

SCHOOL SHOES £2
£40.00

Christmas - £35.00
Birthday - £70.00
Car - £800.00
Mort - £250.00
Petrol - £30.00 a week
Ins. home - £57 a month
Tax - £30 a month



Claim file Cycle

Name

NI Number

Conscious Cruelty

**SOCIAL SECURITY,
THE ECONOMY
AND HUMAN RIGHTS**

FOOD?
£57.50
LOAN = £40.00
PHONE
GAS + ELECTRIC = £20.00
Kylie's Birthday = £20.00
KIDS
Uniform - £120
Lunches - £15 a week
After school £20 a week
Football - £5 a week



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We borrowed the title of this report from Ken Loach, the world renowned film director who directed 'I, Daniel Blake', a film which shone a light on the systemic human rights abuses taking place every day in our social security system. He described that system as one of 'conscious cruelty' in a message of support, shared below, which he sent to us and to the packed audiences who came to see his film in venues across Belfast. His words sum up exactly what we are up against and why we organise to make change.

R2W Group

Solidarity message from Ken Loach, Director 'I, Daniel Blake'

Paul Laverty, the writer, and I have worked together for a quarter of a century. He lives in Scotland and we exchange messages most days - about what's going on, news items, gossip - and important things like football scores.

We found we were sharing many stories of people whose lives were thrown into chaos by having their social security payments stopped. Sanctions. This could happen quite arbitrarily, on an instant, and they would be left with nothing. No food, no way of paying rent, dependent on charity. They are caught in a bureaucratic process with so many traps they are almost bound to fail. Paul and I thought we should look further.

We went on a trip round Britain, London to Glasgow, but we mainly went to the midlands and the north of England. Everywhere we heard the same story. Desperate and profound poverty. We met many in this situation but statistics show there are hundreds of thousands.

Just one figure: 7 million people in families where someone is working live in poverty. And these are people who are actually in work! Our first visit was to my home town, Nuneaton, in the midlands. The very first person we met was a 19 year old lad, living in a room provided by a charity. He had a mattress on the floor and an old fridge. Paul asked him what was in the fridge. He opened the door - nothing. Not milk, not food, nothing. Did he ever go hungry? Yes, the previous week he hadn't eaten for three days.

We have been asked if we want government ministers to watch this film. The answer is 'no'. They know exactly what they are doing. They want to show that poverty is the fault of the poor. That unemployment is the fault of the unemployed. Otherwise we would challenge their whole rotten system. That is what gives them their wealth and privilege.

Grotesque wealth, like his, exists alongside shocking deprivation. Grinding poverty is being deliberately and systematically imposed on the most vulnerable citizens. It amounts to conscious cruelty. It is why we must organise for change - fundamental, structural change.

Katie and Dan are not obvious victims, not extreme cases. Katie could be your sister or daughter - or you. And you will know many people like Dan.

Success in your current struggles. Warmest good wishes from all of us - and solidarity!



Foreword by R2W campaigners

We are Right to Work; Right to Welfare - a group of sick, disabled and unemployed people campaigning for simple, but potentially life changing, changes in how public money is spent, jobs are created and social security is administered.

We have been outside social security offices and assessment centres for years listening to people tell their stories – people who rely on tiny amounts of social security money to survive.

They are the long term unemployed, they are the sick, the disabled, the carers and the distraught youth forced on to meaningless schemes like a hamster on a wheel with little prospect of change for the better.

This is the story of how the decision makers in our society respond when

people reach out and ask for help.

We borrowed the title, *'Conscious Cruelty'* from a message of support sent to us in 2017 by Ken Loach, award winning film maker and director of *'I, Daniel Blake'*. His film and the term *'Conscious Cruelty'* captures exactly what we have witnessed.

Our campaign started in 2012, listening to people signing on at Corporation Street dole office in Belfast. There was one food bank then. Today, there are fifteen food banks that we know of in Belfast alone. It really is worth pausing and thinking about what that says about our society and the policies and programmes that govern our lives.

Food banks are mostly run by kind hearted charities and churches. People, who would otherwise starve trade vouchers to feed themselves and their families. They get the vouchers from GPs,



advice centres, community centres and Councillors, if their situation is deemed dire enough.

Food banks are hidden places of extreme poverty. Most people walk or drive past them every day. You will probably never see the inside of a food bank unless you need one or work in one. Many people who use the food banks are in low paid jobs and still gripped by poverty.

This is the story of how Belfast turned into a city of food banks in the shadow of multinational supermarkets, office blocks and five star hotels. Of how poverty and injustice is hidden in plain sight across our towns and villages. Government campaigns tell us *'The benefit cheats are robbing the really genuine people.'* Yet,

government admits that benefit fraud amounts to a fraction of one percent of all money lost in the social security system, while billions are squirreled away in tax avoidance schemes. As far as we know not one JSA, ESA or PIP claimant has been found with an offshore bank account.

Our entire social security system is now built on the myth that *scroungers and shirkers* are robbing society of vast amounts of money by claiming benefits they are not entitled to. This myth provides the cover for the Conscious Cruelty we have witnessed. This story is as much for the people who believe the myth as it is for the decision makers who peddle it.

For a very long time we have been asking Leo O'Reilly, Permanent Secretary of the Department for Communities to listen to our story. Mr O'Reilly is responsible for administering our social security system. His office is in the Causeway Exchange building at the back of Belfast City Hall. Mr O'Reilly refuses to meet with our group. We encourage you to contact him after reading this story.

Mr O'Reilly's department has made a lot of excuses for Conscious Cruelty over the years such as *'The Standards Committee have not raised it with us'*, *'Decisions are made in line with the legislation'* and more recently, *'We can't act without a Minister in place.'*

Thousands upon thousands of people entitled to welfare have had their benefits cut, their benefits stopped and benefits delayed under Mr O'Reilly instructions. Mr O'Reilly retires from the civil service soon with the help of a social security safety net in the form of a pension paid for by the public. Mr O'Reilly will be replaced by Ms. Tracy Meharg.



With the stroke of a pen Mr. O'Reilly or Ms. Meharg could change the system to guarantee due process and impact assessments for claimants to stop the pain and suffering. We encourage you to ask them to do that.

This is a story about our efforts to engage with the decision makers and the politicians, the front line staff, the civil servants, the council officers, the private companies, the regulators, the advice workers, the charities – everyone involved in the system of Conscious Cruelty, some defending it and some defending people against it. It is the story of the many brave allies we have made along the way and the resistance to change we have faced from various quarters.

The *'Cash for Ash'* story is unfolding in front of our eyes as we launch this report. Politicians, Special Advisers and civil servants are under investigation because decisions makers spent £490 million on incentives to burn fuel in a scheme which was meant to protect the environment. The people under investigation are being questioned with dignity and respect. No

one has had their income stopped or reduced while they defend themselves, and rightly so. Everyone deserves due process. Everyone should be treated as innocent until they are proven guilty.

We are amazed by the polite civility of the *'Cash for Ash'* inquiry compared to the hostile enquiries sick, disabled and unemployed people are subjected to daily as citizens try to claim their benefits. We also note that claimants for JSA, ESA and PIP do not have the luxury of giving answers such as *'I do not recall'*, *'I was not aware'*, *'that is not my recollection'* or *'in hindsight I would have done that differently'*. These are the acceptable replies of the top benefit claimers like SPADs and Ministers.

This is the story of the sick, disabled and unemployed people who are subjected to these enquiries which run rough shod over their rights, strip them of their dignity, cost so much, achieve so little and benefit only private companies. This has to stop.

We have documented hundreds of separate stories to inform this report. We

have uncovered years of evidence and data from the government's own records. We have supported many people to walk through the system gathering evidence at every stage to tell their story directly to the previous Minister for Social Development, the Minister for Communities and most recently Mr Leo O'Reilly. They all know the story.

We have told the story to every political party, every senior civil servant, the trade unions, the advice workers, the community groups, the social security staff, the private companies, the regulators, the Ombudsman and the church leaders.

Media outlets recently carried interviews with a brave father telling us of his daughter, a young woman, a chef by profession, who is currently fighting for her life with stage four cancer. This young woman was denied a social security income developed to support sick and disabled people because a *'health care professional'* working for a private company, CAPITA, deemed her ineligible. A government *'Decision Maker'* in Mr O'Reilly's Department rubber stamped the decision to deny her the money to support herself and her child.

'The customer has a right to appeal'. Mr O'Reilly's department said. There are many people involved in this decision, another one in the long line of clearly wrong decisions that has caused incalculable yet totally avoidable harm and misery to an already vulnerable family.

And who is to blame? Is it the people who designed the PIP assessment in the first place? Is it the politicians who passed the legislation? Is it Mr O'Reilly for presiding over the Department every day

without intervening to stop it? Is it Capita for making a profit from it all? Is it the *'health care professional'* who chooses a career making money working for Capita, denying cancer patients funds? Is it the regulators who fail to issue guidance or sanctions to *'health care professionals'* carrying out harmful assessments? Is it the Department for Communities *'Decision Maker'* who no one ever sees and who never spoke to the woman or her doctor before rubber stamping a decision to deny her a lifeline?

'I'm only doing my job' they say. We have heard that a lot too. This is a story about a system that starves and traumatises people and is administered every day in our cities, towns and villages to our people in your name. This is also the story of how people are fighting back. Look at our campaigns. We are forcing changes in this system by stepping outside of it and calling it what it is.

This is the story of new ideas like REAL JOBS NOW and positive solutions like the #PeoplesProposal and the widespread support we have secured. It is the story of empowered people effecting meaningful change by bypassing broken systems and bureaucracies using human rights tools to stand up to private companies and government officials who would rob us of income and our dignity. We are calling on those who are appalled at these decisions, and those who take these decisions, to join with us and tell their own story privately or publicly.

With this report we invite you to become a part of the next chapter in this story as a *'Human Rights Monitor'* in our open ended inquiry into Conscious Cruelty.

R2W

**RIGHT TO WORK:
RIGHT TO WELFARE
CAMPAIGN**



Right to Work: Right to Welfare Campaign

The Right to Work: Right to Welfare group (hereafter R2W) is a group of people who are unemployed, sick or disabled. They have been campaigning since 2012 against benefit sanctions and for human rights protections in the social security system (the People’s Proposal), as well as for the creation of real jobs through the use of public procurement (Real Jobs Now).

R2W uses a human rights based approach to campaign for change. Their work is specifically focused on the rights enshrined in the United Nations International Covenant on Economic, Social and Cultural Rights, in particular Articles 6 and 9 that relate to the right to work and the right to social security respectively .

The R2W group has developed a model for decision making within the social security system that is based on international human rights principles and standards, called ‘the People’s Proposal’, with its central tenets of due process and impact assessment. A copy of the

People’s Proposal Human Rights Checklist is included at Appendix A. Since 2016 the R2W campaign has been actively campaigning for the incorporation of this model by the Department for Communities.¹

The group has also campaigned for the adoption of social clauses by local Councils in order to create employment opportunities for the long term unemployed, through its Real Jobs Now model.² It is worth noting that this campaign united all parties on Belfast City Council (with the exception of the

1 A briefing paper on the People’s Proposal, submitted to the UN Committee on Economic, Social and Cultural Rights can be accessed via this link <http://bit.ly/2lvNu7n>

2 The text of the Real Jobs Now motion adopted by Belfast City Council on 3 February 2014 was as follows “ That this Council recognises the increasing social and economic hardship experienced by people in our communities as a result of growing unemployment and cuts to welfare benefit; council accepts it has a duty to use the powers available to it (including but not limited to planning, regulation and procurement powers), to generate positive outcomes for the most marginalised in our communities and hereby commits to include a ‘Real Jobs’ clause at every available opportunity, in contracts tendered by council to procure goods, services and Capital works. The ‘Real Jobs clause’ will guarantee ring fenced, fully paid jobs and apprenticeships for the long-term unemployed (12+ months).”

DUP) at a time of violent ‘flag’ protests by loyalists in reaction to a vote by the City Council to fly the Union flag over City Hall on designated days only.

The group is supported in its campaign by the Participation and Practice of Rights Project (PPR). PPR is a human rights organisation located in Belfast. Established in 2006 by the late Inez McCormack, trade union leader and human rights activist, PPR supports marginalised groups to use human rights tools to realise their social and economic rights. In 2012 PPR’s unique human rights based approach was recognised by the United Nations Office of the High Commissioner for Human Rights as a good practice example of how communities can claim their rights.³

Campaign progress People’s Proposal

The People’s Proposal calls for a human rights checklist to be completed by social security decision makers before any decision is reached to reduce or stop income. It is based upon principles of due process and minimum essential levels of income which government has already signed up to as part of its obligations arising from the UN Covenant on Economic, Social and Cultural Rights.

Over the past two years R2W campaigners have secured very significant support for the People’s Proposal. A majority of

the 11 District Councils have passed motions⁴ calling on the Department for Communities to implement the People’s Proposal and have written to Mr. Leo O’Reilly, Permanent Secretary of the Department for Communities, calling on him to take action to give effect to it.

All political parties, with the exception of the DUP, have endorsed the People’s Proposal. It commands widespread support among civic society, including from the largest trade union body NI Council – Irish Congress of Trade Unions (NIC-ICTU), NIPSA which represents social security staff, as well as the community, voluntary, advice and human rights sectors⁵. In June 2016 R2W campaigners briefed members of the UN Committee on Economic, Social and Cultural Rights during its examination of the UK government.

The formal response to date from the Department for Communities to the growing call for the implementation of the People’s Proposal has been to reiterate that all social security decision making activities “*take place within a carefully monitored and controlled statutory framework to ensure that fair, lawful, accurate and consistent decisions are made*” and that the introduction of a human rights checklist, as proposed by the People’s Proposal would be “*subject to consideration and approval by incoming Ministers*”.⁶

3 https://www.ohchr.org/documents/issues/HRIndicators/AGuideMeasurementImplementationCompleteGuide_en.pdf

4 <https://www.pprproject.org/overwhelming-support-from-district-councils-for-the-people’s-proposal>

5 <https://www.pprproject.org/peoples-proposal-supported-in-derry-by-trade-unions-and-political-parties>

6 A copy of the letter from Mr. Denis McMahon, Deputy Secretary Work and Inclusion Group, Department for Commu-

In February 2018 the Department for Communities introduced revised operational processes governing its benefits sanctions regime. In correspondence to PPR outlining the changes introduced, the Department stated that the changes introduced were intended to “*mitigate the risk of sanctions being considered or imposed*”.⁷ The changes centred on additional customer contact and communication. Interestingly, in correspondence with Fermanagh and Omagh District Council, obtained under Freedom of Information legislation by PPR, the Department for Communities claimed that the changes implemented to the benefit sanctions regime “*align with those proposed by PPR*”.⁸

Real Jobs Now

Real Jobs Now is a campaign for targeted job creation for people who are long term unemployed (i.e. 12 months or more unemployed) by way of public procurement. In February 2014, following intensive campaigning, the R2W group succeeded in getting Belfast City Council to pass a motion⁹ calling for the inclusion of a ‘Real Jobs’ clause at every available opportunity, in contracts tendered by council to procure goods, services and Capital works. The ‘Real Jobs clause’ was designed to guarantee ring fenced, fully paid jobs and apprenticeships for the

long-term unemployed.¹⁰

Despite being passed by a majority of political parties and endorsed by a vote at full Council, the Real Jobs model has been frustrated from the outset by unelected and unaccountable council officials implementing policies in a manner more amenable to the interests of large developers and employers rather than the interests of the long term unemployed. In the period following its introduction by Belfast City Council until November 2015, the Real Jobs Now model resulted in the creation of 40 ‘opportunities’ for the unemployed and 96 apprenticeships.¹¹ The latest figures for jobs and apprenticeships created by Belfast City Council using social clauses, with a total of only 9 jobs and 13 apprenticeships being created for 2017/18, serve to underscore the need for much greater accountability at Belfast City Council to operate the policy as intended. Far greater priority must be given by Belfast City Council to the implementation of the Real Jobs Now clause when it spends public money.

