

Cliff Edge response to Discretionary Support

The Cliff Edge Coalition is made up of over 100 organisations from across Northern Ireland which came together in 2018 to campaign to sustain and strengthen crucial welfare reform mitigations.

These mitigations were first agreed by the Northern Ireland Executive in 2016 and were designed to alleviate some of the harshest impacts of the Westminster welfare reform agenda. As the mitigations were only due to run until April 2020, the impending 'cliff edge' meant that many households in Northern Ireland would abruptly lose vital support.

The Cliff Edge Coalition is now calling for further measures which are urgently needed to strengthen the current benefit system in Northern Ireland.

Our three new asks are to:

- Resolve the five-week wait in Universal Credit
- Mitigate the two-child limit
- Provide support for private renters affected by the Local Housing Allowance

This response draws on submissions to the EQIA on Changes to the Discretionary Support Scheme draws on responses from Cliff Edge Coalition members and its academic adviser (Dr Ciara Fitzpatrick) and colleagues at Ulster University School of Law:

- Housing Rights NI
- Law Centre NI
- Women's Support Network
- Dr Ciara Fitzpatrick, Professor Gráinne McKeever and Dr Mark Simpson

The EQIA Process:

From the outset, we acknowledge the extremely difficult position that the Department finds itself, due to the "sub-optimal" budget allocation that has been delivered by the NI Secretary of State.¹ Senior civil servants are being put in an unenviable position of being forced to make decisions that do not align with their responsibilities as public servants. We understand that those schemes that are not protected by legislation are particularly vulnerable to cuts, such as DS which does not have a ring-fenced budget. However, we strongly feel that this unstable economic context provides more impetus to ensure that any changes to policy, particularly those policies which have a negative bearing on some of most vulnerable people in our society are subject to a rigorous Equality Impact Assessment that is in line with Guidance laid out by the Equality Commission.

The Cliff Edge Coalition has serious concerns about how this EQIA process has been carried out. While consultation on the changes to Discretionary Support (DS) in line with Section 75 of the NI Act 1998 is welcome – it is worrying that the restrictions were implemented from 3 July 2023, before the EQIA process commenced. We are concerned that the policy changes are contrary to existing legislative authority - Discretionary Support

¹ DfC Permanent Secretary Colum Boyle comment on the Final Budget Allocation, 21 June 2023. Available at: [Department outlines final budget allocations | Department for Communities \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk/department-outlines-final-budget-allocations)

Regulations (Northern Ireland) 2016.² LCNI strongly encourages the Department to carefully consider the Northern Ireland (Executive Formation etc) Act 2022 and accompanying Guidance for Decision Makers in NI Departments.

The Equality Commission's Guidance for Public Authorities on Section 75 of the Northern Ireland Act 1998³ is clear that section 75 is a policy development tool which should be used to inform policy development, rather than at the end after a policy decision has been taken. It states that,

*"Section 75 is important to policy formulation (new or proposed policies) and policy review (existing policies). It is important that public authorities use the assessment of policies for impact on equality of opportunity, including screening and equality impact assessment, as part of their policy development process, rather than as an afterthought when the policy has been established."*⁴

Similarly, the Department's approved Equality Scheme commits to carrying out EQIA's, "...in accordance with Equality Commission guidance. The equality impact assessment will be carried out as part of the policy development process, before the policy is implemented."⁵

This approach demonstrates policy development in contradiction of the Equality Coalition's Guidance, which could give rise to a formal complaint. Thus, it is vital that following the conclusion of the EQIA (the second closing date provided) that the Department demonstrates how the views expressed have been considered in its implementation of restrictions to DS.⁶ This obligation is also reflected in the Department's approved Equality Scheme. It states that,

*"In making any decision with respect to a policy adopted or proposed to be adopted, we will take into account any assessment and consultation carried out in relation to the policy, as required by Schedule 9 9. (2) of the Northern Ireland Act 1998."*⁷

Furthermore, the consultation process opened on 3 July, with interested parties encouraged to make responses by 11 August 2023, which will be used to inform a planned review of the decisions taken on Discretionary Support by the Department. This provided a period of 5 weeks before the first closing date, which included a NI holiday period. The second closing date is 25 September. The Department does not provide any rationale for including two closing dates. The Cliff Edge Coalition is concerned that submissions made by the first date will be considered and those received after 11 August 2023 will not be considered in the same way.

