

CVSNI RESPONSE TO THE DSD CONSULTATION PAPER ON DLA REFORM AND PERSONAL INDEPENDENCE PAYMENT: COMPLETING THE DETAILED DESIGN

The Commission for Victims and Survivors for Northern Ireland (the Commission) was established in June 2008 under the *Victims and Survivors (Northern Ireland) Order 2006*, as amended by the *Commissioner for Victims and Survivors Act (2008)*.

The Commission is a Non-Departmental Public Body (NDPB) of the Office of the First Minister and deputy First Minister (OFMDFM). The principle aim of the Commission is to promote awareness of the interests of victims and survivors of the conflict. It has a number of statutory duties that include:

- Promoting an awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests;
- Keeping under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors;
- Keeping under review the adequacy and effectiveness of services provided for the victims and survivors by bodies or persons;
- Advising the Secretary of State, the Executive Committee of the Assembly and any Body or person providing services for victims and survivors on matters concerning the interests of victims and survivors;
- Ensuring that the views of victims and survivors are sought concerning the exercise of the Commission's functions; and
- Making arrangements for a forum for consultation and discussion with victims and survivors.¹

The Commission is pleased to have the opportunity to provide a brief response to the Department for Social Development consultation relating to Disability Living Allowance Reform and the Personal Independence Payment.

The Commission would commend the Minister for Social Development for highlighting the Department for Work and Pensions (DWP) consultation and encouraging expressions of interest and concern from individuals and stakeholder organizations in Northern Ireland. The Commission would also like to acknowledge the Minister's engagement with DWP which has ensured representation for Northern Ireland on the group of independent specialists developing the detail of the new assessment. This is particularly important given that the impact of DLA reform will potentially be more acute and far-reaching in Northern Ireland which has the highest prevalence of claimants per head of population in the United Kingdom.

There is certainly a strong link between the high prevalence of DLA claimants in Northern Ireland and the 'particular challenges' referred to by the Minister and we

¹ The functions of the Commission relate to those set out in the *Victims and Survivors (Northern Ireland) Order 2006* as amended by the *Commission for Victims and Survivors Act (Northern Ireland) 2008*.

would strongly concur with the view that these unique circumstances must be factored into the consultation.

Eligibility

The Commission for Victims and Survivors in Northern Ireland would request that the Department take cognizance of the particular circumstances of Northern Ireland and the impact of 30 years of conflict when considering how best to implement Welfare Reform. From its consultation with the sector, the Commission can confirm that the reform of Disability Living Allowance (DLA) to Personal Independence Payments (PIP) is causing great anxiety amongst victims and survivors in Northern Ireland. Initial compensation where it was awarded was based on income and not on need and life expectancy was underestimated. Thus, in many cases compensation awards have now been exhausted and there exists a dependency on benefits. The lack of employment history as a result of injuries sustained and the lack of access to rehabilitation services have contributed to victims and survivors having to rely on DLA.

Therefore, noting the special circumstances being considered in relation to the UK Military Covenant as outlined in paragraph 5.4 of the consultation document, the Commission would recommend that due to Northern Ireland's particular circumstances of being exposed to 30 years of conflict, that a similar exemption policy should be applied to all the victims and survivors in Northern Ireland who were injured as a consequence of the conflict.

The Commission notes that the qualifying periods for the new Personal Independence Payment (PIP) have been amended and accepted into the Act. The Commission however would like to re-state its views previously outlined in the CVSNI consultation response in February 2011.

Firstly, in relation to extending the qualification criteria there is a concern that those individual victims whose mental and/or physical health conditions fluctuate may be at risk of losing their benefit which would cause unnecessary financial hardship.

Secondly, the removal of the automatic entitlement and consideration of the 'impact of the impairment or health condition' may cause unnecessary delay and have a detrimental impact on the individual victim's wellbeing and potentially, on that of their carer.

It is hoped that during the reassessment period for the new payment, victims with a serious mental and/or physical health condition will continue to receive benefit, until after the assessment is completed. It is also vital to ensure that careful consideration is given to those victims with serious mental health conditions who may see fluctuating change in their condition.

Re-claiming the benefit

In relation to remission, the Commission would support the view that individuals should not have to re-satisfy a full qualifying period when submitting a re-claim due to deterioration of any component which they previously received.

The Commission is concerned about the proposal to reduce the qualifying re-claiming period from two years (current DLA process) to one year. This would require victims and survivors to undergo a complete re-qualifying period before receiving assistance through this benefit. It should also be acknowledged that many

new conditions can be attributed to earlier conditions received as a result of the conflict in Northern Ireland.

Temporary absences abroad

In terms of 'temporary absences abroad', the Commission would agree that the application of the absence of four weeks abroad should be brought into line with other benefits such as Incapacity Benefit and its replacement, the Employment Support Allowance. However, the Commission would argue that there may be instances when specialist treatment may be required by a victim or survivor which may require them to have this treatment undertaken outside United Kingdom. The Commission would therefore recommend that each case should be individually assessed on its own merits. The unique circumstances which exist between Northern Ireland and the Republic of Ireland in terms of shared Health Services are an example of when individuals may receive treatment in another EU Country. Special consideration should therefore be provided in such circumstances.

Age profile

The Commission would wish to highlight the significant ageing profile of victims and survivors and the increasing difficulties which they experience in terms of coping with their injuries and of their deteriorating conditions as they grow older. Research completed by the University of Ulster, Centre for Health and Wellbeing highlighted specific issues relating to the ageing population that they had, "...a higher incidence and distinctive profile of experience of traumatic events associated with the period of major violence in the 1970's and 1980's".² Consideration must therefore be given to this constituency in moving from DLA to PIP.

Payability of benefit

Whilst the Commission acknowledges DWP's argument of ensuring that hospital in-patients are treated in the same way, whether they are a Motability customer or not, we would have reservations about the removal of the 'reasonable easement'. Victims and survivors who are hospitalized for a period of 28 days and who are in receipt of a Motability component may be adversely affected. Those victims and survivors who are Motability customers will be contractually obligated to continue making payments for their vehicles whilst having these benefits removed as a hospital in-patient. This proposal will directly impact on the victims and survivors and their families.

Re-assessment

The Commission would contend that those victims and survivors who have suffered serious injuries as a result of the conflict and who have already provided adequate and appropriate evidence of their conditions should not be subjected to a full re-examination.

We would advocate the application of an exemption policy to these victims and survivors to reduce levels of stress and anxiety associated with the reassessment process.

The NI Omnibus Survey (2010) revealed that approximately 100,000 people have been physically injured in the Troubles. Although those emotionally traumatised as a consequence of the conflict are not usually regarded as disabled, there are chronic forms of mental illness that can be regarded as disabilities. Evidence from

² Ageing, Health and Conflict – An Investigation of the experience and health impact of 'Troubles-Related' Trauma among older adults in Northern Ireland. University of Ulster, Centre of Health and Wellbeing, May 2012, pg.6.

the field of traumatology would suggest that those who endure repeated traumatisation over a protracted period might end up suffering from disabling chronic psychological conditions as a result.³

This raises the possibility that the reassessment process may have a re-traumatizing affect on the psychological wellbeing of the victims and survivors.

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³ Breen-Smyth, M. (2012) *The needs of individuals and their families injured as a result of the troubles in Northern Ireland*. WAVE Trauma Centre, University of Surrey in association with Northern Vistors, pp 48