



Northern Ireland
Assembly

**COMMITTEE FOR
SOCIAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

**Carer's Allowance Bill: Evidence Session
with Department for Work and Pensions**

10 March 2011

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Members present for all or part of the proceedings:

Mr Simon Hamilton (Chairperson)
Ms Carál Ní Chuilín (Deputy Chairperson)
Mr Sydney Anderson
Mrs Mary Bradley
Mr Mickey Brady
Mr Tommy Gallagher
Ms Anna Lo
Mr Fra McCann

Witnesses:

Mr Neil Couling) Department for Work and Pensions

The Chairperson (Mr Hamilton):

Neil, you are very welcome. We are glad you could come, and that we could show you some of the scenery and sights of Northern Ireland while you are here. Not to build up your expectations or over-hype your appearance, but we have all been looking forward to it and are quite interested in what you have to say.

In considering the Carer's Allowance Bill, we are acutely aware of many issues, particularly the maintenance of parity. Perhaps you could make a few opening comments and then I will open

the meeting to questions.

Mr Neil Couling (Department for Work and Pensions):

I will not talk for too long, because I am sure that people will want to ask questions.

I will address two things, both related to parity. First, there are the overlapping benefit rules. People sometimes glaze over those and wonder why we have them. However, they are an essential part of the current social security system and have existed since Beveridge's time. They were invented to cover a series of income replacement benefits: pensions, for people who are too old to work; unemployment benefits, for people who are unemployed and cannot work; and incapacity benefits, soon to become employment support allowance, for people who are too sick to work. In the 1970s, carer's allowance was added to the group of reasons why people could not work. Beveridge recognised that such conditions could co-exist, but did not think that people should be paid three benefits just because they happened to fulfil three conditions. I noticed in the Hansard report of the debate on the Carer's Bill that quite a lot of reference was made to the fact that somebody does not stop caring just because they suddenly receive a pension. Quite obviously, they do not. However, the same thing could be argued for sickness; just because someone becomes 65, he or she does not stop having an incapacitating condition.

The rules and principles are important. When challenged in the courts about the rules, especially in Europe, having a clear set of principles underlying a benefits system means that one will be more successful in retaining the shape of that system and not have it pulled out of shape by legal judgements.

It is clearly for Northern Ireland to decide whether wants to keep the overlapping benefit rules. However, they are an integral part of the system, so I urge caution. If you get rid of one of those rules here, you would probably be getting rid of them across the system. What then would that mean for how your system works? That is something that legislators should bear in mind.

Secondly, I will turn quickly to parity, which I am sure is what you really want to talk to me about. For us, parity works through the movement of citizens within the United Kingdom. To have an efficient administration, we take decisions made in Northern Ireland to be effective in

Great Britain. It also means that we can negotiate with other jurisdictions on behalf of the Northern Ireland social security system. So, there is a series of benefits to having a benefits system that is common across the United Kingdom.

Again, it is your choice. If you want to break parity, you are sovereign in that respect. However, there is a series of things you get now that would go if parity were broken, which may come out in cross-examination.

The Chairperson:

Thank you. You have highlighted the nub of the issue, really: in wanting to talk to you, it was less about carers and their contribution to society. That contribution goes without saying. It is more about the effect of the Bill, and what the consequences of passing it would be. This Bill will not become law, but a similar one may come before the Assembly. I am glad that you are here. During my time on the Committee, DWP has been referred to as some kind of monolith sitting over in Whitehall; a sort of monster, almost.

Mr Couling:

That is us.

The Chairperson:

Yes; you are the friendly face of the monster. Whenever Anne McCleary or Gerry McCann from the Department for Social Development come before the Committee to discuss an issue, they always, and rightly, throw up the spectre of parity and whether a breach might happen. You said a couple of times that we have the choice, and that it is up to us to do whatever we want to do, but would legislating along these lines constitute a breach of parity? There is bound to be a range of consequences, the minimum being that we would have to fund any differences. What would the other consequences be?