Summary of survey results, indicators, benchmarks and

nities to R2W, dated 14 July 2017, can be accessed here <http://bit.ly/2Npa7ey>

7 A copy of this correspondence can be accessed via this link <http://bit.ly/2ygd8Zd>

8 A copy of this documentation can be accessed via this link <http://bit.ly/2QjIFla>

9 <https://www.pprproject.org/parties-unite-to-pass-real-jobs-now-motion-at-belfast-city-hall>

10 Op cited at note 2

11 Freedom of Information response from Belfast City Council to PPR dated 22 January 2016 Social Clauses Policy Adoption and Output Update

SUMMARY OF SURVEY RESULTS

recommendations

“it’s a joke, they are taking away benefits instead of helping”

From October 2017 to March 2018 the R2W group carried out a survey of people’s experiences of the social security system. The aim of this survey was to gather direct evidence of the experiences and impact of the social security system on the lives of those people directly affected – people who are unemployed, sick and disabled.

The 2017/18 monitoring exercise follows on from previous monitoring conducted by the R2W group in 2014 and 2015, which gathered evidence in relation to similar issues.

A total of 101 questionnaires were completed. The questions related to people’s experiences of the social security system over the previous two years. The majority of those who participated were aged 35-64, with a fairly even gender divide. The three main benefits people received were Job Seekers Allowance, Employment Support Allowance and Disability Living Allowance/Personal Independence Payment.

The survey gathered data on people’s experiences of long term unemployment, including experiences of the Steps to Success employment programme, of the impact of social security decisions on their standard of living and on their mental health, and on their experience of due process.

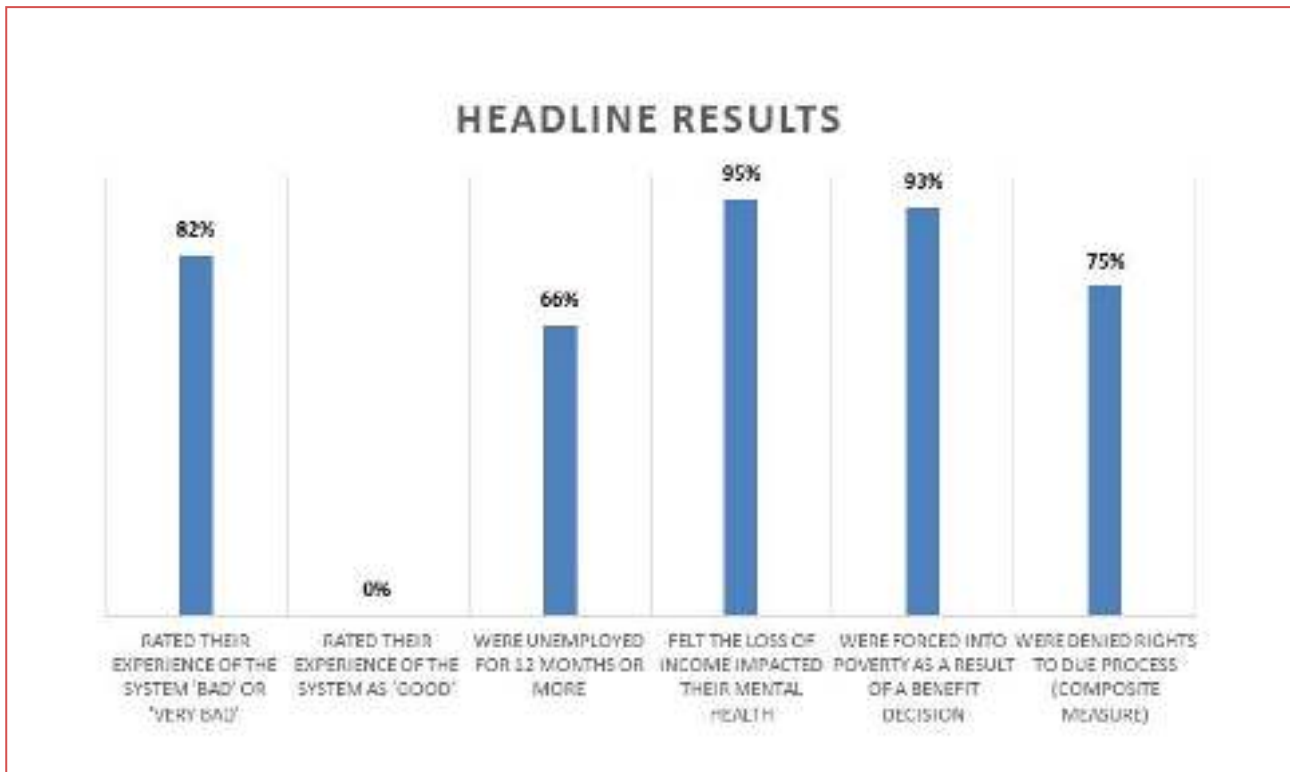
Headline results

“the process is designed to be as awkward as possible so that you give up on it”

Over 8 in 10 people rated the social security system as either ‘very bad’ or ‘bad’, while not a single person surveyed gave it a rating of ‘good’. Some of the reasons for these ratings are starkly evident in the impacts the system has on people’s daily lives. The negative impact on mental health as a result of social security decision making was almost universal, with a staggering 95% reporting an impact on their mental health. A similarly high rate of respondents (93%) reported being forced into poverty as a result of a benefit decision. Three quarters of respondents had experience of their rights to due process being breached. Finally, the true extent and depth of unemployment can be seen in the high rates of long term unemployment of 12 months plus among respondents.

The case studies included in Appendix B vividly illustrate the human impact behind these figures; the impact on the enjoyment of fundamental rights including the right to mental health, the right to due process, the right to a decent standard of living and the right to work.

The survey results have been analysed within a framework of relevant international human rights standards and existing governmental policy commitments. This analysis has been used to set the following indicators and benchmarks to monitor the progressive realisation of people’s human rights to work and to social security protections. Each issue also has a number of recommendations for action attached.



1. Long Term Unemployment

“they can't wait to see the back of you”

Baseline: 65.5% of those unemployed were unemployed for 12 months or more

Indicator: Percentage of people unemployed who are long term unemployed

Benchmark: Reduced to 33% by October 2019

Recommendations:

- All central and local government bodies that hold responsibility for procurement budgets should implement the **Real Jobs Now** model of public procurement.
- Belfast City Council should carry out an independent investigation to establish why the **Real Jobs Now** model has not been implemented as mandated.

- Belfast City Council should impose financial sanctions on private contractors who fail to deliver on the **Real Jobs Now** requirements of their contracts.
- The Department for Communities should scrap the flawed Steps 2 Success employment programme and replace it with a fund for personal development and training that people can avail of on a voluntary basis.

2. Mental Health

“since I found out I had been turned down for ESA I have been feeling extremely low and experiencing suicidal thoughts. I have had to seek an urgent consultation with my GP”

Baseline: 95% of people said their mental health was impacted due to loss of income

Indicator: Percentage of people whose mental health was impacted due to a social security decision

Benchmark: Reduced to 30% by October 2019

Recommendations:

- The Department for Communities must end the involvement of the private sector in all aspects of social security assessment and decision making processes.
- The Department for Communities must replace the current ESA and DLA/PIP assessments with a person centred process based on the primacy of the person's medical evidence.
- Pending the introduction of a new, rights compliant assessment system, the Department for Communities should obtain the full medical file of the person they intend to assess, *before* any decision is made to subject them to an assessment.
- People with life-long conditions or terminal illnesses should be exempt from all assessments.
- The Department for Communities should ensure that mandatory, accredited mental health and suicide prevention training is in place for all Decision Makers as well as for other staff involved in the assessment of people with mental health conditions.

3. Poverty

“I was given no notice of the last payment; it's not enough to survive”

Baseline: 93% of claimants were forced into poverty as a result of a benefit decision

Indicator: Percentage of people who were forced into poverty

Benchmark: Reduced to 0% by October 2019

Recommendation:

- The Department for Communities should ensure that Mandatory Impact Assessment, as per the People's Proposal, is undertaken before any benefit decision is made.
- The Department for Communities should ensure that, following mandatory impact assessment, any social security decision that results in the reduction or removal of a person's income must comply with all due process requirements as well as with the Minimum Income Standards as set out by the Joseph Rowntree Foundation.
- The Department for Communities should carry out regular benefit entitlement checks with claimants to ensure they are receiving all benefits they are entitled to.

4. Due Process

“I think the system is stopping people from appealing, after what I went through with the assessment I don’t want to go through anything like that ever again”

Baseline: 75% of claimants were denied their rights to due process (composite measure)

Indicator: Percentage of people who have their right to due process fulfilled

Benchmark: Reduced to 32.5% by April 2019 and 0% by October 2019

Recommendations:

- The Department for Communities should implement the People’s Proposal human rights checklist
- All face-to-face assessments should be routinely recorded, with the option of opt-out being provided. The cost of such recordings must be borne by the contractor/Department for Communities and not by the claimant.
- The Joint Standards Committee should introduce the human rights checklist into its framework for monitoring and reporting on the standard of decision making by the Department for Communities, and should publish its findings on a regular basis.
- The Department for Communities should publish data on a regular basis on outcomes of social security decisions, including benefit sanctions, mandatory reconsideration and

appeals. This data should include information on costs of administering these processes.

Recognising that the principle of progressive realisation in respect of the fulfilment of economic and social rights¹² means that the government must demonstrate that it is taking steps that are ‘*deliberate, concrete and targeted*’, the R2W group plans to use the above indicators and benchmarks to monitor government progress towards fulfilling people’s right to work and their right to social security.

Context for the Right to Work: Right to Welfare Campaign

The following overview of the current social, economic and policy context foregrounds the R2W campaign, a campaign for a social security system that works as originally intended by providing protection and support to people in our society who need it – people who are unemployed, sick and disabled.

Legacy of the conflict

The North of Ireland is a society coming out of decades of violent conflict, and among the many legacy issues that arise are greater levels of poverty and unemployment, the result of decades of underinvestment. 370,000 people live in poverty, including 118,000 children, or 27% of the total number of children here. The jurisdiction has higher levels of unemployment and lower employment rates than elsewhere in the UK, and the proportion of people in poverty in

¹² <https://www.escri-net.org/resources/progressive-realisation-and-non-regression>



households without employment has increased slightly over time, in contrast with the UK as a whole.¹³ Its rate of long term unemployment is also more than double that in other jurisdictions.¹⁴ There has also been a rise in what is described as ‘in-work poverty’, with this form of poverty accounting for 45% of income poverty in 2016.¹⁵

The North of Ireland also has a significantly higher proportion of people living with physical and mental disabilities. The Commissioner for Victims and Survivors has estimated that 213,000 people experience significant mental health problems as a result of the conflict.¹⁶ It is also estimated that at least 40,000 individuals were injured during the conflict, many of whom have acquired disabilities as a result of those injuries. A

World Mental Health survey found that the North of Ireland has the highest levels of PTSD in the world.¹⁷ In contrast with other jurisdictions where the rate has begun to fall, the rate of suicide in the North of Ireland continues to rise.¹⁸

Impact of Austerity

Unlike in Britain, where the first austerity measures were imposed in late 2008, the full impact of austerity measures, including projected public spending cuts of £1.5 billion by 2020, with 20,000 public sector job cuts forecast, has yet to be experienced in this society. The rapid rise of food banks across the North of Ireland is just one indication of the impact of austerity and welfare reform. In 2017/18 a total of 32,433 three day emergency food parcels were distributed by the Trussell Trust, including to 13,289 children.¹⁹ The

13 <https://www.jrf.org.uk/report/poverty-northern-ireland-2018>

14 Ibid

15 <https://www.jrf.org.uk/report/monitoring-poverty-and-social-exclusion-northern-ireland-2016>

16 <https://www.cvsni.org/media/1806/cvsni-response-to-service-framework-for-mental-health-and-wellbeing-2018.pdf>

17 <https://www.bbc.co.uk/news/uk-northern-ireland-16028713>

18 <https://www.bbc.co.uk/news/uk-northern-ireland-35491402>

19 <https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/>

top four reasons for referral to a food bank across the UK in 2017/18 were low income-benefits/not earning, benefit delay, benefit change and 'debt'.²⁰

Welfare Reform

The North of Ireland has parity with Britain in the area of social security, and while policy in this area is technically devolved, in practice the Executive has followed policy set by the Westminster Parliament. Following protracted political negotiations in relation to proposed welfare reforms, the (Northern Ireland) Welfare Reform Act 2015 was enacted in Westminster. Among the changes this legislation gave the green light to were the introduction of Universal Credit in 2017, the replacement of Disability Living Allowance (DLA) with Personal Independence Payment (PIP) and a new 'claimant commitment' accompanied by a new conditionality and sanctions regime. As was the case following the passage into law of Westminster's Welfare Reform Act 2015, the Welfare Reform (Northern Ireland) Order 2015 also heralded a harsher benefit sanctions regime, with the potential for benefits to be withdrawn for up to eighteen months. The accompanying welfare mitigations package, introduced in January 2016 following the publication of the Evason Mitigations Working Group report, saw the introduction of a number of temporary mitigation measures, including in relation to the bedroom tax, benefit cap and discretionary support scheme, as well as a number of flexibilities such as split household payment and direct payment of housing benefit to landlords. The mitigation measures are due to end in March 2020, with evidence that, despite

such measures, some benefit claimants are already being subject to measures such as the bedroom tax.²¹

It should also be noted that additional benefit cuts were implemented post 'Evason', including the 2-child policy and further cuts to Employment and Support Allowance, and as such do not fall within the mitigations package. These additional cuts, alongside the continuing freeze on working age benefits, will undoubtedly push those who are the most vulnerable in our society, including children, into even deeper poverty.²²

Introduction of Universal Credit

Universal Credit, introduced in the North of Ireland in October 2017, had already been widely recognised as an unmitigated disaster in the UK, where it has brought untold misery to individuals and families already struggling. The story of the eponymous Daniel Blake from Ken Loach's '*I, Daniel Blake*' film continues to be relived on a daily and weekly basis by countless individuals. Inquiry after inquiry has served to shine a light on the deep harm and damage being caused to vulnerable individuals,²³ a level of harm so great that it has often led to desperate people taking their own lives.²⁴

21 <http://www.irishnews.com/paywall/tsb/irishnews/irish-news/irishnews/news/northernirelandnews/2018/06/11/news/trebling-of-households-hit-by-bedroom-tax-in-northern-ireland-1352522/content.html>

22 <https://www.pprproject.org/targeting-benefit-cuts-at-the-poorest-children-is-a-clear-breach-of-their-human-right>

23 <https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2017/pip-esa-assessments-17-19/>
<https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2017/benefit-sanctions-inquiry-17-19/>

24 <https://jech.bmj.com/content/early/2015/10/26/jech-2015-206209>

20 Ibid

It is clear that the human cost is immeasurable. The National Audit Office in a report published in June 2018 also made it clear that the project has been a financial fiasco.²⁵ Having investigated the value for money argument of the £1.9 billion spend to date, the National Audit Office concluded that Universal Credit “cannot prove it helps more claimants into work”... “it may end up costing more than the benefit system it replaces” ... “it is not value for money now and its future value for money is unproven”.²⁶

The collapse of the NI Assembly in February 2017 and the ongoing lack of Executive Ministers or any devolved scrutiny mechanisms means that Universal Credit continues to be rolled out unchecked. This critical lack of transparency, scrutiny and accountability is also evident in other aspects of the social security system.

