



**WELFARE REFORM POLICY PAPER**

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## WELFARE REFORM POLICY PAPER

### 1. What are incapacity-related benefits?

There are several incapacity-related benefits, which include contributory Incapacity Benefit (IB), the means-tested Income Support with a disability premium (IS): see Box 1 below.<sup>1</sup>

In early 2005, almost 2.7 million people in Britain received one of these benefits or national insurance credits for incapacity, but only 1.4 million received IB (a figure which has been falling for a decade).

#### Box 1

Incapacity Benefit (IB) is payable to people who have paid or been credited with national insurance contributions. Reforms in 1995 tightened the gateway to benefit and reduced the amounts payable. IB is usually payable with staged increases over time. The long-term rate, £76.45, is payable to most people after a year (but after 28 weeks for people on the highest rate of DLA care component or who are terminally ill). Age allowances can be paid on top of the long-term rate (£16.05 for people under 35 when first claiming, £8.05 for those aged 35-44). Some people with children (and adult dependants) can also receive additions. In February 2005, the average weekly payment for people on the long-term rate (excluding those receiving benefit before 1995) was £80.24.

Income Support (IS) is a means tested benefit, paid either on its own or to top up to other benefits like IB. Some people may claim IS if they are incapable of work but are ineligible for IB because they have not paid the right contributions at the right time. IS comprises a personal allowance (varying by family size) and client group 'premiums'. There are several for disability; the disability premium can be payable to people registered blind, receiving long term IB (or would be eligible) or other benefits like Disability Living Allowance (DLA). A single person over 25 could get a total of £80.10 (£56.20 personal allowance plus £23.95 disability premium). In addition, an enhanced disability premium can be paid to people under age 60 also receiving the highest rate of the DLA care component. A severe disability premium can also be payable to some people who are technically living alone.

People usually have to be in a 'period of incapacity for all work' in order to sustain a claim to long term benefit. Incapacity is usually assessed

<sup>1</sup> Also includes Severe Disablement Allowance, no longer payable to new claimants

through the Personal Capability Assessment, a test of functional limitations, except where someone's condition is considered severe. Many people also now have to attend work-focussed interviews, usually in the early stages of a claim and at later trigger points (such as following a Personal Capability Assessment).

## 2. The Pathways to Work pilots

*Pathways to Work* has been piloted since October 2003 for new claims in seven localities. Between October 2005 and October 2006, the pilots will be progressively extended to a third of the Jobcentre Plus network, focussing on the 30 local authority districts with the highest proportions of people receiving incapacity-related benefits.

### Box 2

#### Pathways to work pilots include

- Six mandatory WFIs, starting after the eighth week of a claim;
- Specialist personal advisers;
- A 'choices' package consisting of employment programmes (such as the New Deal for Disabled People) and Condition Management Programmes (delivered through local NHS trusts, similar to expert patient programmes);
- A £40 return to work credit payable for up to a year;
- Access to in-work support (for individuals and employers), including job coaches, occupational health support, financial advice and debt counselling as well as Access to Work.
  
- From February 2005 this approach was extended to existing claimants in Pathways localities who had made their claim in the two years prior to the pilot starting. They are required to attend three WFIs rather than six, have access to the same range of provision as well as a Job Preparation Premium of £20 a week payable for up to 26 weeks for undertaking work-related activity.

The *Pathways* package has been more effective than previous attempts to encourage people on incapacity-related benefits to participate:

- Six times as many people are participating in Pathways areas compared with New Deal for Disabled People nationally.
- Twice as many people have entered jobs (almost 20,000 in the seven areas to date).

- Proportions leaving benefit are 8 percentage points higher than nationally.

### **3. The DRC's principles for reform**

The Disability Rights Commission's role is to end discrimination and promote equality of opportunity for disabled people. Our vision is of a society where all disabled people can participate fully as equal citizens. Our framework for reform has been developed from this vision and our thinking on citizenship (see 'Equal citizenship and incapacity benefit reform', 2004), available on the DRC's website.