Mr Couling:

If the Bill were passed, you would open yourselves up to some risks. First, we effectively run your IT systems, and we charge you a very small fee, which is around 2.5% of any development costs. If you had to develop your own systems —

The Chairperson:

It is along the lines of the Barnett scheme.

Mr Couling:

Yes. We do that quite happily, and that 2.5% buys particular things that you need in Northern Ireland, because you have a different system of housing support, for example, and we try to adjust the systems for that. The second thing that you might not have spotted, and there is no reason why you should, is that the interaction with European law could be quite tricky.

I had our lawyers try to think through what would happen if you pass this Bill. Essentially, one could use treaty rights to open up the GB and Northern Ireland systems to extra costs. If I were a carer of pensionable age and you passed this Bill, I would be incentivised to move to Northern Ireland and claim the carer's allowance. I could then move to the Republic and invoke my treaty rights and take that with me back to Great Britain.

That sounds a bit fantastical in one sense, but I bet that if the two systems moved apart, people would explore the possibility of doing that. The free movement rules would mean that I would be quite within my rights to claim in Northern Ireland, move to the Republic for a short while, invoke my treaty rights there and then move back to Great Britain. Great Britain might then respond to Northern Ireland not just by saying that you have got to fund your costs in Northern Ireland, but that you have opened our system up to costs that we have not budgeted for, and we would like that to be paid for as well, thank you very much. *[Laughter.]* I am not saying that that is what we would do, but it is a risk to you. I think you should bear in mind the interaction with European law.

I asked Treasury officials whether they would like to come here or whether there was anything that they would like me to say about the financial risks. They gave the typical Treasury reply, which was that you would have to find money in the Northern Ireland Vote to fund any breach of parity. There are quite big risks involved in moving the two systems apart. As I said, Great Britain cannot mandate you to keep parity; you are sovereign in that respect. However, the advantages of it, and the protection that we give to external challenge, are there and are not to be

underestimated.

The Chairperson:

The Bill is pretty sizeable in the Northern Ireland context, but is not entirely insurmountable. If we really wanted to have this, we might be able to find the money somewhere. Obviously, there would be consequences for our expenditure; but have you looked at the issue and considered whether, if we passed the Bill, there would be a knock-on effect for other benefits? Would it have a domino effect into other aspects of the system, which would mean that we would have to change those or almost be in breach of equality?

Mr Couling:

I think that it is more about people moving between Northern Ireland and Great Britain, which they do, and rights that go with them. One cannot invoke treaty rights if one moves within the United Kingdom. However, people moving to the Republic and then invoking treaty rights is a worry.

The intent of the Bill is clear and positive: it wants to give more help to older carers. However, a lot of the gain for poorer pensioners would be lost because of the way in which the Bill is configured. If I were advising Ministers on such a proposal, I would bring that to their attention.

It is probably unfashionable to say so, but the overlapping benefit rules work. If one bit of the rules is unpicked, there is the risk of the whole piece coming away. My advice is to keep the thing stitched together and find another way of helping carers. However, that is for you; not me.

Mr Brady:

Thank you for your presentation. It was interesting that you mentioned Beveridge because he started things in 1942 and then the welfare system came in 1948. These are different times; and one could not have foreseen the changes that have come about. Ultimately, the concept of overlapping benefits is to save money. That, to me, is the priority.

The idea behind David McNarry's Bill is to help older people so that they can retain their

pension and their carer's allowance. It is predicated on the argument that, in the North and in Britain, we have the meanest pension system in the developed world. One cannot get away from that. Pensioners here and in Britain are much worse off in respect of retirement pension than pensioners in many places.

You mentioned European law. Invalid care allowance has had problems historically. There was a case in 1984 in which a married woman could not claim it and had to take the British Government to the European Court. She won her case, but they changed the legislation almost as she was flying back. At that time, we were told that it would be a stand-alone benefit. Of course, it is still not a stand-alone benefit. I am also wondering about treaty rights and people hopping from the Six Counties into the South, etc. Would those people take the disabled person with them? Carer's allowance is predicated on the fact that someone is looking after a disabled person for a minimum of 35 hours a week. At the moment, the allowance is £53.90, so a person is getting £1.54 an hour, which is about a quarter of the minimum wage, and there are all sorts of connotations around that. However, if people are going to hop across Europe, what will happen to those they are caring for? How will the criteria for looking after someone fit into that scenario? You said that there could be an influx of people coming from Britain as carers and then moving to the South, but, presumably, they will still have to satisfy the carer's criteria. I honestly cannot see your argument being viable.