Who’s cheating who – investigating fraud and error

In the 2018/19 NI Budget, £25 million was allocated to investigate welfare reform and fraud.²⁷ In 2016/17 benefit fraud reportedly accounted for a total of 0.018% of the total benefit budget, £1,114,000 out of a budget of £5.9 billion.²⁸ In 2016/17 the Department for Communities spent £2,544,251 investigating fraud. The allocation of £25million is over



25 <https://www.pprproject.org/knee-deep-in-the-big-muddy-department-for-communities-must-act-now-to-introduce-the-peoples-proposal>

26 Ibid

27 This money was committed as part of a package of measures contained in ‘A Fresh Start: The Stormont Agreement and Implementation Plan’, published in November 2015.

28 The £25million allocation is for both benefit fraud and administrative error. In 2016/17 administrative error amounted to £4,274,051 or 0.072% of the benefit budget.

ten times the current allocation for the investigation of fraud and error, a problem that combined accounts for less than 0.1% of the benefit budget. The Stormont Agreement set out that welfare fraud and error savings identified must be verified by Westminster’s Office for Budget Responsibility. However, when contacted

by PPR in April 2018, the Office for Budget Responsibility indicated that it had not been asked to verify any such savings.²⁹

In June 2018 it was reported in the media that 30 tonnes of subsidised food a year is being binned by Stormont³⁰ An Assembly spokesperson claimed that due to food safety laws none of this food could be given to food banks.

The irony of this stark contrast, between an almost total lack of scrutiny or accountability for Departmental spending on the one hand, and the bureaucratic, invasive, traumatic and abusive processes benefit claimants are forced to submit to in order to access any financial support that still leaves them below the poverty line, on the other, was not lost on benefit claimants who participated in the R2W survey.

Privatisation of Social Security

The human impact of the current social security system has been well documented, including in the media, academic research and through powerful personal testimonies. What has gone largely without scrutiny however is what amounts to the wholesale privatisation of the social security system, a phenomenon also in evidence across a much wider range of public services being delivered to vulnerable people, including in immigration, social care and prisons to name but a few. Private companies such as Atos and Capita, who carry out ESA and PIP assessments, are run with seemingly no public scrutiny or accountability;

29 Freedom of Information response received by PPR from the Office for Budget Responsibility on 18 April 2018, Reference No: FOI22032018 can be accessed via this link <http://bit.ly/2zpD4mF>

30 <https://www.belfastlive.co.uk/news/stormont-bins-30-tonnes-food-14790365>

failings are not investigated properly and the true extent of the devastation being caused is staggering.

The perversity of allowing private companies, which follows a Payment by Results (PbR) model, any involvement in decisions which have such an impact of people's lives, has been allowed to go under the radar. Leaked correspondence between Atos and its assessors revealed the use of cash incentives to encourage assessors to squeeze more assessments into their working day;³¹ this is but one glimpse of the incentivisation strategies ruthlessly employed by private companies.

Despite widespread evidence not only of the harm they are causing to vulnerable people, but also of their failures to meet government standards or provide value for money³², Capita and Atos have both had their contracts extended through the use of extension clauses.³³ Likewise, the three private providers contracted to deliver the Steps 2 Success employment programme have had their contracts extended until October 2020, despite a previous track record of not meeting performance targets set by the Department for Communities.³⁴

Designed to fail?

The political ideology underpinning welfare reform and the introduction of Universal Credit also warrants greater

31 <https://www.disabledgo.com/blog/2018/05/disability-benefit-assessors-trouser-50-rewards-for-squeezing-extra-tests-into-their-day/>

32 <http://www.disabilitynewsservice.com/Atos-maximum-and-Capita-forced-to-admit-assessment-failures/>

33 Freedom of Information response to PPR from Department for Communities DFC/2018-0191. Capita's contract was extended until July 2019, Atos's contract until June 2020.

34 Freedom of Information response to PPR from Department for Communities DFC/2018-0192.



examination. The accepted rhetoric assumes that the welfare reform regime was introduced primarily with the aim of slashing the benefit budget. Yet further probing shows that private contracts often costs government more than if they ran things ‘in-house’. When private companies report losses on contracts, government resorts to making the contracts more lucrative to encourage bids.

The reality may in fact be extremely calculated, whereby welfare reforms were designed to fail, so as to reduce public confidence in the welfare state and eventually see it totally replaced with an American style private health insurance system. Disability rights campaigner Mo Stewart, who has researched and written extensively on this subject, has concluded that what is happening amounts to the “*planned demolition of the welfare*

state”.³⁵ If what Stewart claims is true, then the failings of the private companies within the social security system, and the repeated ‘rewarding of failure’ by government, cannot be viewed as mere incompetence. Instead, the level of access private companies have to the social security system and their intentions for the future should be closely scrutinised.

In contrast to the prevailing ideological drive, the introduction in Scotland of a legislative ban on private companies being contracted to carry out benefit assessments, demonstrates the potential of devolved administrations to restrict encroaching privatisation.³⁶

35 <https://welfareweekly.com/charities-are-missing-the-point-benefit-assessments-were-designed-to-fail/>

36 Under section 12(i) of the Scotland Act 2018, assessments cannot be ‘carried out by an individual who is not acting in the course of employment by a public body’.

**MONITORING
PEOPLE'S
EXPERIENCES
OF THE SOCIAL
SECURITY SYSTEM**



Monitoring people's experiences of the social security system

From October 2017 through to March 2018 the R2W group carried out a survey of people's experiences of the social security system. The aim of this survey was to gather direct evidence, both quantitative and qualitative, of the experiences and impact of the social security system on the lives of those people directly affected – benefit claimants. It has provided the R2W campaign with a solid evidential baseline, from the perspective of those directly affected. The 2017/18 monitoring exercise follows on from previous monitoring conducted by the R2W group in 2014 and 2015, which gathered evidence in relation to similar issues.

A total of 101 questionnaires were completed. The questions related to people's experiences of the social security system over the previous two years. Activists felt it was important for them to go to where people were engaging with the social security system, so the survey was conducted outside social security offices and assessment centres across

Belfast, in community centres, local libraries and with people in their homes. A profile of survey respondents is included at Appendix C.

The survey results have been used to set indicators and benchmarks to monitor the progressive realisation, without discrimination, of people's human rights to work and to social security protections.

Creating a culture of fear among benefit claimants

R2W activists who carried out the survey were struck by the marked increase in fear among benefit claimants of being seen participating in the survey, in comparison with the previous survey period in 2014/15. Surveyors detected a pervasive sense among benefit claimants that every aspect of their lives was being subject to surveillance and that they risked victimisation by the social security system if they were perceived to be speaking out or challenging it in any way.

These fears are far from unfounded, given



the increasing evidence of the extreme levels of surveillance being carried out against benefit claimants. In May 2018 it was revealed that the supermarket giant Sainsbury's has a policy to share CCTV "*where we are asked to do so by a public or regulatory authority such as the police or the Department for Work and Pensions*".³⁷ In August 2018 the Department for Employment Affairs and

37 <https://www.theguardian.com/commentisfree/2018/may/31/benefits-claimants-fear-supermarkets-spy-poor-disabled>

Social Protection in the south of Ireland sought tenders for media monitoring, including social media, raising concerns about the 'chilling effect' on people's preparedness to comment publicly on their experiences.³⁸ Potentially even more sinister is the revelation that the new Scottish Social Security Agency has sought permission to use special 'anti-terror' laws to spy on benefit claimants against whom allegations of fraud have been levelled by the agency.³⁹ Increasingly CCTV footage from all aspects of life, ranging from gym membership, airport footage and surveillance videos from public buildings is being used to build 'cases' against benefit claimants. Little wonder then that the prevailing perception among survey respondents was one of having the minutiae of their day to day lives monitored by the state.

38 <https://www.irishtimes.com/news/social-affairs/department-seeks-tender-to-monitor-social-media-for-key-words-1.3608275>

39 <https://welfareweekly.com/scottish-government-seeks-anti-terror-powers-to-spy-on-benefit-claimants/>



**MONITORING
THE SCALE
AND PACE
OF CHANGE**

Setting the scale and pace of change – Using the survey results to set indicators and benchmarks

Based on the survey results, the R2W group chose four key indicators against which to set benchmarks or specific timelines for change. Indicators are used as tools for measuring progress and benchmarks are those values attached to the indicator to accelerate implementation of change. This process involved a series of workshops in which R2W activists analysed the survey findings, compared this data with official data obtained via government publications and use of Freedom of Information legislation, identified the relevant human rights standards as well as any domestic policy or legislative requirements and/or official implementation targets, before developing their own human rights indicators and benchmarks.

This participatory, ‘bottom-up’ approach to the development and selection of indicators, where the indicators to measure change are developed by groups themselves rather than government and are anchored in human rights standards, has been pioneered by PPR and promoted by the UN Office of the High Commissioner for Human Rights as a model of good practice.⁴⁰

Progressive Realisation without Discrimination

By highlighting specific issues that need to be addressed in accordance with human rights standards, and by adopting concrete indicators and benchmarks to

measure progress, the R2W group plans to hold government to account for the progressive realization of the right to work and the right to social security as defined under the International Covenant on Economic, Social and Cultural Rights. This process ensures that ‘progressive realization’ does not become an abstract “exit” clause for states; rather, the indicators and benchmarks can be used to set definite targets to measure the fulfilment of the government’s duties under international human rights law, including their duty to demonstrate evidence of “*deliberate, concrete and targeted steps*” towards fulfilment of all Covenant rights.⁴¹

Similarly, article 2.2d of the International Covenant on Economic, Social and Cultural Rights mandates that rights “*will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*”.⁴²

The next section of the report presents the survey results baselines, relevant human rights standards and commentary, relevant domestic legislation, policies, strategies and data, and the indicators and benchmarks developed.

LONG TERM UNEMPLOYMENT

INDICATOR 1: Percentage of people unemployed who are long term unemployed

BASELINE: 65.5% of those unemployed

40 Op cited at note 3

41 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4758&Lang=en

42 <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>



were unemployed for 12 months or more

BENCHMARK: Reduced to 33% by October 2019

“ why do they keep sending me to look for jobs that aren’t there?”

Survey results

65.5% of survey respondents who were unemployed indicated that they had been unemployed for over 12 months i.e. long term unemployed. This percentage correlates quite closely with the official rate for long term unemployment for the North, which stood at 59.3% in September 2018.⁴³ It has also only varied by a few percentage points since March 2013 when the R2W group first began monitoring people’s experiences of the social security system.

The official long term unemployment rate for the North of Ireland at 59.3% is

also more than double that for England, which stood at 25.9% in September 2018.⁴⁴ Also of significance, given the prohibition on discrimination of any kind in international human rights law, is the very marked inequality in long term unemployment rates between the Catholic and Protestant communities. While there is evidence of an overall convergence of the labour market between the two communities, largely attributed to robust fair employment and equality measures, the long term unemployment differential has grown significantly and is rising, pointing to a deeply disturbing trend of re-emerging employment inequality.⁴⁵ Most recent figures published by the Executive Office⁴⁶ show that twice as many Catholics as Protestants who are unemployed are classified as long term unemployed (69% compared with 31%).

44 Ibid

45 In 2010 the long term unemployment rate, as a percentage of overall unemployment for Protestants was 48% whereas for Catholics it was 52%. OFMDFM (2011) 2010 Labour Force Survey Religion Report

46 <https://www.executiveoffice-ni.gov.uk/publications/labour-force-survey-religion-report-2016>

43 <https://www.nisra.gov.uk/statistics/labour-market-and-social-welfare/labour-force-survey>

Marked inequalities also exist in relation to both overall unemployment and long term unemployment rates among people with disabilities.

International Human Rights Law

The right to work is a fundamental right, recognized in several international legal instruments, and most comprehensively so in the International Covenant on Economic, Social and Cultural Rights, and the subsequent General Comment No 18 on the Right to Work.⁴⁷

The right to work is essential for realizing other human rights and forms an inseparable and inherent part of human dignity. Every individual has the right to be able to work, allowing him/her to live in dignity.

People who are fit and able to work but who are out of work for over one year are defined as Long Term Unemployed by the International Labour Organisation, a United Nations agency that deals with labour problems, and recognised as requiring more intensive efforts by government to enable them to access jobs.

Under international human rights law, the principal obligation of state parties is to ensure the progressive realisation of the right to work, as set out in the International Covenant on Economic, Social and Cultural Rights (article 6). The UN Committee on Economic, Social and Cultural Rights has underlined the urgency in tackling unemployment by stating that “*state parties must therefore adopt as quickly as possible measures*

aimed at achieving full employment”.⁴⁸

General Comment No 18 sets out in detail those immediate obligations imposed on state parties in relation to the right to work, including the obligation to “*take steps (art 2, para 1) towards the full realisation of Article 6*”. It stipulates that such steps must be “*deliberate, concrete and targeted towards the full realisation of the right to work*”.⁴⁹

In its Concluding Observations to the UK government in 2016, the Committee on Economic, Social and Cultural Rights expressed concern that some disadvantaged and marginalised groups continued to be disproportionately affected by unemployment. The Committee recommended that “*the State party review its employment policies to address the root causes of unemployment and include in its action plan time-bound goals with a specific focus on groups disproportionately affected by unemployment*”⁵⁰

How the government is failing to address long term unemployment

The official narrative is that unemployment rates are falling steeply, with the claimant count being used by government as the basis for making this claim. However, as noted previously, almost half of all those leaving the claimant count are classified as ‘destination unknown’.

The Executive’s Programme for

⁴⁷ UN Committee on Economic, Social and Cultural Rights, General Comment No. 18 on the Right to Work

⁴⁸ Ibid, paragraph 19.

⁴⁹ Ibid

⁵⁰ UN Committee on Economic, Social and Cultural Rights (2016) Concluding Observations to the UK government. Paragraphs 29 and 30.



Government 2016-2021 does not include any specific measures to address long term unemployment, or to remove the inequality that exists between the Catholic and Protestant communities. The Programme for Government's Outcome 6 'More people working in better jobs' does not include any recognition of the deep rooted nature of long term unemployment or the need to prioritise actions to address it, as required by the United Nations. The disability sector has also expressed concerns that the Executive's Employment Strategy for People with Disabilities, many of whom are long-term unemployed, is not properly resourced, with concerns that this situation could worsen post Brexit and the ending of European Social Fund funding for programmes.⁵¹

Failure of Steps 2 Success to tackle long term unemployment

An analysis of employment outcome data from the government's main employment

⁵¹ <https://www.equalityhumanrights.com/en/publication-download/disability-rights-uk-updated-submission-un-committee-rights-persons>

programme, Steps 2 Success, also underlines its failure to seriously tackle this issue.⁵² Fewer than one in five people over 25 years of age, the category most likely to be long term unemployed, who moved into employment were still in that job after 6 months (18%) and that rate of sustainment fell further to 14% after 12 months.