Consultation questions:

- 1. Are there any data, needs or issues in relation to any of the Section 75 equality categories that have not been identified in Section 3 of the EQIA consultation document? If so, what are they and can you provide details?**

² [The Discretionary Support Regulations \(Northern Ireland\) 2016 \(legislation.gov.uk\)](https://legislation.gov.uk)

³ [A Guide for Public Authorities Section 75 of the Northern Ireland Act 1998 \(equalityni.org\)](https://equalityni.org), April 2010

⁴ Page 13, Ibid

⁵ Para 4.19, Available at: [Equality Scheme for Department for Communities \(communities-ni.gov.uk\)](https://communities-ni.gov.uk), June 2019

⁶ Page 45, Op cit. 3.

⁷ Para 4.2, Op cit. 5.

Cliff Edge Coalition notes with concern that the Department's analysis on the impact of its policy change on s.75 groups is based on limited data.

Despite an acknowledgement in the Department's approved Equality Scheme that EQIA's require the analysis of both quantitative and qualitative data,⁸ the EQIA does not demonstrate engagement with qualitative data in identifying the likely impact of the policy on section 75 groups. This results in the EQIA identifying only the potential frequency of occurrences of impact but limits the understanding of the scale and depth of the impact on the life of someone from a section 75 group. The Equality Commission's Practical Guidance on Equality Impact Assessment⁹ details a range of potential data sources and obligations on designated public bodies to collect data on all members of the nine section 75 groups. Where the data required to carry out a thorough analysis of impacts is not available, it states that public authorities should use qualitative or evaluative research or information gathered by government and bodies such as voluntary, community and trade union organizations; identify gaps in available information for equality categories and where more detailed data are needed take steps in order to have the optimum information on which to consult and base subsequent decisions; and if necessary, commission new data (qualitative or quantitative). Cliff Edge Coalition notes that the Department could have referred to the qualitative data contained in the Independent Review of Discretionary Support, commissioned by the Minister of Communities, Deirdre Hargey MLA, to make improvements to the system. The review refers to the lone parents and larger families being more at risk of facing deprivation.¹⁰

Cliff Edge Coalition notes that the Department indicate that single people are more likely to be impacted upon by the changes to the discretionary support scheme. However, there is no indication, whether single people have dependants, who would also be adversely impacted by the scheme. Cliff Edge urges the Department to monitor specifically, the impact that the restrictions will have on lone parents with dependant children, as there is evidence to show that this group is particularly exposed to the harm caused by the cost-of-living crisis.¹¹ The Cliff Edge Coalition wishes to emphasise the cumulative impact of spending cuts on this group, for example, the end of Free School Meal payments during holiday periods (Department of Education). The eligibility requirements mean that it is more likely that children living in single-earner households will be entitled to Free School Meals (FSM).¹²

⁸ Page 29, Op cit. 6.

⁹ Op cit. 12.

¹⁰ Department for Communities, Independent Review of Discretionary Support. Available at: [Independent Review of Discretionary Support \(communities-ni.gov.uk\)](https://communities-ni.gov.uk/independent-review-of-discretionary-support)

¹¹ Analysis carried out by Labour on Office for National Statistics dataset on wealth in Great Britain found that Single parents with dependent children had the lowest average net wealth of all groups (£400), followed by single parents with non-dependent children, at £1,700 as reported by Tobi Thomas, 'Single-parent families 'most exposed' to cost of living crisis in Great Britain,' (*The Guardian*, 20 April 2022). Available at: [Single-parent families 'most exposed' to cost of living crisis in Great Britain | UK cost of living crisis | The Guardian](https://www.theguardian.com/uk-news/2022/apr/20/single-parent-families-most-exposed-to-cost-of-living-crisis-in-great-britain);

S Harding, C Fitzpatrick, A Chapman, 'Women's Experiences of the Cost-of-Living Crisis in Northern Ireland' June, 2023. Available at: [Womens-Experiences-of-the-Cost-of-Living-Crisis-in-NI-2.pdf \(womensregionalconsortiumni.org.uk\)](https://womensregionalconsortiumni.org.uk/womens-experiences-of-the-cost-of-living-crisis-in-ni-2.pdf)

¹² Entitlement is based on receipt of certain means-tested benefits (e.g., Universal Credit/Income Support) and net income, which cannot be above £14,000 per year. [Nutrition and school lunches | nidirect](#)

This cut has been executed at a time when food inflation is at a historic high and consequently access to basic needs is likely to be more challenging for this population.¹³

Lone parents and their children are particularly vulnerable to the cumulative impact of changes to social security since the introduction of the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016, including the implementation of the two-child limit for working-tax credits and the child element of UC. One of the Cliff Edge Coalition's three key asks is the mitigation of the two-child limit. In the absence of this mitigation, support systems like Discretionary Support are crucial to ensuring that there is an adequate social security safety net to protect those impacted by the two-child limit. The Women's Budget Group outline that 44% of those impacted by the two-child limit are lone parents.¹⁴ The 'centrepiece' of the Review of Welfare Reform mitigations, published last year, is measures to offset the impact of the two-child limit which has been identified by the review team as bearing 'particularly hardest on the poorest families and, unchecked, would lead to a further damaging rise in child poverty.'¹⁵

