – 24 Equality Impact Assessment” Consultation.
2. 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.
3. LCNI recognises the significant budget constraints the Department has been asked to achieve on foot of the budget allocations for 2023-24. Whilst this impacts across the wide range of the Department’s activities, our response is limited to the following:
  - Mitigation Payments;
  - Discretionary Support;
  - Delivery of social security;
4. Our concerns relate to the impact of a number of the proposed measures on certain S. 75 groups and on the Department’s ability to comply with its legal obligations to uphold human rights. Our principal concern is in relation to the proposed impact of budget cuts on Discretionary Support and the potential cumulative impact of these alongside the risks to operational delivery of benefits.
5. We do not have up to date and robust data on the potential impacts on S. 75 groups, but the profile of claimants in NI points to the risk of particular adverse impacts of budget cuts on lone parents, women and children, older people and people with disability.<sup>1</sup> Universal Credit (UC) figures depict a total of 43,370 lone parent claimants of UC in November 2022. This figure accounts for 37% of UC claimants in NI,<sup>2</sup> the preponderance of whom are women.<sup>3</sup> Indirectly, financial hardship adversely impacts on children, risking further escalation of the already high child poverty levels in NI which are current affecting over 100,000 children.<sup>4</sup>

---

<sup>1</sup> [NI Benefits Statistics Summary - February 2023 \(communities-ni.gov.uk\)](https://communities-ni.gov.uk/northern-ireland/benefits-statistics-summary-february-2023)

<sup>2</sup> NI UC Statistics November 2022: Communities-ni.gov.uk

<sup>3</sup> [Estimating the gender impact of tax and benefits changes \(parliament.uk\)](https://parliament.uk/committees/commons/all/committees/estimating-the-gender-impact-of-tax-and-benefits-changes)

<sup>4</sup> Poverty in Northern Ireland 2022 JFR

### *Mitigation Payments*

6. LCNI acknowledges and welcomes the earmarked funding for the continuation of Welfare Mitigations, Housing Benefit rates and debt advice. This will continue to ensure much needed financial assistance to people in need.
7. The Welfare Mitigations have been widely recognised as having made a positive difference in NI. Since 2018, the Cliff Edge Coalition has campaigned for the strengthening and sustaining of these mitigations and welcomed the extension of the mitigations beyond March 2020 first, through contingency arrangements and subsequently on a statutory footing.
8. The subsequent [Mitigations Independent Review Panel Report](#),<sup>5</sup> (Review Report), published in October 2022, underscored the urgent need for robust social security measures, particularly in the cost-of-living crisis, highlighting how the mitigation measures have impacted on women, carers, people with dependents and people with disabilities.<sup>6</sup> The Review Report outlined further action to be taken: mitigating the two-child limit; resolving the five week wait; further support for carers and individuals with a disability, and increasing the UC Contingency Fund.
9. The Review Report Panel's recommendations targeted those in the lowest incomes and, within that group, those most affected by recent changes, in particular households with disabled adults and/or children, women and carers. As part of the Review, Landman Economics' analysis of the various policy options focused on ensuring that recommendations, when considered as a whole, would if implemented, target effectively those at the sharpest end of the social security reforms introduced by the UK government.<sup>7</sup>
10. As convenor and member of the Cliff Edge Coalition, it is disappointing, therefore, that the current budget settlement fails to make provision to extend the mitigation package to include new measures as recommended in the independent panel report. It can be anticipated that families who are already in a precarious position will be impacted further by budget cuts that risk further exacerbating the already high levels of poverty in NI.<sup>8</sup>

### *Discretionary Support*

11. Our principal concern in relation to these proposals is in relation to the Discretionary Support Scheme (DS). DS provides a lifeline to claimants who are having difficulty with living expenses and household items. It is the safety net below the safety net of social security. DS faces high demand. The cost-of-living crisis and inadequate

---

<sup>5</sup> Welfare Mitigations Review - Independent Advisory Panel Report found at <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-welfare-mitigations-review-independent-advisory-panel-report-2022.pdf>

<sup>6</sup>Ibid

<sup>7</sup>Ibid

<sup>8</sup> [Poverty in Northern Ireland 2022 | JRF](#)

benefit rates that fail to meet the basic standard of living are the backdrop for the increased demand on DS.<sup>9</sup>

12. The Independent Review of Discretionary Support noted that: “*DS has a profound impact on recipients and can make the difference between someone living in or escaping from destitution*” (para. 1 p. 11). The Review found that recipients were ‘*meeting needs that go beyond hardship and relate to those fundamental to human survival: food, clothing and a safe home*’ (ibid). Researchers have drawn attention to the risk that proposals to reduce the funds available to DS risk undermining the Department’s ability to comply with its human rights obligations.<sup>10</sup> This includes the Department’s positive obligations to take necessary steps to uphold people’s right to family life and absolute obligations to ensure that people are protected from inhuman and degrading treatment. LCNI echoes these concerns.<sup>11</sup> Equally, obligations under international instruments UN Convention on the Rights of the Child, including Article 26 (social security) and Article 27 (adequate standard of living) along with the UN Convention on the Rights of Persons with Disabilities impose positive obligations on the government to take necessary measures to safeguard a right or, more precisely, to adopt reasonable and suitable measures to protect the rights of the individual.
13. The Independent Review recommended that DS needs to be maintained and the budget projected. Any diminution in the budget allocation to DS runs counter to the findings of the Independent Review which set out a clear need for sustained investment in DS and for this to be kept under review and augmented as appropriate. We acknowledge that the indicative budget allocation to DS outlined in this EqIA is £13m. We understand this as a baseline figure only and given that DS is demand-driven we do not see how that budget can be capped without significant adverse impact on S. 75 groups and differential impact on claimants equally in need at different points in the financial year. The Department have indicated that it would consider scaling back awards to live within the proposed allocated budget ceiling. As the Department acknowledges, this puts ‘at risk its ability to address the basic needs of people who present with hardship, particularly people with dependents, older people and people with disabilities’ [p. 20 EqIA].
14. The Independent Review found that recipients can struggle to pay back loans and that grants offer a more effective form of support [para. 3, p. 12]. The Department should therefore prioritise grants within DS. This would be particularly important for newcomers to NI, including those with humanitarian protection and with additional urgent needs. Further, there are additional administrative costs associated with loan repayments.