The Department for Communities has confirmed that it does not gather information on the type of employment people move into, for example, whether they are employed on a zero hours contract, agency work⁵³ or working within the so called 'gig' economy. However, figures from the UK demonstrate a huge rise in the numbers of people employed in precarious work, with the Trade Union Council (TUC) estimating that in 2016 one

⁵² <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/steps2success-statistical-bulletin-august-2018.pdf>
<https://www.pprproject.org/like-pulling-teeth---getting-information-from-the-department-for-communities-on-the-steps-2-success>

⁵³ <https://www.belfasttelegraph.co.uk/news/northern-ireland/council-spending-on-agency-staff-up-19-in-northern-ireland-37277662.html>

in ten of all workers were in precarious work.⁵⁴ The growing numbers of workers on zero hour contracts, particularly in the care, support and hospitality sectors, suggest this trajectory is being replicated in the North of Ireland's economy. The continued outsourcing of employment programmes to private companies will inevitably mean a perpetuation of people being bounced between such programmes and short periods of precarious, low paid work.

Untapped potential of Real Jobs Now in public procurement

The significant potential offered through the use of public procurement to create employment opportunities has not been realised to date, as the implementation of the R2W's Real Jobs Now model by Belfast City Council has demonstrated. Following the adoption by Belfast City Council in 2014 of the Real Jobs Now model, data provided by Belfast City Council under Freedom of Information showed that out of 81 contracts in 2016/17, a total of 26 jobs and 30 apprenticeships were created.⁵⁵ In 2017/18, only 4 out of a total of 40 contracts had social clauses inserted, delivering only 9 jobs and 13 apprenticeships. Fundamental flaws continue to exist in the way the model is being implemented, leading to its failure to deliver on the real potential it offers.⁵⁶ The adoption of the Real Jobs Now model

by central and local government bodies, accompanied by a genuine commitment

54 <https://www.tuc.org.uk/research-analysis/reports/32-million-uk-workers-1-10-are-now-precarious-work>

55 Freedom of Information response from Belfast City Council to PPR dated 5 December 2017 Ref No: VC/TC/122

56 <https://www.pprproject.org/real-jobs-now-and-the-rise-of-sanctions>
<https://www.pprproject.org/real-jobs-now-takes-it-campaign-to-tackle-long-term-unemployment-to-the-un>
 Freedom of Information response from Belfast City Council to PPR dated 15 August 2018, Reference No: VC/TC/127

to its full implementation, offers huge and as yet untapped potential to meaningfully address long term unemployment.

MENTAL HEALTH

INDICATOR 2 : Percentage of people whose mental health was impacted due to loss of income

BASELINE: 95% of people said their mental health was impacted due to loss of income

BENCHMARK: Reduced to 30% by October 2019

“You are depressed cause you can’t do anything, worried and irritable all the time”

Survey Results

Almost all (93%) survey respondents who had income removed from them by the social security system reported a negative impact on their mental health. These impacts ranged from anxiety and stress to people being pushed into mental health crisis. One person graphically described the extreme level of distress caused to them: *“if I knew I’d die right away I’d throw myself under that bus”*. People reported being *“on beta blockers and anti-depressants”* and being *“stressed, worried, lack of sleep”*.

The two case studies included in Appendix B also illustrate the profound harm being caused by ESA and PIP assessment processes to people who are vulnerable. Mrs. Scott, a mother who lost both her son and husband in tragic circumstances and who is a full time carer for her disabled son, reported not being able to even open the ESA decision letter

for three days *“such was the level of stress and trauma the whole process had caused (her)”*. Mrs. C., a 64 year old woman who experienced childhood abuse and trauma, and who has a number of mental and physical health conditions, described the impact of the PIP assessment process thus: *“it undid all of the years of work I’d done to overcome childhood abuse and alcoholism”*.

International Human Rights law

People’s right to *“the highest attainable standard of mental health”* is recognised in the UN Covenant on Economic, Social and Cultural Rights.⁵⁷ The human rights principles of inter-dependence and inter-relatedness emphasise the links between the right to mental health and other rights such as the right to an adequate standard of living, to participation and to non-discrimination. The UN Special Rapporteur on the Right to Health, Mr. Dainius Puras, has provided a detailed analysis of what is required of governments in realising the right to mental health of all their citizens.⁵⁸ His report notes that the right to health is an inclusive right to both health care but also to the underlying and social determinants of health. He makes it clear that the right to the underlying determinants of health is a precondition to securing the right to mental health.

Under international law the state must act on a range of underlying determinants: *“in short, protecting and fulfilling the right to mental health”*

57 Op cited at note 42 Article 12

58 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/076/04/PDF/G1707604.pdf?OpenElement>

Four out of five on £50m job scheme never found work

John Monaghan
 (@monaghan) / @irishnews.com

FOUR out of every five jobseekers on a compulsory Stormont Executive employment scheme set up two years ago have not found work.

And of those who did secure employment with Steps 2 Success, fewer than one in four were still in work six months on.

The programme, launched in October 2014 to replace Steps to Work, is a mandatory scheme for those who have been claiming Jobseeker's Allowance for 12 months or more, or nine months for those under the age of 24. Out of 31,556 people registered to



It also highlights the fact that private providers are making huge profits on the backs of unemployed people

— Sara Boyle

In a statement, Ms Ni Chulainn said: "It is clear that this scheme isn't working for those who are central to it – the participants."

requires concerted action to secure certain preconditions that are associated with mental health".⁵⁹ At a practical level governments must "mainstream the right to mental health into health, poverty-reduction and development strategies and interventions."⁶⁰

A social security system that routinely and almost intrinsically causes harm to the mental health of vulnerable people cannot be judged to be compliant with international human rights obligations.

A social security system that is driving vulnerable people to despair

Almost half of all benefit claimants who are unable to work because they are sick and/or disabled have mental health problems. Department for Communities data shows that the most common illness category among ESA

claimants was Psychiatric Disorders with 60,120 (47%) claimants classified as being in this category in May 2018, while 40% of claimants awarded Personal Independence Payment have psychiatric disorders as the main disabling condition.

61

As described below, there is a growing body of evidence that demonstrates the causal links between worsening levels of mental ill health and increasing numbers of deaths by suicide among benefit claimants on the one hand, and the austerity and welfare reform agenda on the other.

A mental health emergency

An analysis of NHS data from surveys taken in 2007 and 2014, carried out by *The Independent* newspaper, has shown that the proportion of people who attempted to take their own lives more than doubled,

59 Ibid paragraph 67

60 Ibid paragraph 93 (b)

61 <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/benefit-statistics-summary-may-2018.pdf> <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/personal-independence-payment-statistical-bulletin-may-2018.pdf>



from 21% in 2007 to 43% in 2014.⁶² In response to the figures a leading clinical psychologist, Dr. Jay Watts commented “*if the government has any real interest in suicide prevention, benefits reform must be the immediate priority. The shame, guilt, anxiety and paranoia the current system provokes is a national scandal, that should be headline news. Making the workless feel worthless, and undeserving of support, has provoked a mental health emergency*”.⁶³

Disconnect between government policies

Professor of Mental Health at Ulster University, Siobhan O’Neill has highlighted the likely added impact of welfare reform on levels of suicide in those communities already grappling with the effects of the legacy of the conflict and entrenched levels of poverty

and deprivation.⁶⁴ O’Neill’s work also draws attention to the impact of policy decisions made at the top on the lives of the most vulnerable.⁶⁵ In this regard it is worth noting the complete disconnect at a policy level between the welfare reform agenda and policy development in relation to mental health and suicide prevention. This can be seen most starkly in the absence of any reference in the Department of Health’s draft Protect Life 2 strategy to the impact of welfare reform and the roll out of Universal Credit.

Lack of impact assessments

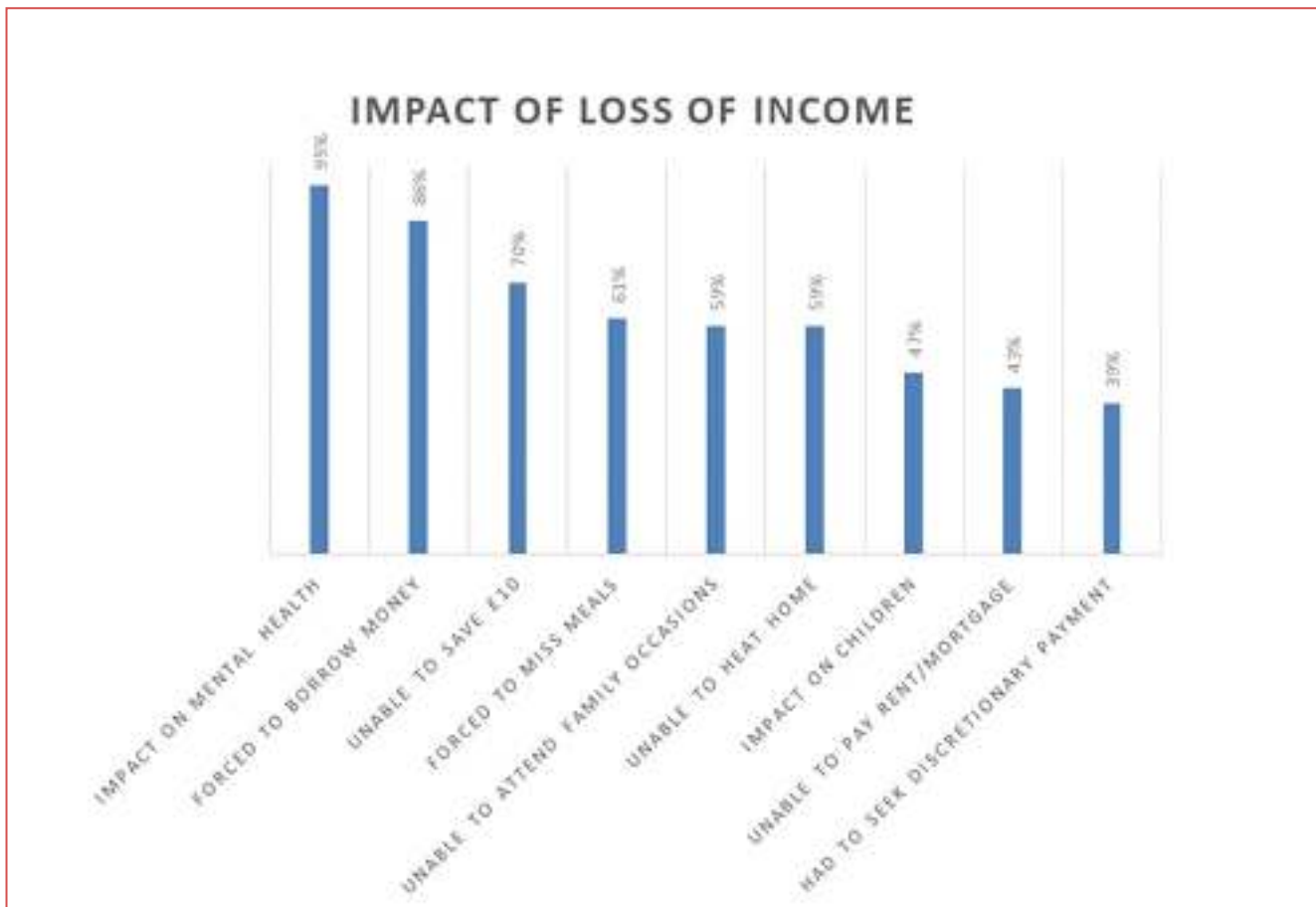
Despite the fact that almost half of all ESA and DLA/PIP claimants are recognised by the Department for Communities as having mental health problems, the Department nonetheless confirmed that it does not carry out any impact assessment on the effect of a social security decision on a claimant’s mental health prior to reaching and implementing

62 <https://www.independent.co.uk/news/uk/home-news/disability-benefit-claimants-attempted-suicides-fit-to-work-assessment-i-daniel-blake-job-centre-dwp-a8119286.html>

63 Ibid

64 <http://belfastmediagroup.com/welfare-reform-could-result-in-spike-in-suicides/>

65 Ibid



that decision.⁶⁶ The Department also confirmed that it does not require staff employed by either Capita or Atos to carry out PIP and ESA assessments to undertake training in suicide prevention awareness.⁶⁷ Vulnerable claimants with mental health conditions have reported being asked during their PIP assessment why they have not taken their own lives.⁶⁸ Disability rights campaigners have indicated that this is a standard question asked by assessors.⁶⁹

‘First do no harm’ principle routinely breached by private assessors

Assessors employed by Capita or Atos to carry out PIP or ESA assessments come from a range of professional backgrounds, including nurses, social workers, occupational therapists and paramedics. These professions are regulated by two main bodies – the Health Care Professions Council (HCPC) and the Nursing and Midwifery Council (NMC). All health professionals employed by Capita and ATOS must be registered with these bodies and as such must comply with their respective professional code or set of standards.

PPR cross-referenced these professional codes with the PIP assessment process. It concluded that it would be impossible for these professionals to adhere to their professional codes/standards as the PIP assessment by its very nature

66 Response from the Department for Communities to a PPR Freedom of Information request, reference number: DFC/2017-0239

67 Response from the Department for Communities to a PPR Freedom of Information request, reference number: DFC/2017-0091

68 <https://www.disabledgo.com/blog/2017/03/maximus-admits-using-brutal-and-dangerous-suicide-questions/#.W6JiDvZFyP8>

69 <http://www.disabilitynewsservice.com/PIP-investigation-horrific-suicide-question-sparks-fresh-assessment-inquiry-calls>

April 3rd 2017

Fewer than 1 in 5 on job scheme found work

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FEWER than one in five initial participants in a compulsory government employment programme were still in work a year after completing the scheme.

The Steps to Success programme, launched in October 2014 to replace Steps to Work, is a mandatory scheme for those who have been claiming Jobseeker's Allowance for 12 months or more, or nine months for those under the age of 24.

Failure to participate can result in welfare payments being cut, with thousands of people on the scheme hit with sanctions.

The latest figures from the Depart-



department is giving them an easy ride," she said.

While the department cannot tell us what sanctions they have imposed on these private companies, since May 2015 a total of 5,833 sanctions have been imposed on Steps to Success participants for 'failures' such as being late for a meeting. These sanctions are leaving people in destitution.

"In the absence of a responsible minister, the department's permanent secretary, Leo O'Reilly, needs to take urgent action, to most mitigate the harm being caused by ensuring that basic due process and impact assessments are in place before people are sanctioned."

A spokeswoman for the Department for Communities said that the pre-

involves breaches of a wide range of these standards, including the obligation to respect and protect human rights, to work within the limits of one's competence, to respect dignity and privacy and to be honest and trustworthy.⁷⁰ Based on this analysis, PPR submitted written complaints to both regulatory bodies, as well as to their oversight body, the Professional Standards Authority (PSA). In February 2018 the PSA indicated that it planned to undertake a review of the workings of PIP and the role and responsibility of statutory regulated healthcare professionals in relation to the assessment processes.⁷¹ This followed a complaint from a disabled activist, Mr. Mark Lucas who complained to the PSA about the HCPC's failure to discipline an occupational therapist who assessed him from PIP, awarding him zero points on two separate assessments, decisions

which were subsequently overturned on appeal.⁷²

The time honoured medical ethics phrase '*first do no harm*' has been stood on its head by private companies carrying out assessments, which are rubber stamped by departmental decision makers. The level of harm and trauma being knowingly caused to vulnerable people is staggering. Independent reviews commissioned by government simply scratch the surface. The immediate removal of ESA and PIP assessments from private companies is but the first step necessary in moving towards a human rights compliant assessment system based upon the primacy of medical evidence and personal testimony.