The department has confirmed in its announcement of final budget allocations that it will continue to carry 600 staff vacancies, which will have implications for service delivery. This staff deficit is occurring as people move to UC. The Cliff Edge Coalition is campaigning to 'resolve the five week wait in UC' a design feature in UC which often pushes people into a cycle of debt and poverty.¹⁶ The first group to move to UC are those claiming Tax Credits. Analysis on government statistics reveal that women make up the majority of single families for both in work (89%) and out of work (94%) claims for tax-credits.¹⁷ Therefore, lone parents are more vulnerable to experiencing any administrative difficulties and income shocks associated with the move to UC (which includes the wait for first payment). Furthermore, as outlined in our previous response to the budget EQIA, analysis of the profile of new UC claimants between October 2021 and November 2022 showed that 72% of new universal credit claims to the Department for Work and Pensions were by lone parents.¹⁸

Research has also shown that women are more likely to be in debt. Christians Against in Poverty (CAP) (who run 13 debt centres in NI) report that single women/single mothers make up 56% of their service users¹⁹, while Research carried out by the Women's Regional

¹³ C Fitzpatrick, R Loader, S McCartney, B McConnell, J McMullen, C Murray, K Orr, N Purdy and V Simms, *The Consequences of the Cuts to Education for Children and Young People in Northern Ireland* (June 2023) Available at: [The-Consequences-of-the-Cuts-to-Education-for-Children-and-Young-People-in-Northern-Ireland-Final.pdf](https://www.stran.ac.uk/~/media/stran/~/media/About%20Stran/~/media/Research%20and%20Policy/~/media/2023/06/20230601-The-Consequences-of-the-Cuts-to-Education-for-Children-and-Young-People-in-Northern-Ireland-Final.pdf) ([stran.ac.uk](https://www.stran.ac.uk))

¹⁴ Women's Budget Group, *The Two-Child Limit to Means Tested Benefits*, 17 July 2023. Available at: <https://wbg.org.uk/analysis/the-two-child-limit-to-means-tested-benefits/#:~:text=Most%20families%20subject%20to%20the,are%20lone%20parents%5B7%5D>.

¹⁵ L Allamby, K Yiasouma, K Logan, L Devine, M Simpson, L Coyle, C Harrison, S McKinley and J Portes, *Welfare mitigations review: independent advisory panel report* (Belfast: Department for Communities, 2022)

¹⁶ #5WeeksTooLong, *Why we need to end the wait for Universal Credit*, The Trussell Trust, September 2019. Available at: [PolicyReport_Final_ForWeb.pdf](https://www.trusselltrust.org/policy-report) ([trusselltrust.org](https://www.trusselltrust.org))

¹⁷ UK Government Statistics, *Commentary – child and working tax credit statistics: personal awards April 2023* (29 June 2023). Available at: [Commentary - Child and Working Tax Credits statistics: Provisional awards - April 2023 - GOV.UK](https://www.gov.uk/government/statistics/commentary-child-and-working-tax-credit-statistics-personal-awards-april-2023) (www.gov.uk)

¹⁸ Action for Children, *'Action for children analysis of universal credit – May 2023'* (Watford: Action for Children, 2023)

¹⁹ *Taking on UK poverty Client report*, Christians against poverty, May 2023 [Client-report-2023.pdf](https://www.capuk.org/client-report-2023.pdf) ([capuk.org](https://www.capuk.org))

Consortium on Women Living with Debt showed women's vulnerability to debt.²⁰ The latter report also exposed women's vulnerability to exploitation through paramilitary lending.²¹ Research carried out by Ulster University found that UC, particularly the five-week wait and social security debt were a driver for illegal lending.²² The extension to the repeat item exclusion period to 24 months and the restriction of awards to 'basic needs only' may push women who have no access to financial support for essential needs towards dangerous forms of illegal lending.

2. Are there any adverse impacts in relation to any of the Section 75 equality groups that have not been identified in Section 4 of the EQIA Consultation document? If so, what are they?

Cliff Edge Coalition is concerned about the impact that the changes to Discretionary Support will have on dependents and children and young people more generally. As highlighted above, wider evidence demonstrates the cumulative impact of changes to social security (for e.g., the two-child limit) and more recent cuts to government budget in Northern Ireland (education, health, infrastructure etc.). It is also argued above that lone parents (women with dependants) are more likely to be represented in applications to DS in the current economic climate and therefore, the restrictions will have a disproportionate impact on this group, which includes dependent children.