You talked about us having sovereignty in this matter but, ultimately, it is about the control of money. As you said, the Treasury is saying that we will have to pay for any breaches of parity. However, I am not sure whether any real costing has been carried out to establish how much breaching parity would cost. In the North, carers over the age of 60 save the government about £250 million a year, and that figure does not include carers of other ages. It is a huge amount of money.

The Treasury's stock answer seems to be that, if we breach parity, we will pay for it. However, there are different circumstances here. The argument that David McNarry has put forward is that there are higher rates of disability here. We have higher rates of deprivation. Indeed, Newry and Mourne, where we are today, has one of the highest incidences of multiple sclerosis in the world. There are inherent problems here that have not been addressed by the

Treasury or anyone else. It is time that people started to look at the particular problems in this area, and seeing what can be done, rather than giving that stock answer. It is like the sword of Damocles hanging over us. The feeling is: God knows what will happen if we breach parity; it will be cataclysmic.

Mr Couling:

I will say two things in response to your points, Mr Brady. First, there are no residence rules in the two systems. I have not talked to Anne about this, but, if Northern Ireland chooses to break parity, we would probably have to invent some form of residence test for ourselves. That would be quite tricky because European law does not like residence rules in general. It thinks that we configure such rules to stop people invoking treaty rights. It is quite a tricky area of law. I cannot advise the Committee today on exactly what we would have to do or, indeed, what you would need to do to protect yourselves. I posited the example of people moving across the border to the Republic as a theoretical position.

In the long term, parity gives Northern Ireland higher benefit rates than the economy on its own would normally generate. If you were to break parity, the two systems might move apart quite significantly in the long term. Of course, it would depend on the complexion of the Government elected here, but one policy response to high unemployment might be to lower benefit rates below the Great Britain levels in an effort to incentivise work, inward investment and the like. In one sense, being tied to Great Britain probably gives you higher rates than Northern Ireland would generate on its own. I do not say this because I want to do any of it. I am not trying to scare anyone. I am just saying that those are the economics involved. Rates and entitlements move up and down in relation to how economies perform, which is what is going on in welfare reform.

Mr Brady:

I will make two points. First, there are residence conditions for income support and various other benefits already. Secondly, you raise an interesting point about benefit levels. It is because of the North's colonial link with Britain that we cannot raise revenue. If the North had fiscal levers and could raise revenue, as has been suggested, that might go some way to addressing the problem you raised.

I take your point that you are doing us a favour by giving us higher rates of benefit and that the only reason for that is that we cannot raise money ourselves. It is not an argument that stands up because if we had fiscal levers, we could possibly raise enough money to cover other aspects, particularly in relation to social security benefits and other areas around that.

Mr Couling:

In one sense, if you were prepared, as an economy, to sustain higher rates of tax in order to fund higher rates of benefit, that is a political choice and that would have economic consequences. As of today, the cash transfer from Great Britain to Northern Ireland is about £3 billion. To provide exactly the same level of benefits, you would need to raise taxes by £3 billion in Northern Ireland. I do not know what that would be per capita, but I think it would be quite a whack.

These are theoretical things: if you make the mental leap that parity has gone, what will the world look like in 20 years? It may not look as though there is a much more generous scheme in Northern Ireland compared to Great Britain. It might be the other way around because, I suggest, the economics would pull you in an opposite direction. That might be contentious to say, but it is something you would need to bear in mind if you were going to break parity because it is where you could end up.

Mr Brady:

I suppose, if our aspirations are fulfilled that will not be a problem.