70 <https://www.pprproject.org/first-do-no-harm-health-regulatory-bodies-must-act-in-relation-to-pip-and-wca-assessors>

71 <https://www.disabilitynewsservice.com/regulators-face-possible-action-over-failure-to-discipline-lying-pip-assessors/>

POVERTY

INDICATOR 3: The percentage of people who were forced into poverty

72 Ibid

BASELINE: 93% of claimants were forced into poverty as a result of a benefit decision (composite measure)

BENCHMARK: Reduced to 0% by October 2019

“I was worried about how to feed my children”

Survey Results

Almost all survey respondents (59%) had their social security income stopped, reduced or delayed in the previous two years. Almost half of these (46%) cited the imposition of a benefit sanction as the reason for this loss of income. The vast majority of those whose income was affected (89%) indicated that they were not given enough money to keep them going.

Respondents were asked about how this loss of income affected them in their daily lives, including their ability to meet their basic needs, within their family and relationships, their mental health and well-being and their social life.

International Human Rights Standards

The right to an adequate standard of living is enshrined in international human rights law. Article 11 of the UN Covenant on Economic, Social and Cultural Rights recognises the “*right of everyone to an adequate standard of living for himself and his family (sic), including adequate clothing and housing, and to the continuous improvement of living conditions*”.⁷³ It places an obligation on the state to “*take appropriate steps to ensure the realisation of this right*”.⁷⁴

General Comment No 19 on the Right to Social Security outlines the core obligations on states arising from Article 11. These include ensuring access to a social security system that provides a minimum essential level of benefits to all individuals and families.⁷⁵

This right to social security contained in the UN Covenant on Economic, Social and Cultural Rights is reflected and expanded upon within other human rights instruments that address the rights of specific groups such as children, women and people with disabilities.

In 2016 the UN Committee on Economic, Social and Cultural Rights highlighted the risk from poverty to certain groups of the population, including people with disabilities and families with children. It recommended that the government “*take steps to introduce measures to guarantee targeted support to all those*

⁷³ Op cited at note 42

⁷⁴ Ibid

⁷⁵ UN Committee on Economic, Social and Cultural Rights (2008) General Comment No 19 The Right to Social Security paragraph 59.

living in poverty or at risk of poverty".⁷⁶ It also called on the government to "*adopt an anti poverty strategy for Northern Ireland*".⁷⁷ In relation to child poverty, the UN Committee expressed specific concern about the projected increase in child poverty in the North of Ireland.

The UN Committee on the Rights of the Child's 2016 Concluding Observations in respect of the UK government also raised concerns about government action to tackle child poverty and the impact of welfare 'reforms' on children and young people. Among its recommendations was that government "*conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children*" and "*where necessary, revised the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration*".⁷⁸

How the government is failing to protect benefit claimants from poverty

Poverty is defined as being when a person's resources are well below their minimum needs, including the need to take part in the society within which they live.⁷⁹ It is a significant indicator of the extent of inequality within a society. The two measures of poverty used by

the Executive are relative and absolute poverty. Department for Communities data for 2016/17 indicates that 17% of individuals (318,000) were in relative poverty⁸⁰ while 15% (281,000) were in absolute poverty.⁸¹ In 2016/17 an estimated 27% of all children (or 118,000) were in relative poverty.⁸²

In 2016/17 the government's threshold for relative poverty (before housing costs) was £296 per week for a couple with no children, and £280 for absolute poverty. The median wage in the North of Ireland is circa £21,800, so the 60% poverty threshold would equal £13,080.⁸³ Unemployment benefit, including housing costs, amounts to £9,100 a year, or 42% of the median i.e. very severe poverty.

Minimum Income Standards

The Joseph Rowntree Foundation's Minimum Income Standards set out what income people need in order to be able to meet their minimum needs, including social participation.⁸⁴ For 2015 the Minimum Income Standard for a single person was £182.65 per week, but the Job Seekers Allowance was £73.10 i.e. 40% of the Minimum Income Standard. A couple

76 Op cited at note 50

77 Ibid

78 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en paragraph 71

79 United Nations (1995) The Copenhagen Declaration and Programme of Action. World Summit for Social Development. 6-12 March 1995. New York. United Nations.

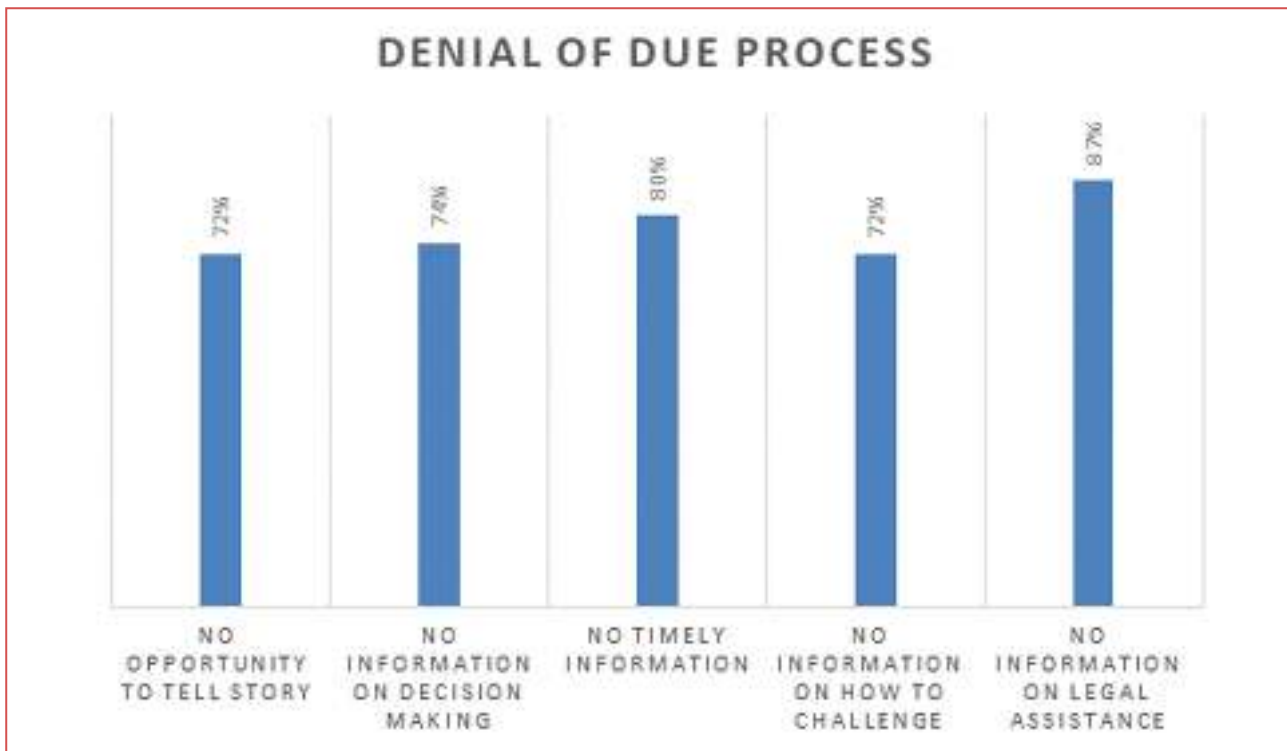
80 Relative poverty is defined as being when the income of a household is less than 60% of the UK median household income.

81 Absolute poverty is defined as the proportion of individuals who have incomes below 60% of the UK (inflation adjusted) median income in 2010/11.

82 Department for Communities (June 2016), Poverty Bulletin 2014-15.

83 Department for Communities (2017) Households Below Average Income 2015-16

84 <https://www.jrf.org.uk/report/minimum-income-standard-uk-2018>



with two children needed £463.47 a week to meet minimum needs; income support, including child benefit and child tax credits in 2015 amounted to £266.08 i.e. 57% of the Minimum Income Standard.

Outcome 3 from the NI Executive's Programme for Government Outcomes Delivery Plan 2018/19 is that "*We have a more equal society*". One of the main indicators associated with this outcome is "*percentage of people living in absolute and relative poverty*".⁸⁵ The Outcomes Delivery Plan outlines the role of the social security system in ensuring people do not live in poverty: "*the social welfare system in Northern Ireland provides the focus of government activity to support those who face financial difficulties in their lives and who need support to find new opportunities and fulfil their ambitions and hopes for themselves and their families. It is through the social*

welfare system that poverty and relative disadvantage is tackled and support given to those who need it most".⁸⁶ (emphasis added). Despite this claim, it is abundantly evident that the income people receive on social security, before any reductions or sanctions are applied, is not adequate to prevent people from falling into poverty.

UK level of benefits deemed 'manifestly inadequate' by Council of Europe

In 2014 the Council of Europe criticised the UK's level of benefits as being "*manifestly inadequate*", falling as they did below 40% of the Eurostat median equivalised income.⁸⁷ Despite a NI High Court ruling in 2015 instructing the NI Executive to introduce an anti poverty strategy based on objective need, to date

85 <https://www.northernireland.gov.uk/sites/default/files/publications/newnigov/dp-population-living-in-absolute.pdf>

86 <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/outcomes-delivery-plan-2018-19.pdf>

87 <https://www.theguardian.com/society/2014/jan/29/uk-benefits-inadequate-council-of-europe>

no such strategy has not been brought forward.⁸⁸

The government's failure to ensure that benefit levels in and of themselves do not force people into poverty is greatly exacerbated by the impact of reductions to or removal of benefits, including in the form of sanctions and benefit changes, as identified by the R2W group's survey.

Failure to conduct poverty impact assessments

Despite its stated commitment to addressing poverty, including child poverty, the Department for Communities has confirmed that it does not undertake any poverty impact assessment prior to reducing or removing a person's income as a result of a benefit decision.⁸⁹ It does not conduct any child impact assessment prior to benefit decisions being made, something it has been criticised for, internationally by the UN Committee on the Rights of the Child and domestically by the NI Commissioner for Children and Young People (NICCY). In 2018 NICCY called on the Department for Communities to "*ensure that the impact on dependent children must be taken into account before any decision to apply a sanction is taken*".⁹⁰ To date the

Department has failed to take action.

A social security system that deliberately sets financial support at a level that has been found to be 'manifestly inadequate' and then arbitrarily reduces or removes people's sole source of already inadequate income cannot claim to be a system that '*tackles poverty and relative disadvantage*'.

DUE PROCESS

INDICATOR 4: Evidence that due process has been complied with

BASELINE: 75% of claimants were denied their rights to due process (composite measure)

BENCHMARK: Reduce to 32.5% in 6 mths and 0% by October 2019

"I haven't received the proper information on the goings on and I find it hard to get information"

Survey Results

Those surveyed were asked whether their right to due process in social security decision making, as set out in the United Nations Committee on Economic, Social and Cultural Rights General Comment No 19, paragraph 78, had been fulfilled.

The percentage of respondents who experienced breaches of their rights to due process, across all five elements set out below, ranged from 72 -87% ; in other words, almost all respondents. The results for the five separate elements of due process were as follows:

- 72% were not given an opportunity to tell their side of the story

88 In 2015 the High Court ruled that the Executive had failed to adopt an identifiable anti-poverty strategy based on objective need, to meet its obligations under Section 28E of the NI Act 1998. The Executive has committed to addressing this judgement within the Programme for Government but as yet the North of Ireland does not have an anti-poverty strategy.

89 Freedom of Information responses received by PPR from the Department for Communities 26 July 2018 Reference Number: DFC/2018-0176 and 22 August 2018 Reference Number: DFC/2018-0196

90 <https://www.niccy.org/media/3051/socrni-main-report-final-june-18.pdf>



- 74% were not given clear information on how decisions were made
- 80% were not told in good time what would happen to their money
- 72% were not offered information on how to challenge a decision
- 87% were not told where to go to get help to challenge a decision

The experience of Mrs. Scott of the ESA assessment process, documented in Appendix B, whereby she was denied ESA on assessment, then awarded it following public action and media coverage, only to have it removed once again before being re-awarded, all within the space of a few days, shines a light on the absolute lack of any due process in the decision making system.

International Human Rights Law

Under international human rights law, the right to social security, set out in Article 9 of the UN Covenant on Economic, Social and Cultural Rights, is protected from arbitrary interference. Those protections

are detailed in the UN Committee on Economic, Social and Cultural Rights Committee's General Comment No 19⁹¹, and include:

- (a) An opportunity for genuine consultation with those affected
- (b) Timely and full disclosure of information on proposed measures
- (c) Reasonable notice of proposed actions
- (d) Legal recourse and remedies for those affected
- (e) Legal assistance for obtaining remedies

General Comment No 19 also states “*under no circumstances should an individual be deprived of a benefit on discriminatory grounds or of the minimum essential level of benefits as defined in paragraph 59 (a)*”.⁹²

In its concluding observations in respect of the UK government's compliance with

91 Op cited at note 75 paragraph 78

92 Ibid paragraph 78



its obligations under the covenant, the UN Committee on Economic, Social and Cultural Rights expressed concern at denial of due process to benefit claimants, exemplified by the extent to which the UK government had made use of sanctions in relation to social security benefit “*and the absence of due process and access to justice for those affected by the use of sanctions*”.⁹³ It called on the UK government to “*review the use of sanctions in relation to social security benefits and ensure that they are used proportionately and are subject to prompt and independent dispute resolution mechanisms*”.⁹⁴

The Department for Communities has confirmed to PPR that it does not have any mechanism in place to ensure its compliance with the requirements of due process as set out in UN General Comment No 19 paragraph 78 (a)-(e).⁹⁵

Benefit Sanctions – ‘punish first, investigate later’

One of the aspects of the UK social security system where the most flagrant breaches of due process occur is in its use of sanctions. Almost six in ten survey respondents had money stopped, reduced or delayed, and for almost half (46%) of these it was a result of a sanction being imposed. The vast majority of these experienced breaches of their rights to due process, including lack of information, no opportunity for genuine consultation and no reasonable notice of proposed actions. One benefit claimant who had been sanctioned and who took part in the R2W survey described it thus: “*you’re guilty until proven innocent*”.

Benefit sanctions have increased in scope and severity

Changes to the benefit sanctions regime introduced under the welfare reform legislation have been unprecedented in scope and severity. They are now applied in more situations and last for much

93 Op cited at note 50, paragraph 40

94 Ibid paragraph 41 (c)

95 Freedom of Information response to PPR from Department for Communities dated 22 August 2018, Reference No: DFC/2018-0197

longer than was formerly the case.⁹⁶ Previously applied to the unemployed, they have now been extended to include single parents, long term sick and disabled people. Amidst widespread concern several official inquiries have taken place into their operation and effectiveness, including by the Work and Pensions Select Committee (2015), the National Audit Office (2016), the Public Accounts Select Committee (2017) and a second Work and Pensions Select Committee inquiry (2018 ongoing).