The DRC shares the government aims of higher employment rates and reformed public services. We have supported the broad thrust of reforms that focus on responsibilities as well as rights. We believe that there is now a once-in-a generation opportunity to reform the system to reflect these aims. We want to see positive and constructive welfare reform, and in particular for three key principles to be reflected in the forthcoming Green Paper:

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

### **4. Principle 1**

#### **A fairer balance between responsibilities of individuals to consider work and responsibilities of employers.**

We believe that disabled people have responsibilities like everyone else although we recognise the limitations that pain, fatigue, confusion etc may present. But employers too have responsibilities.

For example, too many employers are still not fulfilling their duties under the Disability Discrimination Act (DDA); over a third of calls to the DRC's Helpline concern employers failing to accommodate a disabled person in work, which can lead to someone claiming IB. One example is Mr Law, whose employer refused to allow part time

working in an alternative position following redundancy, and then dismissed him for not accepting full time working. His dismissal led to a further deterioration in his health (depression, hernia and a mild heart attack) that he feels would not have otherwise occurred. Subsequently he claimed IB for almost two years.

Reforms we would like to see under this principle include:

- Earlier intervention (eg access to information) to ensure that individuals, employers, health professionals and other service providers can identify issues early on and tackle them straight away (including the DDA and how it may apply, and options to work flexibly).
- Reforming Statutory Sick Pay so that it is more flexible and enables a phased return to work or rehabilitation to take place.
- Earlier access to the Condition Management Programmes being piloted in *Pathways* areas when someone is still at work (ie not just for those in the early stages of an IB claim).

The DRC would also support wider initiatives targeted at employers, including employer-employer campaigns, as proposed in the Prime Minister's Strategy Unit report 'Improving the Life Chances of Disabled People'. We would also be supportive of initiatives to help disabled people move into work that are better integrated with the skills agenda, for example looking at on-the-job training by the employer rather than training which may not meet employers' needs as a prelude to employment.

## 5. Principle 2

### **A flexible and responsive system that supports disabled people's participation.**

When introduced in 1995, IB was originally intended for people who were not expected to look for work in order to receive benefit. The general rule is that work is not allowed during a claim, except under limited circumstances (eg 'permitted work'). People are often fearful that if they show any sign of being able to do something that it will be assumed that they are no longer 'incapable of work' and so lose benefit. Working whilst on benefit is also associated with fraud. So in effect people are caught between choosing whether to play by the rules and remain 'passive' recipients and risk being called 'scroungers'; or to try something out and risk being called a fraudster.

For example, current rules can penalise people for doing some activity, or can in effect deny them opportunities to work or train. The DRC knows of someone who was doing ‘therapeutic work’ a few years ago and was visited by fraud officers, now too afraid to ask about the rules.

Reforms we would like to see under this principle include

- Removing existing contradictions by ending the concept of ‘incapacity for work’ as the underlying basis for entitlement to benefit.
- Introducing a more flexible concept and associated set of rules to enable people to try out work and work-related activity without risking benefit penalty.
- The current *Pathways* model represents a balanced package of work-related conditions, with safeguards, alongside a menu of support. As it includes benefit conditions as well as the ‘Choices’ package, *Pathways* should form the basis for future changes to the benefits structure. This means that the *Pathways* package needs to be available to everyone, irrespective of where they live. National rollout should therefore coincide with the introduction of a reformed benefit structure to ensure an equitable balance between rights and responsibilities. Whilst national coverage would require upfront costs (we estimate an extra £250 million over two years) there is a ‘spend to save’ argument. Assuming that 19,500 people who have already found jobs via *Pathways* stayed in work for a year, this could generate almost £80 million savings to the benefits bill alone (assuming an average annual payment of Incapacity Benefit of £4,000) before tax and national insurance, almost paying for the initial seven pilot areas (costing £100 million for the first two and a half years).
- Proposals for extending work-related conditionality beyond that applying in *Pathways* pilots areas should have a clear rationale and address our six ‘Conditions for conditionality’ (2004: [www.drc-gb.org](http://www.drc-gb.org)). In particular
  - High quality support from personal advisers
  - Activities which are to be mandatory should be shown to be effective in helping people move towards or into work
  - Sanctions for non-compliance also need proof of effectiveness in changing behaviour
- Benefit rules that allow disabled people to participate in public life (as recommended by the Prime Minister’s Strategy Unit ‘Improving