In the consultation document the department underline that support will be 'limited' and it is intended to be maintained throughout the financial year²³ – but there are significant risks that this will not be the case. Therefore, we recommend that the department carry out a full child rights screening to ascertain how specific risks to child's rights will be mitigated. Article 26 and 27 of the UN Convention on the Rights of the Child are particularly pertinent, namely the right of every child to benefit from social security and the right of every child to a standard of living for the child's physical, mental, spiritual, moral and social development. Art 27 further states that state parties, 'shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.'²⁴ This right is realised through the administration of social security, and through access to DS for those families who are financial crisis.

As a mitigating measure, the Department should consider extending DS to 16–17-year-olds who have dependents, who due to the current housing crisis, are living with their parents. Also, the rate of benefits for those below the age of 25 is lower than those above 25 despite 16–17-year-olds who are parents having the same parental responsibilities as those who are over 25.

²⁰ Women Living with Debt, Women's Regional Consortium, September 2022
<https://www.womensregionalconsortiumni.org.uk/wp-content/uploads/2022/09/Women-Living-with-Debt1.pdf>

²¹ Ibid.

²² Illegal Money Lending and Debt Project, Research Report of Findings, Ulster University and the Consumer Council, March 2020. Available at: [Illegal_Money_Lending_Report.PDF](#) (consumercouncil.org.uk)

²³ Changes to Discretionary Support Scheme EQIA, p. 16.

²⁴ UNCRC available here: <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

3. Please state what action you think could be taken to reduce or eliminate any adverse impacts in the allocation of the Department's Discretionary Support grant budget.

Cliff Edge Coalition agrees that it is imperative that the Department make a public statement that the current restrictions are temporary. If additional money becomes available in upcoming monitoring rounds the restrictions should be reviewed immediately with a view to reversing them. It is likely that the precarious balance that we have highlighted between the DfC's new policy position, and the statutory provisions will become much more difficult to justify. The restrictions have been made in the absence of an NI Executive, without Ministerial approval and represent a core policy change to the eligibility criteria. This temporary policy should not take precedence over a statutory entitlement where the budget provision in regulation 21 cannot justify this position.

We also believe that the Department should continue to prioritise grants as the main form of support for people applying to DS, as recommended by the Independent Review of Discretionary Support.²⁵

4. Are there any other comments you would like to make in regard to this proforma or the consultation process generally?

Cumulative Impact of the Proposed Cuts and Intersectionality There has been no analysis of the cumulative impacts of the proposed cuts within and across Government departments. Multiple cuts across Departments will have an impact often on the same Section 75 groups causing multiple layers of harm. However, there is no acknowledgement of this across the EQIAs. For example, cuts to Discretionary Support (proposed by DfC) may impact on a low-income woman, who could also be impacted by delays to her UC payments because of inadequate staffing within UC (proposed by DfC). She may also be more likely to be impacted by the cut to the Holiday Hunger Scheme (through the Department of Education) if she has children and the reduced availability of community transport services (proposed by DfI) if she lives in a rural area, as well as the reduction in Discretionary Housing Payments. There is a real need for oversight across the Departments on the cumulative impacts as well as a need for oversight around any potential mitigations. Intersectionality recognises that people can experience discrimination based on multiple and intersecting identities. As highlighted by the Gender Equality Strategy Expert Panel.²⁶

Cliff Edge Coalition urges the Department to immediately provide guidance to decision-makers, to the advice sector and indeed to claimants in respect of what items fall in the category of 'basic needs.' The guidance should be accessible and clear for all interested parties. Cliff Edge members, Housing Rights point to Scotland²⁷ and Wales²⁸ who have published public guidance on their equivalent schemes and believes that Northern Ireland should follow suit.

²⁵ Department for Communities, Independent Review of Discretionary Support. Available here: [Independent Review of Discretionary Support \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk/independent-review-of-discretionary-support) p. 131-132

²⁶ Gender Equality Strategy, Expert Advisory Panel Report, December 2020. Available at: [Gender Equality Strategy \(northernireland.gov.uk\)](https://www.northernireland.gov.uk/gender-equality-strategy)

²⁷ [Scottish Welfare Fund: statutory guidance – March 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-welfare-fund-statutory-guidance-march-2021/pages/1-3-introduction.aspx)

²⁸ [Discretionary Assistance Fund \(DAF\) | GOV.WALES](https://gov.wales/discretionary-assistance-fund-daf)