Following on from welfare reform changes in the UK, the Welfare Reform (Northern Ireland) Order 2015 introduced a harsher benefit sanctions regime, with the potential for benefits to be withdrawn for up to eighteen months.⁹⁷ While the introduction in February 2018 by the Department for Communities of revised operational processes governing sanctions is to be welcomed, the changes introduced still do not afford claimants their right to due process as required under international human rights law. Claimants continue to be denied the right to be provided with all relevant information, to avail of representation and to a formal hearing and to either deny the allegation or argue 'good cause' *prior* to a decision being taken to stop/reduce their benefit payments.

96 Between February and April 2018 63% of all Universal Credit decisions by DWP resulted in a sanction, and 72% of all sanction decisions were due to a failure to attend or participate in a work focussed interview. Data can be accessed via this link <https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-april-2018> It should be noted that the Department for Communities does not publish similar data, thereby providing even less transparency around the sanctions process than DWP.

97 <http://www.legislation.gov.uk/nisi/2015/2006/contents>

No evidence that sanctions are helping people move into employment

Similar to the pattern of sanctions imposition by the Department for Work and Pensions, as the claimant count has fallen in the North of Ireland, the incidence of benefit sanctions has declined. Information obtained by PPR from the Department for Communities using Freedom of Information legislation showed that in 2017-18 an average of 250 benefit claimants had their benefits stopped/reduced per month as a result of a sanction⁹⁸, a reduction from an average of 600 plus a month in 2015-16.⁹⁹ Over half of these sanctions were imposed against Steps 2 Success participants.¹⁰⁰

However, far from government being able to claim that sanctions are working as intended or that people are leaving the claimant count to take up employment, there is a body of evidence to show that the introduction of the more severe sanctions regime in the UK from 2012 led to a substantial number of people leaving the benefit system, not to move into employment but into 'unknown destination' or back onto the benefit system after a period of time.¹⁰¹

98 Freedom of Information response received from PPR from Department for Communities 22 August 2018 DFC/2018-0196

99 Freedom of Information response received from PPR from Department for Communities 17 May 2016 DFC/2016-0008. Unlike the DWP the Department for Communities does not routinely publish sanctions data.

100 Freedom of Information response received from PPR from Department for Communities 2 October 2018 Reference No: DFC/2018-0234

101 Loopstra, R., Reeves, A., McKee, M. and Suckler, D. (2015) 'Do punitive approaches to unemployment benefit recipients increase welfare exit and unemployment: A cross-area analysis of UK sanctioning reforms', Sociology Working Paper 2015-01, Department of Sociology, University of Oxford, available at <http://www.sociology.ox.ac.uk/>

Department for Communities data seems to confirm a similar pattern; while the official claimant count is falling rapidly, almost half of all those who exit it move into ‘destinations unknown’,¹⁰² underscoring the illusory nature of the government’s ‘good news’ story about falling unemployment.

Commenting on the figures, Ms. Goretti Horgan, lecturer in Social Policy at University of Ulster noted: “*The figures seem like a good news story: almost three quarters of those who left the live register had found work. But on closer examination, it becomes clear that this is an illusion and, in fact, for 2017 it’s closer to four in ten finding work and a further four in ten for whom there is no information on where they have gone. The suspicion has to be that these are ‘discouraged’ workers for whom the condition that they must actively seek work 35 hours a week is too much in a labour market where suitable jobs are scarce. Alternatively, they have entered the ‘gig’ economy or some similar version of ‘self-employment.’*”¹⁰³

Sanctions are impacting disproportionately on vulnerable groups

Evidence also shows that sanctions disproportionately impact on vulnerable groups of people, including those with mental health problems, care leavers and people from minority ethnic

communities.¹⁰⁴ A major five year research project conducted across six universities in the UK, the Welfare Conditionality Project, published its findings earlier this year. It concluded that “*benefit sanctions do little to enhance people’s motivation to prepare for, seek or enter paid work. They routinely trigger profound negative personal, financial, health and behavioural outcomes and push some people away from collectivised welfare provisions.*”¹⁰⁵

A Public Accounts Committee inquiry in 2017 into benefit sanctions concluded that the Department for Work and Pensions could not estimate the wider effects of sanctions on people or their overall cost and benefit to government,¹⁰⁶ underscoring yet again the lack of either a human or an economic case in favour of sanctions.

Mandatory Reconsideration is denying benefit claimants’ access to justice

Access to justice, including to effective remedies is a basic principle of the rule of law. In the absence of access to justice, people are unable to have their voice heard, exercise their rights, challenge discrimination, hold decision-makers accountable or obtain appropriate redress.¹⁰⁷

[working-papers/do-punitive-approaches-to-unemployment-benefit-recipients-increase-welfare-exit-and-employment-a-cross-area-analysis-of-uk-sanctioning-reforms.html](https://www.pprproject.org/accountability-blog/the-humpy-dumpty-world-of-employment-statistics)

¹⁰² <https://www.pprproject.org/accountability-blog/the-humpy-dumpty-world-of-employment-statistics>

¹⁰³ Ibid

¹⁰⁴ See Stone, J. (2015) ‘Benefit sanctions against people with mental health problems up by 600 per cent’, The Independent, 12 November, available at <http://www.independent.co.uk/news/uk/politics/benefit-sanctions-against-people-with-mental-health-problems-up-by-600-per-cent-a6731971.html>

¹⁰⁵ <http://www.welfareconditionality.ac.uk>

¹⁰⁶ <https://publications.parliament.uk/pa/cm201617/cmselect/cmpubacc/775/775.pdf>

¹⁰⁷ <https://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>

The introduction of the Mandatory Reconsideration process by the Department for Communities in 2016, following on from its introduction by the Department for Work and Pensions in 2013, has without doubt had the effect of choking off vulnerable claimants' access to justice. Since May 2016 benefit claimants who want to challenge a social security decision must ask the Department for Communities to formally reconsider its initial decision, before they can make an appeal to an independent tribunal.

Figures obtained from the Department for Communities by PPR under Freedom of Information legislation show that from 1 May 2016 to 31 May 2017, only 2.7% of all ESA decisions were overturned on mandatory reconsideration, 126 decisions out of a total of 4,628.¹⁰⁸ The equivalent figure for mandatory reconsiderations of Personal Independence Payment claims from 1 April 2017 to 31 March 2018 was 23%.¹⁰⁹

Figures show that following the introduction of Mandatory Reconsideration by the DWP, the number of appeals to independent tribunals plummeted. The number of appeals fell from 130,606 in the three month period from October to December 2012 to 28,142 in the same period two years later in 2014,¹¹⁰ clear evidence of the 'chilling effect' of Mandatory Reconsideration.

However, for those claimants who make

it to the appeal stage, a staggering 69% of all ESA and PIP decisions by the DWP are overturned¹¹¹, further evidence of what are fundamentally flawed assessment processes¹¹² coupled with bureaucratic hoops that constitute mandatory reconsideration. It is worth noting that rates of overturn on appeal for ESA and PIP decisions made by the Department for Communities are significantly lower than those for DWP decisions, with approximately only a third of both ESA and PIP appeals being successful.¹¹³ This is a clear indication that the denial of the rights of benefit claimants in the North of Ireland to due process is even more extreme than under the DWP regime.

Target driven culture 'an outrageous interference' with the rule of law

One indication of the real intent behind the introduction of Mandatory Reconsideration lies in the existence until recently of DWP target of 80% for upholding original ESA and PIP decisions. Following combined pressure from campaigners and the Work and Pensions Select Committee this target, described by Mr. Henry Brooke, a former judge and member of the Access to Justice Commission as an '*absolutely outrageous interference*' with the rule of

108 Freedom of Information response received by PPR from Department for Communities dated 4 September 2017 Reference No: DfC/2017-0215

109 Freedom of Information response received by PPR from Department for Communities dated 2 October 2018 Reference No: DFC/2018-0229

110 <https://policyscotland.gla.ac.uk/benefit-sanctions-and-the-rule-of-law/>

111 <https://www.belfasttelegraph.co.uk/news/uk/disability-benefit-claimants-now-winning-69-of-cases-at-appeal-36684913.html>

112 <https://www.disabilitynewsservice.com/dwp-figures-suggest-tens-of-thousands-of-pip-claims-could-have-been-decided-on-unacceptable-assessment-reports/>

113 Freedom of Information response received by PPR from Department for Communities dated 4 September 2017 Reference No: DfC/2017-0215 and Freedom of Information response from Department for Communities to BBCNI, Reference No: DFC/2017-0239

CONCLUSIONS AND RECOMMENDATIONS

law, was dropped.¹¹⁴ The Department for Communities has not clarified whether it has dropped its intention to introduce similar targets for Mandatory Reconsideration.¹¹⁵

Denial of people's access to justice comes at a cost, not just to the tens of thousands of individuals affected, but also to the public purse. Figures obtained by *The Mirror* newspaper reveal that the DWP spent almost £200million over five years in attempting to defend its flawed decision making at the two stages of PIP and ESA appeals.¹¹⁶ The Department for Communities was unable to provide information on the costs attached to either Mandatory Reconsideration or PIP appeal to tribunal.¹¹⁷

The R2W campaign looks forward to working with everyone who is willing to help build a human rights compliant social security system. We hope the duty bearers with responsibility deliver on our human rights indicators. Over the next year we will be monitoring progress wherever these policies affect people.

This report should be a wakeup call to the current Permanent Secretary Leo O'Reilly, the incoming Permanent Secretary Tracy Meharg and the Department for Communities, to political parties and individuals who support '*welfare reform*' and those who administer it every day without question. It is time to stop the Conscious Cruelty being visited upon hundreds of thousands of vulnerable people. Stop the excuses. Stop hiding behind forms, processes, private companies, Westminster and a broken Assembly. Stop washing your hands. These policies are not only hurting people but failing by every possible measurement of success and wasting millions of pounds in the process. You all have the power to do something to change things.

If you oppose this Conscious Cruelty and want to take action in defence of its victims, contact us and we will work with you to make positive change.

To the people working hard every day to defend victims of this system - the decent front line staff, the advice workers, the legal experts, the trade unionists, the charities, the food banks, the community groups, the counsellors, the health care workers - we invite you to use this report to become human rights monitors in your own environment.

Everyone can do something to monitor human rights abuse. We can support you to hold decision makers in government accountable for every case where a

CONCLUSION

114 <https://www.google.ie/amp/s/sirhenrybrooke.me/2017/05/15/mandatory-reconsiderations-and-the-rule-of-law/amp/>

115 Freedom of Information response received by PPR from Department for Communities, Reference No: DFC/2017-0184

116 <https://www.mirror.co.uk/news/politics/heartless-to-ries-spend-200million-fighting-13114513>

117 Op cited at note 113

person's dignity has been stripped from them in degrading assessments and dead-end schemes which benefit only private companies.

We know it is not easy to speak out when your job or funding may be at risk and it is much harder again when your only source of money can be stopped by the social security agency. Over the coming year we, along with international experts and allies, will provide platforms and toolkits to help you shine a light in the dark corners where harmful decisions take place and to change policy to defend human rights.

And for the people who are sick, disabled and unemployed and who are suffering. Get in touch. Get informed. Get support from us to defend yourself and make positive change for all of us.

R2W

Recommendations

1. Implement the Real Jobs Now model of public procurement

- a) All central and local government bodies that hold responsibility for procurement budgets should implement the **Real Jobs Now** model of public procurement.
- b) Belfast City Council should carry out an independent investigation to establish why the **Real Jobs Now** model has not been implemented as mandated.
- c) Belfast City Council should impose financial sanctions on private contractors who fail to deliver on the **Real Jobs Now** requirements of their contracts.
- d) The Department for Communities

should scrap the Steps 2 Success employment programme replace it with a fund for personal development and training that people can avail of on a voluntary basis.

2. Implement the People's Proposal for due process and impact assessment

- a) The Department for Communities should implement the People's Proposal human rights checklist
- b) The Joint Standards Committee should introduce the human rights checklist into its framework for monitoring and reporting on the standard of decision making by the Department for Communities, and should publish its findings on a regular basis.
- c) The Department for Communities should end the involvement of the private sector in all aspects of social security assessment and decision making processes.
- d) The Department for Communities should replace the current ESA and DLA/PIP assessments with a person centred process based on the primacy of the person's medical evidence.
- e) All face to face assessments should be routinely recorded, with the option of opt-out being provided. The cost of such recordings must be borne by the contractor/Department for Communities and not by the claimant.
- f) Pending the introduction of a new, rights compliant assessment system, the Department for Communities should obtain the full medical file of the person they intend to assess, before any decision is made to subject them to an assessment.

GLOSSARY

- g) People with life-long conditions or terminal illnesses should be exempt from all assessments. The Department for Communities should ensure that mandatory, accredited mental health and suicide prevention training is in place for all Decision Makers and well as for other staff involved in assessments.
- h) The Department for Communities should ensure that mandatory Impact Assessment, as per the People's Proposal, is undertaken before any benefit decision is made.
- i) The Department for Communities should ensure that, following mandatory impact assessment, any social security decision that results in the reduction or removal of a person's income must comply with all due process requirements as well as with the Minimum Income Standards as set out by the Joseph Rowntree Foundation.
- j) The Department for Communities should carry out regular benefit entitlement checks with claimants to ensure they are receiving all benefits they are entitled to.
- k) The Department for Communities should publish data on a regular basis on the outcomes of social security decisions, including benefit sanctions, mandatory reconsideration and appeals. This data should include information on costs of administering these processes.

Glossary of Terms

Benefit Sanction is a financial penalty imposed on a benefit claimant by the Department for Communities. It is a reduction or loss of a benefit when the Department decides that a benefit claimant has not met the conditions imposed by the Department.

Decision Makers carry out decision making on behalf of the Department for Communities. The decision maker must make a decision by considering all the evidence, establishing the facts and applying the law, including any relevant case law, in each case. In June 2017 there was a total of 285 Decision Makers employed by the Department across 11 different sites, including 128 Decision Makers for PIP and 35 for ESA.

Disability Living Allowance (DLA) was previously the main benefit to help with the extra costs that people with disabilities faced as a result of their disabilities. DLA was not a means tested benefit and was not affected by earnings, other income or savings. As part of its welfare reform programme, the Government replaced Disability Living Allowance (DLA) with Personal Independence Payment for working age adults (aged 16 – 64).

Employment and Support Allowance (ESA) is a benefit paid to people who have an illness, health condition or disability that makes it difficult or impossible to work. People entitled to ESA are placed in either the support group, where people are not expected to look for work, or the work-related activity group, where people can be required to attend work-focused interviews and do work-related activity,

and be subject to sanctions. Atos was awarded the Medical Support Services contract to carry out assessments by the Department for Communities.

Job Seekers Allowance is a benefit for people over 18 who are not in full time employment (work less than 16 hours per week), are capable of work and are looking for work. There are 2 types of Job Seekers Allowance (JSA): these are contribution-based Jobseekers Allowance, and Income Based Jobseekers Allowance.

Joint Standards Committee was established in 1999. Its role is to

- Monitor and report on the standard of Departmental decision making
- Provide assurances that arrangements in place to monitor decision making are robust and conducive to continuous improvement
- Identify areas of weakness and make recommendations to address them

Mandatory Reconsideration is a new stage of the appeals process, introduced by the DWP in 2013, and subsequently by the Department for Communities in 2016. It applies to all disputes about benefits paid as well as Tax Credits and Child Benefit. If a claimant wants to challenge a decision made by the Department for Communities they must not go through an internal review process conducted by the Department before an appeal can be lodged.