---

<sup>9</sup> [Debate on tackling poverty and the cost of food, House of Commons | Local Government Association](#)

<sup>10</sup> Simpson, M. McKeever, G. & Fitzpatrick, C, Response to DfC EqIA, June 2023 (University of Ulster).

<sup>11</sup> See also the emerging jurisprudence of the CJEU in the context of the evolution of EU law principles. In *CG v NI Department of Communities*,<sup>11</sup> the CJEU found that refusal, in this case, of UC may risk a violation of fundamental rights and determined that decision-makers are required to conduct an individual assessment of the ‘actual and current risk of violation of .. fundamental rights’. The Court continued that: “... *Where that [EU] citizen does not have any resources to provide for his or her own needs and those of his or her children and is isolated, those authorities must ensure that, in the event of a refusal to grant social assistance, that citizen may nevertheless live with his or her children in dignified conditions.*” [para. 93].

## *UC and Delivery of Benefits*

15. The impact of the proposals for new claimants to UC, who face a five-week wait for their first payment, is also of concern. There is significant evidence of the impact of the delay on new claimants.<sup>12</sup> JRF, in its UK Poverty 2023 Report,<sup>13</sup> highlights the five week wait as one of the key elements designed into the benefit system. The Department have made provision via the UC Contingency Fund for support during the early stage of a claim, currently administered by DS. As noted in the Independent Review of DS, the UC Contingency Fund does not constitute the core function of DS and the Review recommended that this is taken outside of DS. In the immediate term, the UC Contingency Fund resource needs to be protected alongside the core DS budget. With the planned managed migration to UC commencing in April 2023, it is vital that claimants are protected against the financial hardships associated with the current five week wait period and do not fall back on illegal lending or other debt sources.
16. In relation to the Move to Universal Credit, the risks associated with inadequate staffing will likely adversely impact on a number of S. 75 groups. The Department has flagged concerns about the necessary staffing resources for administering Universal Credit. Additional delays in administering benefit payments that would flow from reducing staffing in the Department risk placing a cohort of new claimants in extended hardship. Processing delays may put at risk Transitional Protection payment to claimants to ensure that they are not financially disadvantaged when migrating from legacy benefits to UC.
17. Also in the context of the anticipated Move to UC, the proposed constraints on JBO opening hours lack of face-to-face access could be acutely felt by people with disability who may require face to face communication or for people who need interpretation assistance. The Department may also wish to consider mitigations for some claimants in relation to their responsibilities to notify immediately of any changes in circumstances should reduced opening hours be implemented.

## **Recommendations**

18. It is clear from the DfC consultation budget report that tough decisions have been placed before the Department by this budget allocation which will adversely impact on people in need. Regrettably, these budget pressures also militate against the development of policy in the direction anticipated by the recommendations of the two recent independent reports into DS and Welfare Mitigations. Implementation of the recommendations of both reports would provide better support to people across communities in line with the overarching *Draft Programme for Government* commitments and the Department's Strategic Priorities, including to deliver a social security system which supports the reduction of poverty and to continue the promotion of social inclusion.
19. In summary:

---

<sup>12</sup> The Deaton Review of Inequalities: [Benefits and tax credits | Institute for Fiscal Studies \(ifs.org.uk\)](#) 1 Feb 2023

<sup>13</sup> [UK Poverty 2023: The essential guide to understanding poverty in the UK | JRF](#)

- We recommend that the Department prioritises DS as the crisis support system underneath the social security system. This is critical to the state's obligations in upholding fundamental rights. DS should be prioritised in forthcoming monitoring rounds to maintain adequate resources to meet need.
- We recommend that the UC Contingency Fund is also protected given the impending migration to UC.
- We recommend that any proposed changes to existing policy/eligibility criteria for DS are considered in light of the terms of the Guidance issued by the Secretary of State in relation to decision-making for NI Departments.<sup>14</sup>
- Where possible, recruitment of staff for frontline administration of benefits should be prioritised internally within the Department to meet the need for support to people across NI. We acknowledge this is not a quick fix given the training lead time for on-boarding staff.
- For these same reasons, sustaining resources in those third sector organisations providing advice and support to those affected by cuts is critical to mitigate against the impact of these proposals on S. 75 groups who rely on these services.

Thank you for the opportunity to provide this response and we are happy to discuss further.

**For further information about this response contact:**

**Law Centre NI  
Westgate House  
2-4 Queen Street  
Belfast BT1 6ED  
Tel: (028) 9024 4401**

**admin@lawcentreni.org**

[Our impact | Law Centre Northern Ireland \(lawcentreni.org\)](https://www.lawcentreni.org)

---

<sup>14</sup> *Guidance on decision-making for Northern Ireland Departments until an Executive is formed or for the six month period beginning with the day on which the NI (Executive Formation etc) Act 2022 is passed (6 December 2022)*, (CP766, December 2022).