Mr Couling:

I am not going to comment on that. I am not going there. *[Laughter.]*

The Chairperson:

That is enough now, Mickey. You have just stepped over the line. *[Laughter.]*

Ms Ní Chuilín:

In relation to DWP and welfare reform, have the huge levels of multiple deprivation in the North, particularly in relation to DLA and child maintenance, and even generally, been taken into

consideration? Deprivation levels here are not comparable to those elsewhere. Has that been factored in?

Mr Couling:

We have had probably more engagement with Northern Ireland Ministers since the General Election than I can remember in any of my 25 years in the Department. Minister Attwood has been very active in putting the Northern Ireland perspective into the welfare reform debate.

We introduced the Bill a couple of weeks ago and it had its Second Reading yesterday. The Bill that we introduced was a different product from the original announcements that we made and some of that was down to the discussions that we had been having, particularly around the impacts of some of the reforms in high-unemployment areas. Northern Ireland has pockets of very high unemployment.

We are open to engagement on the welfare reform programme and to thinking about it in a localised way. In many ways, the Government's interest in localism offers some potential here. Mr Attwood has been trying to see what that would mean for Northern Ireland. So there is potential to flex around some of the edges here.

The reforms themselves strike at the heart of these problems, I hope. This is about trying to make work an attractive prospect for individuals in every circumstance. The UK Government's view is that work is the best form of welfare that one can provide.

Ms Ní Chuilín:

That is fine if there are jobs for people. With all due respect, the fact is that that is a bit of a myth. Reforming the welfare system to get people out to work when there is no work available here will penalise people. The Minister here agreed to legislation which will penalise lone parents in that they will have no childcare because they cannot find work — unlike England and Wales, which have responsibility for childcare. In fact, there is potential for further deprivation here. The welfare system needs to be reformed, but not to the detriment of people who live in poverty and in areas of multiple deprivation. Although, in fairness, Minister Attwood has been active, what does that mean here in practice? Are you are looking at proposals that will,

potentially, skirt around the issue of parity or not?

Mr Couling:

There are not a fixed number of jobs in the economy. If we make people more employable and make them actively search for employment then there will be more jobs in the economy. Essentially, what is happening is that the capacity of the economy to grow is being expanded. We know of a very good example of that in the past 15 years, where four million jobs were created in the UK economy as a whole, two million of which went to people from outside the United Kingdom. We retained very high levels of inactivity through the period, because people were either not looking for work themselves or did not have the skills to fill the jobs that were created. The welfare reform package is part of trying to do something about that supply side.

The demand side is cyclical in nature. There are low levels of demand at the moment because of the world economy. The world economy will recover, and, at that point, the reforms will come in — they will not be introduced until 2013 — and, hopefully, we will have given the UK domestic population the capacity to take up many more of the jobs that growth will bring.

Specific aspects of the reforms have led to talk of people being penalised and so forth, but I do not accept that people are being penalised. We are not sanctioning people when there are no jobs for them to go to. The sanctions bite when people refuse to take a job. However, if there is no job there for them to take, they are not going to be sanctioned. It does not follow that particular day. Welfare reforms have to be seen in the broader economic context. They make sense. We know that active labour market policies work. In the recession in Great Britain in the 1980s, we stopped signing people on every two weeks because we were overwhelmed by the number of people who were coming through the doors. That unemployment lingered for a lot longer than the 1990s recession, when we did not stop our active-led market approach. We kept signing people on, even though it was really difficult in the-then Employment Service to do that. People returned to work much quicker in that period. These policies do work, but what is happening in the wider economy will affect the speed or depth of their success.

Ms Ní Chuilín:

I am not getting into an argument with you about market forces versus social need, because we

are not going to get anywhere with those arguments. You are a civil servant who works for the Department for Work and Pensions and I am an elected representative; we both have views, and never the twain shall meet. We have heard a lot about the Minister speaking to DWP and Lord Freud. Have any specific welfare reform proposals emerged, not about breaking parity, but about stretching it?