Personal Independence Payment (PIP) is the new benefit replacing Disability Living Allowance and was introduced in the North of Ireland from 20 June 2016. It is

made up of two components, daily living and mobility. People are assessed against points based criteria. Capita was awarded the Assessment Provider contract by the Department for Communities.

Steps 2 Success (S2S) is the Department for Communities' (DFC) main return to work programme and was introduced on 20th October 2014. Participation in Steps 2 Success is mandatory for all Jobseeker's Allowance (JSA) claimants and Universal Credit (UC) claimants aged between 18 and 24 who have been claiming JSA/UC for 9 months, as well as for those aged 25 and over who have been claiming JSA/UC for 12 months or more. Employment and Support Allowance (ESA) claimants in the Work Related Activity Group (WRAG) and their equivalent under Universal Credit are also mandated onto Steps 2 Success. Failure to comply with requirements set by S2S providers can result in a sanction being imposed. Three private companies, Ingeus UK, People Plus NI and Reed in Partnership were awarded contracts by the Department for Communities to deliver the S2S contracts; these contracts have been extended until 2020.

Universal Credit is the main plank of welfare reform, and rolls a number of so-called legacy benefits into one. It replaces six benefits, including unemployment benefit, tax credits and housing benefit, into one monthly payment. It was introduced for new claims on a phased geographical basis from September 2017, with its roll out due to be completed by December 2018.

APPENDICES

APPENDICES

APPENDIX A: Messages to Leo O'Reilly, Permanent Secretary, Department for Communities from Conscious Cruelty conference participants

A total of 32 evaluation sheets completed (6 didn't include messages for Leo) 23 comments with permission to include names alongside them in the final report

Shame on you Mr. O'Reilly. You did not even have the decency to send a representative to speak to the people.

Anne O'Connor

Change the system. Do right by the people and before it gets worse and more people's mental health gets worse. Stand in my shoes for a week and see how I feel. When do the public have their say when decisions are made. Less talking, more action.

Julie Magee

As a matter of life and death the Department for Communities must immediately overhaul the Universal Credit system and its allocation of sanctions across the board.

Emer Morris

Every should be held professionally accountable, not least when you are in a position of power to directly change people's lives.

Finn Stoneman

Listen to the people's stories, of the thousands of people who are relying on foodbanks to feed themselves, struggling with mental health issues and poverty and hopelessness, mainly due to policies and programmes that you are accountable for.

This is 2018. Time for change right now.

Maeve Murphy

We are a compassionate people in NI. Let's have compassion at the core of our welfare system. This is about humanity.

Lynne Browne

You are responsible for ensuring that government policy is implemented. This includes meeting the human rights standards to which government is a signatory. Please do your job.

Anne McKeown

Make people with severe and permanent medical conditions exempt from the PIP process. Award them lifetime support. For example, nobody with Stage 4 cancer should have to fight for money to live on.

Kerry Melville

We need some compassion in this system. These are real people and the impact of welfare reform is having an enormous impact. If the system can't change (and it needs to) more needs to be done to provide independent advice and help for people to understand the system and access their rights.

Siobhan Harding

We need a total scrapping of Universal Credit and we need to keep private companies out of our businesses.

Joanne Lowry

What is a sick person provides up to date medical reports from specialists yet PIP continues to humiliate claimants in the medical assessment. This is already difficult for claimants before being made feel like they are telling lies.

Joanne Farrell

Please stop ignoring your customers and talk to them (and listen).

Brian Drurt

Get your finger out , start sitting up and listening, instead of nodding your head like a donkey.

Linda O’Rawe

On behalf of the most disadvantaged ‘customers’ who have been treated appallingly by many disability assessors within the PIP assessment, we will continue to lodge complaints against disability assessors who unfortunately have little knowledge of complex mental illness, lack of empathy and no sense of humanity. The fight continues.

Joanne Smit

People should not have to endure such demeaning procedures, something must be done to change the criteria and the system.

Thomas McWilliams

Give me my meeting.

Kirsty Scott

The system not only doesn’t work, it is clearly meant not to , thereby crucifying society’s most vulnerable.

Diane Kirby

Start looking at cases at tribunal and look at complaints procedure and mandatory reconsideration of ... (can’t read rest of comment, will check with others/Justin)

Justin Greenwood

People of Northern Ireland and their children deserve a decent standard of living, underpinned by real social protection. NI Departments must play their part in trying to stop punishing the poor and building a just society.

Caroline Maguire.

Implement changes in the system which is obviously flawed. These changes should be made immediately.

Pauline Brady

Plus 3 x anonymised comments

Treat people with the respect they deserve. They aren’t numbers or statistics.

Shame on you for not sending anybody to answer to the people.

Jennifer Robinson

All I want to say is sit down and talk to a panel of normal people.

Darryl Corbett

I am calling on you to promote a trauma informed approach within the welfare system. 24 hour deadlines highlight the lack of knowledge within the welfare system. 24 hours to apply for jobs. Why do you promote and support punishing people for things that are out of their control? Please don’t ignore what is being said by the people who need your help.

If this was you or your family member what would you do or expect, don’t treat people like they are worthless, everybody has the right to be heard.

Siobhan McKinley

People are suffering. People are dying. The system does not need to be this cruel, this inhumane. Please do what you can to reduce the harm and anguish people claiming benefits are going through.

Dear Decision Maker

Dear Decision-maker,

They are useless and don't help at all and when I call them out on it they try to sanction me or ask me to leave

Dear Decision-maker,

Haven't received proper information of the goings on and find info hard to get

Dear Decision-maker,

Your system is designed to be as awkward as possible so that you give up on it.

Dear Decision-maker,

In the past put off sick to JSA even though I was ill and took 43 tablets a day.

Dear Decision-maker,

Living on crackers and water for a week. Attempted suicide two times this month.

Dear Decision-maker,

I have had to send many emails and make many phone calls since I'm under stress and broken.

Dear Decision-maker,

I have had my condition for years. It will not get better. I don't know why they keep putting me through it all.

Dear Decision-maker,

I have gone to a food bank today

Dear Decision-maker,

I have seizures, epileptic and non – epileptic, stress brings on both and it affected my mental health badly.

Dear Decision-maker,

There is not enough support and help

Dear Decision-maker,

I'm sick with worry.

Dear Decision-maker,

Your staff never do anything to help you, they send you from A to B to C.

Dear Decision-maker,

They don't listen to you, everybody's condition is different but they treat you all the same.

Dear Decision-maker,

There is no empathy and understanding, medical opinions and evidence is not taken seriously.

Dear Decision-maker,

I'm a mother of child with autism, applied for support, told by SSA staff 'you should be ashamed of yourself'.

Dear Decision-maker,

I feel inferior. I feel like I am nothing.

Dear Decision-maker,

If I knew I was getting cut, I'd die right away. I'd throw myself in front of a bus.

Dear Decision-maker,

I'm worried about how I'll feed my children.

Dear Decision-maker,

I did over 50s Step Ahead for 6 months and got minimum wage plus £40 working tax credit. I was told it wouldn't affect housing benefit, I ended up £3000 rent arrears and took to court for eviction.

Dear Decision-maker,

They said I missed Steps meeting but I never missed it.

Dear Decision-maker,

The PIPs process is appalling - stressful, irrelevant to my condition and impersonal.

Dear Decision-maker,

Got told to go to my Steps to Work interview on the 27 April and I lost the letter so got told it was 20th, now they are not paying me, they are scum.

Dear Decision-maker,

Got no notice of last payment. Not enough to survive.

Dear Decision-maker,

It's a joke, you beg for what you need, have had no cooker for 5 and a half months.

Dear Decision-maker,

Due to untrue statement in my assessment I am losing my car.

Dear Decision-maker,

Do not support me. Very poor communication skills. Threaten tactics to take money.

Gareth's story

Dear Decision Maker,

I have a high spectrum form of dyslexia. Dyslexia is an often misunderstood disability, that varies in people who have it. I have a high spectrum form of dyslexia.

I hated school. The pressure to read, to write, to do the same tasks as everyone else. Letters move around, they flip upside down. I hear everything, things outside the room, things inside the room. I can't concentrate. I start sweating. The pressure builds. The frustration builds. It's like asking a fish to climb a tree. I was called disruptive. I was sent for time out - time out, it was not. I had to sit in a room and write lines, a punishment that created even more of a hyper-intense environment for me. Writing. The schools rules. Over and over again.

I left school basically illiterate. With no qualifications. I read at the age of a ten year old. I have a high spectrum form of dyslexia. I also have a bachelor's degree. I am not stupid, my brain just works in different ways to other people.

After 10 years of ignoring my disability, I eventually built the courage to confront it and went back to further education to get my GCSE English and Maths. They created an environment for me that I could thrive in. They understood my disability. They gave me tools to help me learn, they provided me with literacy support programmes like Read & Write Gold and Live Scribe. When I went to university, the support continued. I was able to complete a 6,000-word dissertation and graduated with one of the highest firsts that year. I could finally show what I can do, the very best of who I am and what I have to offer.

I found myself like a lot of recent graduates, signing on while I looked for work that I was good at, that I was qualified for.

But the system is not set up for someone like me, a person with a high spectrum form of dyslexia. I arrived one day to sign on, it was a Thursday and was told my appointment was Tuesday. Because of this, I was going to be sanctioned. I informed the man that I had dyslexia and must have read Tuesday as Thursday. He had to send it upstairs for a decision. He told me, 'I can't spell dyslexia, so I'm gonna write "He doesn't read too good", and we'll see what he says.'

When I was referred to Steps, my time at school came flooding back. Sit in a chair for hours, do the work, don't lift your head. I'd come so far in the past few years and now I felt like I was going backwards. The atmosphere was pressured. I was expected to fill out multiple job applications in an environment that does not offer any support to my disability and heightens my anxieties, which is like asking someone with mobility problems to take the stairs.

I was asked to apply for 3 jobs with a

24 hours deadline, and my employment support worker handed me a slip of paper to sign. I told her I couldn't, I didn't feel comfortable signing when I didn't know what it was. I ask her to read it for me and she refused. I read it aloud, the first time I had read out loud in 20 years. The short paragraph took me a while to read, it said if I don't uphold my obligations in searching for work, I will be sanctioned. I told her this was alarming, she was placing a 24hr deadline in front of me when she was aware of the severity of my dyslexia and had knowledge of my literacy difficulties. I asked her for a copy and she crumpled it and threw it in a nearby bin, and told me to forget about it. I found it highly worrying that these individuals can hand out sanctions like sweets, and withdraw just as easy.

I don't understand how educational institutions abide by equality law and offer additional support for a disability like dyslexia, and the system of benefits don't. In fact, the system is demoralising, humiliates and punishes people in my circumstances. If Northern Ireland has a high level of literacy problems, you can image the amount of young men here like me who slip through the cracks. Who are misunderstood and don't get the support they need; who are judged wrongly as idiots or thugs or chancers, who are brought into a system that is supposed to support, but only reinforces the negatives about them.

You don't ask a fish to climb a tree.

Barry's Story

Dear Decision Maker,

I've been turned down for PIP. I thought my interview went well. The lady was kind. But when the report came back, she lied. Or, she didn't believe what I had said. She

was a paramedic. I have a complex mental illness.

My illness was deemed not bad enough for support.

Have you ever had anxiety?

Have you ever been so afraid that you can't get out of bed?

Have you ever heard voices trying to get you to do something you don't want to do?

I appealed the decision, eventually.

I wanted to give up but other people wouldn't let me. I didn't know what to do or where to go. Someone gave me a number to ring, and a man told me to send off a NOA1 form. A what? From Where? From Who? Where do I sent it?

I don't understand the language of PIP.

I arrived at my appeal. They asked me for "The Forms". I asked, what forms? They said the forms. Again, it's like a different language. I didn't get any forms but I was expected to know what I had to bring with me. They said they had to postpone it.

I recognised the doctor at the table and was told if I had have had the forms it couldn't have gone ahead anyway, because the doctor - a man who had treated me when I had a breakdown and thought people were trying to kill me and my family, who saw me at the worst of my illness, who could bring knowledge about my condition - they said he couldn't be impartial.

This is not about giving benefits to people who need it most, but taking benefits from people who need it most.

Sarah's Story

Dear Decision-Maker,

Many years ago, I had a brain injury after an accident. Due to a miscommunication between medical practitioners, I never got the right help following my accident. I spent many years knowing something was wrong with me, that I was different to everyone else. Friends and family tried to understand but they couldn't; I felt isolated, more so when they became frustrated with me. My supposed clumsiness. My mood swings. My fatigue. I became very depressed, and started self-medicating. Alcohol. Drugs. Putting myself in dark situations. I couldn't manage life. I couldn't hold down a job. I couldn't leave my bed with exhaustion. I remember having so little money I lay in bed exhausted, and was so cold I had to put a blanket over my head while I slept. I tried to take my own life.

I began being treated for depression.

I was referred to some support groups which helped. And then once, accidentally, a young placement student began quizzing me about support I received after my brain injury. I had no idea what she was talking about. When I eventually got it, I cried for a month. Finally, I felt that people understood me, and what I had been going through. They gave me the language to explain what happens when someone has had a brain injury. They told me why I felt how I did at certain times. I felt relief, and totally vindicated. Now I could get the support I really needed. I was referred to support organisations who helped me apply for DLA. I began thinking about my future, now that I felt I had one. I want to go into counselling, I think I can make a difference to people's lives and do what

others had done for me. Because I know that pain.

Then came my letter for PIP. I'd heard all the horror stories about PIP. The worry made me sick. I became reclusive again. I couldn't clean my house. I couldn't do anything. I received support from CAB, from a rep who specialised in brain injuries.

A support worker agreed to come with me. The appointment was arranged for 8am - out of work hours. We asked for it to be changed and it was, but I was worried this would go against me. I found the waiting room incredibly intimidating. It was cold, the doors opening constantly blowing in cold air, and allowing everyone on the outside to see you sitting there. There was an older lady in a wheelchair being told that her appointment was at 11am and not 1pm, and I could see her panic when she asked 'but what about my benefits?' All of us there knew that panic. Going into the interview room, I felt extremely paranoid. Especially when the interviewer asked questions like 'Were you in hospital during your brain injury?' Or, what is CFS - Chronic Fatigue Syndrome. I thought her lack of knowledge was a trap. I found out later she was a physiotherapist. My support worker lost her temper. I was asked to stand on one leg, which I refused due to my problems with balance. I felt humiliated, like a performing dog. Yes there may be times when I am ok, but when I was telling her about my worst times, she cut me off.

But I am one of the supposed lucky ones. I was successful following my interview. This did not bring me relief. These benefits that are designed to make someone's life bearable, bring fear and paranoia. Because of the descriptors, these things that went against me - not

being able to stand on one leg or, lifting a glass to take a sip of water during my interview. I'm afraid to walk out to my backyard for a breath of air. I'm afraid to go to the shop. I feel like I am being watched. Other medical practitioners encourage you to join support groups, to volunteer and mix with other people, to fight through the negatives and focus on the positives, on your recovery. Fear means people will not be able to do those things that make their lives bearable. They will be merely existing. They will isolate themselves. They will be living in a state of worry. It's laughable that this benefit is called 'Personal Independence'. It feels like a punishment, not a benefit.