- the Life Chances of Disabled People' report and the forthcoming disability equality duty on the public sector) without benefit penalty
- Claiming and assessment processes that accommodate the needs of people with a range of impairments (we would be pleased to help the Department for Work and Pensions (DWP) undertake a prototype disability equality duty impact assessment on any new proposals).
  - The employment and support assessment proposed in the Five Year Strategy to run alongside the Personal Capability Assessment should be undertaken with the individual at its centre and by staff who have relevant expertise in disability and employment.

We would be pleased to help DWP undertake a prototype disability equality duty impact assessment on options for changing the benefit structure, in particular proposals for work-related conditions and sanctions.

What we would not like to see are reforms to the benefit structure that have perverse effects or are unlikely to lead to higher employment rates of disabled people. For example, time limits to benefit and means testing can have perverse consequences such as worsening disincentives to work. People under age 25 would be particularly badly affected by means testing. Vouchers instead of payments would reduce choice and control, running counter to reforms in other areas like direct payments and individualised budgets.

## 6. Principle 3

### **Comprehensive support with work and everyday activities to enable people to carry out their responsibilities.**

Disabled people may need support to get a job or to stay in work, or with everyday living tasks (or both). Without such support someone may not be able to exercise their rights, nor to carry out responsibilities as a citizen, parent or worker.

*For example* a disabled person may be offered a job but unable to get to work because social care staff cannot help them at the right time of day for them to arrive on time, or because they cannot use public transport.

Reforms we would like to see under this principle include

- Greater promotion of Access to Work and progress on individualised budgets (which may include elements of personal assistance support currently provided within Access to Work).
- Availability of the *Pathways* 'Choices' package (day one employment support and condition management programmes, as well as in-work support) irrespective of where someone lives.
- Availability of in-work support without time limits. Extended in-work support may be needed to enable people with fluctuating circumstances, including people with mental health issues, to sustain and progress in employment.
- Help with everyday living tasks will also be important for a smaller group of benefit recipients. Reforms to adult social care should be based on enabling individuals to participate in paid employment and public life.
- Progress on the Independent Living Taskforce recommended by the Prime Minister's Strategy Unit report.
- Services providing employment or independent living support should be fully accessible and available to disabled people, delivered in accordance with the principles underpinning the disability equality duty.

## **7. The DRC's interest in welfare reform**

We are concerned about incapacity benefits and welfare reform for several reasons.

Firstly, many people receiving these benefits are likely to be covered by the DDA and so others (like employers and service providers) therefore have responsibilities. From next year the public sector will have a further duty to promote disability equality. Central government and its agencies will be covered by this duty, and so public services reform should take into account the implications of this, and other duties to promote equality in race and gender laws.

Secondly, we want to see a narrower gap in the employment rates between disabled and non-disabled people (currently 51% and 81% respectively). Welfare reform has a role to play in supporting more people to move from benefits into work.

Thirdly, the DRC is holding a 'Disability Debate' ([www.disabilitydebate.org](http://www.disabilitydebate.org)) to discuss how disabled people can be equal citizens, including the relationship between disabled people and the state.

This and other papers are available on the DRC's website: [www.drc-gb.org](http://www.drc-gb.org)).

Finally our role includes offering advice to Ministers about proposed changes to law and policy.

We would be happy to discuss any of these points in more detail if that would be helpful. Please contact Marilyn Howard at [Marilyn.Howard@drc-gb.org](mailto:Marilyn.Howard@drc-gb.org) or Neil Crowther at [Neil.Crowther@drc-gb.org](mailto:Neil.Crowther@drc-gb.org).