Mr Couling:

Two things have been going on: first, there have been discussions about the actual policies, where they apply to Northern Ireland and where they would not work. We have just dropped the policy on staged reduction in housing benefit for people who have been on jobseeker's allowance for more than 12 months. I could characterise that as the Northern Ireland perspective. There will be very long durations of unemployment, and the recession is lasting longer in Northern Ireland, partly because of the links that Northern Ireland has with the Republic and its economic woes. So, the Minister asked us about the merits of the policy on a UK-wide basis and then on a Northern Ireland basis. We concluded that, on a UK basis, now that the work programme is up and running and our universal credit plan is now developed, we do not need that policy in Great Britain. Obviously, because of parity, it follows that that will not happen in Northern Ireland.

We have also been looking at the work programme itself with colleagues in the Northern Ireland Government and at how Northern Ireland could develop its own approach to that and could use some of the funding mechanisms that we are using there to, essentially, use what would have been benefits expenditure to fund programmes to help people get back to work, and so forth. So, when that design is done, it will obviously relate to Northern Ireland circumstances rather than to Great Britain circumstances. It has worked like that.

Ms Lo:

It is quite interesting to have you here to talk to us about welfare reform, which, as you have probably gathered, has not been well received by a lot of people here, particularly those in more deprived areas.

I want to come back to the carer's allowance. It will be hugely difficult, if not impossible, for us to breach parity. It is very difficult to do that because of the economics and risks involved.

However, is it possible to break away and not categorise carer's allowance as income replacement benefit but rather use it like a care benefit and recognise the contribution of carers, whether young or old, in helping their loved ones by staying at home? It could be moved to the DHSSPS or the National Health Service and used like an additional benefit. That would mean that it would not be taken away from people when they reach pension age. Is that possible? Obviously, it will be done in Westminster rather than here.

Mr Couling:

It is not impossible in structural or legal terms. However, there would be a cost. At the moment, the Government are wrestling with a huge deficit and are looking very carefully at any proposals that would cost more money given that we are trying hard to save money and are about to go through a very difficult period for public finances. One would have to ask whether this would be an efficient way of targeting resources and determine what it is that one is trying to do. Are we trying to recognise caring?

I think that the estimates for Great Britain are that six million people are caring but only about one million are receiving carer's allowance. If we were to expand that, what would it mean for costs? Carer's allowance has grown in cost by about 250% since 1990. Northern Ireland has had a successful take-up campaign, and we have had a successful take-up campaign in Great Britain as well. You would have to factor in all those issues. Ultimately, the faceless bureaucrats do not make those decisions; they are made by elected politicians like yourselves.

Mr Brady:

I have a brief point about sanctions. I am already coming across lone parents, in particular, who have been told that there will be sanctions. We were told, particularly by the Minister, that it would not happen, yet it is starting to happen. If there is a sanction on the form, inevitably it will happen, irrespective of the situation pertaining at that time.

The Chairperson:

During the Second Stage debate, it was said that the Bill was one way to give greater acknowledgement to carers. It may not be the best way, and it is not the only way. There was emphasis placed in some speeches on the need for fundamental reform at national level. Is there

any work ongoing that is focusing on carers?

Mr Couling:

Andrew Dilnot came to Belfast recently. I do not know whether the Committee had the chance to talk to him, but the Dilnot review is looking at how we fund social care, and it is considering carers in that respect as well. If we just went down the route of institutional care, it would be extraordinarily expensive. Therefore, how carer's benefit and the carers' system relate to that is something on which we are engaged with him. The Government will produce a response to his report, and I am sure that we will pick up on those issues.

The Chairperson:

Neal, thank you very much for coming along. Anna was right, it was interesting. A lot of issues are involved and, if we had more time —

Mr Couling:

I am not averse to coming back and discussing these issues. I tried to focus on parity, rather than go wider. I have no objections to coming back.

The Chairperson:

None of us knows whether we will be in a job. We might be having a more face-to-face interaction with the welfare system ourselves.

Mr F McCann:

We might have to face our own sanctions. *[Laughter.]*

The Chairperson:

I am sure that, in the next mandate, the Committee for Social Development will want to take you up on that offer. It may not be in this formal format, but it might be useful to have a discussion to tease out some of the issues. Thank you for coming. I really appreciate it. It has been very useful and helpful.