

Welfare reform bill response

July 2006

 Disability Rights Commission



WELFARE REFORM BILL RESPONSE JULY 2006

The Disability Rights Commission (DRC) has a vision of a society where all disabled people can participate fully as equal citizens. We want to see improved opportunities for disabled people and those with long term health conditions to work: to get in, stay in and get on in their careers. DRC supports reform proposals if we believe that they will deliver that goal fairly and effectively. We share the government's aims of higher employment rates and we have supported the broad direction of reform as in the Welfare Reform Green Paper and the tone adopted by Ministers when introducing it.

We have developed three principles that should be met for welfare reform to be acceptable. These are:

1. A fair balance between responsibility of individuals and responsibility of employers;
2. A flexible and responsive system that support disabled people's participation;
3. Comprehensive support with everyday activities to enable people to carry out their responsibilities.

These principles are based on a framework of reciprocal responsibilities. Whilst disabled people should not, as a rule be exempted from their responsibilities as citizens, the precise nature of this responsibility must take account of individual circumstances and is dependent on the reciprocal responsibilities of the state, employers and providers; eg people should have access to support which is effective in enabling them to make the move back to work. In this briefing we assess the Welfare Reform Bill and related policy against these principles and reciprocity framework.

What is the government proposing?

The Welfare Reform Bill introduces the Employment and Support Allowance (ESA) replacing Incapacity Benefit and Income Support in 2008. The ESA will be based on someone having limited capability for work because of their mental and physical condition. A minority (the 'support group') will receive a higher rate of benefit without meeting any further conditions. The majority (the 'work-related group') will have to attend assessments and work-focussed interviews with an adviser; in the future they will also have to do work related activities that they are assessed as capable of doing (these activities might include work tasters or jobsearch assistance). If they don't do those things without good reason their benefit will be reduced. In parts of the country the government is testing out the 'Pathways to Work' approach, where people have compulsory interviews but voluntary access to employment support. This will be rolled out

nationally with the private and voluntary sector (PVS) providing the bulk of services, and after 2008 this will effectively become part of the benefits system.

What the DRC welcomes

The DRC welcomes the announcements that there will not be lower ESA payments for people under 25. We also welcome the announcement that Pathways to Work is to be rolled out, provided that what is provided matches the evidence of what works and that the responsibilities placed on claimants to take part is matched by guaranteed access to high quality support to help people get and keep work.

What the DRC wants from reform

We want welfare reform as part of a package of measures to enhance disabled people's participation in paid employment and public life. We have argued for change to be based on the best available evidence about what works and for disability equality to be built in from the start (for example government and PVS organisations involved in the delivery of these reforms must be exemplars in employing disabled people, including people with mental health problems).

What is the DRC concerned about?

The DRC has supported the principles underpinning reform because they spoke of providing ladders of opportunity for disabled people. In return for effective opportunities and support, we believe it is reasonable to expect more people to move from benefits towards work. Without effective opportunities and support, it is not reasonable to expect greater responsibilities of claimants. This is not simply a matter of fairness – it is about what will be most effective in achieving the government's goal of being 'radical without being punitive' in helping people find jobs. Providing support which works is radical. Threatening to take away benefits without the support being in place is punitive.

At this point in time there are insufficient guarantees that the right support will be put in place, making it difficult for the DRC to determine whether the Welfare Reform Bill proposals meet our principles.

For example:

- The Green Paper stated that the Pathways rollout using PVS providers would not require them to replicate existing provision, so it is not clear how rollout will integrate evidence-based approaches, in particular supporting people with severe and enduring mental health problems as well as those with mild-moderate conditions.

- Increasing obligations over time for the work-related group requires Jobcentre Plus and its providers to ensure that support is available and accessible to individuals. If not this runs the risk of being unfair and placing the burden of responsibilities on individuals without guarantees of effective support.
- The support group who may need most help to return to work is least likely to benefit from the reform proposals.
- People currently receiving incapacity related benefits will have more regular assessments and spot checks and, contrary to previous assurances, can be brought into the new regime on a mandatory rather than a voluntary basis. This means they may have to do work related activity like ESA claimants, or face a benefit reduction (a 'sanction').
- In Pathways rollout PVS providers will be able to decide on benefit entitlement regarding work focussed interviews. From 2008 they may have the power to compel someone to do a work related activity, and impose sanctions if they do not. Contracting out this decision-making should be subject to standards of transparency, accountability and disability equality.
- Access to Work has been highly effective in supporting disabled people's employment opportunities, but the government plans to remove its funding from central government departments. DWP has done this already but evidence suggests that disabled people's employment rates and opportunities may have declined. Without assurances that its removal will not have a negative impact on disabled people's employment opportunities, DRC cannot support this proposal. A feasibility study to assess its impact is needed.

The DRC also believes that the Government has missed an opportunity to modernise the basis for entitlement to the ESA. The Welfare Reform Bill bases entitlement to ESA on limited capability for work because of mental and physical condition – a narrow understanding of what causes disability and is out of step with a wider view of disability which underpinned developments such as the Disability Discrimination Act 2005.

What we seek clarification about

The Green Paper contained limited detail and the Bill still leaves much to regulations. Our questions include:

- What is the detail of the Pathways rollout package and will it be available universally or targeted at specific groups such as parents?
- The government states that Jobcentre Plus services are exemplary for their disabled customers; what is the evidence for this? With increased involvement of the PVS, how does government propose to

meet its legal duties to eliminate discrimination and promote equality of opportunity?

- Can we anticipate further proposals in respect of changing employer behaviour?
- How much ESA will people receive? Who will be in the support group?
- Will ESA claimants be the only group of people to receive a means tested benefit that does not include a disability premium?
- How does 'capability' differ from 'incapacity' in benefit law and will people risk losing ESA if their capability improves whilst they are being compelled to do a work-related activity?
- What effect will community activities (volunteering, being a school governor or local councillor) have on entitlement to ESA?
- What will be the criteria for judging whether work-related activity is likely to help someone get or keep work?

The DRC will be assessing the details of welfare reform for potential to promote disability equality and to end child poverty.

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