Someday, I hope to go to university and do a counselling degree. That seems a long way off right now.

APPENDIX B: Human Rights Checklist

Human Rights Checklist for Social Security Decision Makers

(To be completed and included in notes of all decisions which could lead to the reduction or suspension of social security income.)

Social Security is a human right, protected under Article 9 of the United Nations International Covenant on Economic, Social and Cultural Rights. **BEFORE** any action is carried out, the Department for Communities and Social Security Agency must ensure;

- a. An opportunity for genuine consultation with those affected
- b. Timely and full disclosure of information on the proposed measures
- c. Reasonable notice of proposed actions
- d. Legal recourse and remedies for those affected
- e. Legal assistance for obtaining legal remedies
- f. Minimum essential level of benefits

As a Decision Maker, working on behalf of the Department for Communities, I must comply with these standards in all that I do.



Name of Decision Maker _____ Date _____

I _____, hereby declare the following to be an accurate reflection of the facts at the time of writing;

Nature of Decision which may stop or reduce the claimant's income:

1. ESA Adverse decision
2. PIP Adverse Decision
3. JSA Sanction
4. Other: _____

Due Process

"The withdrawal, reduction or suspension of benefits should be... reasonable, subject to due process" UN General Comment No 19, paragraph 4(b)

1. The claimant has received the following in a format that is confirmed as understood;

- | | |
|---|-------|
| a. Written copies of allegations / presumptions of health / fitness | Y / N |
| b. All documentation governing the decision making process | Y / N |
| c. Statements of private providers / social security staff | Y / N |
| d. Access to advice and legal representation | Y / N |
| 2. I have met with the claimant to discuss the case | Y / N |

3. I have talked with the claimant on the phone to discuss the case

Y / N

4. The claimant had representation during our discussions

Y / N

5. At all stages of the decision making process the claimant was fully aware of;

- | | |
|---|--------------------|
| a. the allegations / presumptions of health / fitness | Y / N / Don't know |
| b. the possible outcomes | Y / N / Don't know |
| c. the claimants responsibilities | Y / N / Don't know |
| d. the DFC / SSA responsibilities | Y / N / Don't know |

-
- e. the acceptable ESA 'descriptors' Y / N / Don't Know /Not Applicable
 - f. the acceptable PIP 'descriptors' Y / N / Don't Know /Not Applicable
 - g. the acceptable 'good cause' criteria Y / N / Don't Know /Not Applicable
 - h. Other relevant acceptable criteria for decision making Y / N / Don't Know

6. The claimant provided the following evidence;

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

7. The private company (insert name) _____ provided the following evidence;

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

8. The Claimants GP (insert name) _____ provided the following evidence;

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

9. I have seen the claimants full and up to date medical file Y / N / Not Applicable

10. The claimant completed the following steps during the decision making process;

- a. Completed Work Capability Assessment form Y / N / Don't know / Not Applicable
- b. Completed PIP forms Y / N / Don't know / Not Applicable
- c. Completed other forms Y / N - Please Specify _____

- d. ATOS face to face assessment Y / N / Don't know / Not Applicable
- e. ATOS phone call Y / N / Don't know / Not Applicable
- f. CAPITA face to face assessment Y / N / Don't know / Not Applicable
- g. CAPITA phone call Y / N / Don't know / Not Applicable
- h. Ingeus / Reed in Partnership / People First Meeting
Y / N / Don't know / Not Applicable
- i. Met Social Security staff Y / N / Don't know
- j. The claimant provided a personal statement in writing Y / N / Don't Know
- k. The claimant provided a personal statement verbally Y / N / Don't Know
- l. Phone call with Social Security Decision Maker Y / N / Don't Know
- m. Meeting with Social Security Decision Maker Y / N / Don't Know

11. The claimant was accompanied by independent adviser during meetings

Y / N / Don't know

- 12. The claimant had access to advice in advance of phone calls Y / N / Don't know
- 13. All meetings were recorded - audio Y / N / Don't know
- 14. All meetings were recorded - minutes Y / N / Don't know
- 15. All phone calls were recorded Y / N / Don't know
- 16. Minutes / audio recordings are agreed as accurate by claimant Y / N / Don't know
- 17. Claimant was assisted by an independent adviser to complete all forms

Y / N / Don't know

18. The timeframe from notification to decision was ____Days ____Weeks ____months

Impact assessment

“Under no circumstances should an individual be deprived of a benefit on discriminatory grounds or of the minimum essential level of benefits” UN General Comment No. 19, 78

1. At no stage during the decision making process was there discrimination against the claimant on the grounds of; religious belief, political opinion, racial group, marital status, sexual orientation, sex, physical / mental ability, or parental / caring status.

Y / N / Don't Know

2. No child will be negatively impacted in any way by this decision

Y / N / Don't Know

3. The claimant will not see a reduction in income Y / N / Don't Know

4. The claimant will see a reduction in income of £ _____

5. This decision will not lead to food poverty, fuel poverty, a decline in mental / physical health or homelessness

Y / N / Don't Know

6. I did not have to meet 'clearance targets' regarding this decision

Y / N / Don't Know

7. I believe this decision is compliant with Article 9 of the United Nations International Covenant on Economic, Social and Cultural Rights.

Y / N / Don't Know

Other Issues / comments:

Appendix C: Case Studies

**Case Study 1:
Mrs. Kirsty Scott**

Mrs. Kirsty Scott is a 52 year old woman who lives with her 28 year old son Stephen, who is severely disabled. She suffered multiple bereavement and loss, including the deaths of both her son and husband within 18 months of each other and is continuing to deal with the profound grief and trauma caused by these bereavements. She is a full time carer for her son. She is also battling a range of physical and mental illnesses and conditions. She applied for both PIP and ESA and was turned down for both by the Department for Communities. Mrs. Scott then took public action at the Department for Communities Headquarters. Within days her ESA was reinstated, then

removed once again, then re-instated again, illustrating the arbitrary nature of decision making but also the power of the Department for Communities to intervene to make the right decision without the need for lengthy, costly and extremely stressful appeals processes. Mrs. Scott is still waiting for a promised meeting with Mr. Leo O'Reilly, Permanent Secretary, Department for Communities.

Chronology of Events

2 August 2018– Department for Communities wrote to Mrs. Scott informing her that her claim for ESA had been refused.

14 August 2018 - Mrs. Scott handed in a letter¹¹⁸ in to Mr. Leo O'Reilly, Permanent Secretary, at the Department for Communities, Causeway Exchange, requesting a meeting with him. She was joined by around forty supporters drawn from a range of human rights campaigns, mental health charities, advice organisations and politicians. Mr. David Malcolm, Deputy Secretary DFC informed Mrs. Scott that Mr. O'Reilly was unavailable; he took Mrs. Scott's letter and said they would respond within 7-10 days. Those present agreed to return within 2 weeks if Mrs. Scott's case was not resolved.¹¹⁹

Thurs 16 August 2018 – Mrs. Scott received a letter from the Department for Communities dated 15 August 2018

informing her that they had reviewed her claim and that, based on information received, they were awarding her ESA, Support Group Component.

Monday 20 August 2018 – Mrs. Scott received a phone call at 10am from a Department for Communities official, informing her that their letter dated 15 August had been sent out 'in error' and that it was being recalled. That official informed her that she would have to request a Mandatory Reconsideration and that this process could take up to 30 days.

Tuesday 21 August 2018 – Mrs. Scott received a letter dated Monday 20 August informing her that she had been awarded ESA Support Group Component.

Thurs 23 Aug 2018 – Mrs. Scott received another phone call from the same Department for Communities official as on 20 August, to confirm that her she had been awarded ESA. He also informed her that her request for a meeting with Mr. Leo O'Reilly was being looked at and that she would be contacted in due course.

5 October 2018- Mrs. Scott had not been contacted by the Department for Communities to offer her a meeting with Mr. Leo O'Reilly.

Testimony from Mrs. Scott submitted to the Department for Communities

My name is Kirsty Scott. I am 52 years of age and live with my 28 year old son Stephen, who is severely disabled. I have suffered multiple bereavement and loss, including the deaths of both my son and husband within 18 months of each other, and I am dealing with the profound grief and trauma caused by these bereavements. I am a full time carer for my son. I am battling a range of physical and mental

118 Letter from Mrs. Kirsty Scott to Mr. Leo O'Reilly Department for Communities dated 14 August 2018 can be accessed via this link <http://bit.ly/2DYz553>

119 A video interview with Mrs. Scott can be viewed via the following link <https://www.youtube.com/watch?v=Ld7Bq3kYc0&feature=youtu.be> Media coverage of the action at Department for Communities on 14 August can be accessed via <https://bit.ly/2nRkoAZ> <http://bit.ly/2Nxxv5Nc>

illnesses and conditions.

Through no choice of my own I was forced to apply for both Personal Independence Payment (PIP) and Employment Support Allowance (ESA) from the Department for Communities. I was turned down for both. This is my story, none of which was recorded by PIP or ESA assessors or taken into account by Decision Makers.

In April 2013 my 19 year old son William, died tragically. William had Aspersers and a history of mental ill health including self-harming. I had fought tooth and nail for years to get him the help he needed. As his mother I had to switch off his life-support machine, something that I think about every day.

18 months later my husband Gordon, who was a very fit man, dropped dead from a massive heart attack, aged 52, no doubt caused by the grief and trauma of our son William's death. I was left a widow at 49 years of age, and am the sole carer for my son Stephen.

I am originally from England but now live in Newtownabbey, Co. Antrim. I lost both my parents to cancer, within 3 weeks of each other. I now live alone with my severely disabled son.

I suffer from five different physical and mental illnesses/ conditions – fibromyalgia, underactive thyroid, depression asthma, allergies and Vitamin D deficiency. How each of these illnesses/conditions affect me fluctuates from day to day.

In February 2017 I had to reschedule my PIP assessment as I was in hospital with diverticulitis. On the second appointment date given to me in April 2017 I was experiencing a mental health crisis. I don't remember much about that assessment as I was in the throes of a mental health

crisis and had just returned from an urgent appointment with Lighthouse, the suicide prevention charity. I informed the assessor that I was having a crisis but her response was uncaring.

I didn't fill in the ESA assessment form because I was not in a fit mental state to do so. I find it very difficult to deal with form filling since my husband died, as well as a result of my illnesses.

On the day of the ESA assessment my head was in a 'fibromyalgia fog', a recognised feature of fibromyalgia which causes difficulty with holding conversations, finding words, feeling alert and remembering. I got upset and she got me tissues.

The assessment report said that I was diagnosed with depression 'following the deaths of two close family members'. The report failed to mention that these close family members were my 19 year son and that he died tragically after years of self harming, and my husband who dropped dead in front of me at 52 years of age.

The assessment report said that I have 'ongoing thoughts of life not worth living and have a plan, but that I 'have no intention of acting on (that) plan'. Since the deaths of my son and husband I have battled against depression and suicidal thoughts. An assessor, who is not trained in suicide awareness and prevention, and who has met me once for an hour is not in a position to make a judgement as to my mental state and whether I pose a risk to myself. In reality my intention or otherwise of acting on these thoughts fluctuates on a day to day basis as I am grieving still.

The assessment report said that I travelled by bus alone to the ESA assessment. I did this because I had no other option. I don't

drive, I don't have anybody to rely on for lifts and a return taxi journey would have cost me £40 which I could not afford. None of my relatives live in Northern Ireland so I am quite isolated.

The assessment report said that I was observed to walk 39 metres to the assessment room. I have discomfort every time I walk but the medical advice given to fibromyalgia is to keep walking so this is what I do. At the ESA assessment I was made to walk down a long corridor to the assessment centre. I was walking with difficulty, was visibly stiff and was dragging my legs and was made to feel I had to hurry.

The assessment report said that I look after the care needs of my severely autistic son and assist him with washing and shaving daily. The report did not say that this causes me pain to undertake these activities, but that as both my other son William and my husband Gordon are dead there is nobody else now in our house who can help Stephen with this, plus his autism means routines are important i.e. not a life style choice.

The assessment report said that I 'can have a bath every night'. The reason I force myself to take a bath, even though it causes me pain getting in and out of the bath, is for pain relief, rather than relying on medication alone, which has side effects. I also have a fully adapted shower and when I bathe, which is not every night, I have assistance to do so.

The report said that I reported 'dressing 3 days a week' but that 'this appears to be a lifestyle choice'. I find this grossly offensive. The reason I might only get fully dressed on some days is due to a combination of being depressed and the pain I am experiencing. I can spend days in bed as I am so sore and suffering from extreme fatigue and

tiredness as well as low mood. This is NOT A LIFESTYLE CHOICE.

The assessment report said that I was 'well kempt and neatly dressed'. Apart from the value judgement inherent in this, it would appear that I was being penalised and lost points for not appearing sufficiently scruffy? This is discrimination.

The assessment report said that I 'coped well with the assessment'. Yet during the assessment the assessor stopped the assessment as I was so visibly upset, having to yet again relive all the trauma of my son and husbands' deaths. The assessor said that she thought she might have enough information and asked me to sit in the waiting room as she was going to make a phone call to get authorisation to terminate the assessment at that point. This was denied and she was forced to continue with my assessment.

When I received the ESA decision letter I couldn't even bring myself to fully read it for 3 days, such is the level of stress and trauma this whole process has caused me. Since I found out I had been turned down for ESA I have been feeling extremely low and experiencing suicidal thoughts. I have had to seek an urgent consultation with my GP.

The PIP and ESA assessors don't have a clue what they are looking for. I think there needs to be a proper mental health assessment carried out by properly qualified assessors.

There is no tick box on those assessment forms that allows people to record the impact of grief and trauma on them. There is no tick box on those assessment forms for people to say that for days on end they can be physically and mentally unable to get out of bed due to grief and trauma.

The assessors and Decision Makers have twisted what I told them to suit their tick boxes. Why aren't these assessments being taped? Anything I do is with extreme pain and discomfort. I am unable to do many everyday activities and routines but what I do is done with great effort and pain.

My human right to tell the truth and be believed has been taken away from me and I have been discriminated against for doing so.

Why should anybody who is sick or disabled be made to feel that they would have to lie through their teeth to get the support they are entitled to and need?

I have suffered multiple bereavement and loss, grief and trauma. I am a full time carer for my disabled son. I am battling a range of physical and mental illnesses and conditions. If all of this is not recognised as constituting 'exceptional circumstances' how does anyone have chance of getting the support they need? I need and deserve this support.

Case Study 2:

Mrs. C

Mrs. C, a 64 year old woman with two adult sons, experienced childhood abuse and has battled with alcohol addiction. She has been sober for the past 18 years. She is dealing with a number of physical and mental health problems, including depression, sleep apnoea and the effects of an acquired brain injury which include memory loss, fatigue and mood disorder. Having previously received DLA for 18 years, in April 2018 Mrs. C was called for re-assessment. She was assessed on 24 August 2018 and on 20 September 2018 received a letter to inform her that the enhanced rate for daily living had been

removed and as a result she would lose £110.00 a month. She would only receive the standard daily living rate of £57.30 a week. Mrs C describes how the PIP assessment process re-traumatised her, left her filled with anxiety and self-doubt, put her at risk of self-harm and triggered suicidal thoughts.

'the PIP assessment process undid all of the years of work I'd done to overcome childhood abuse and alcoholism'

I have fought all my days, against the enduring trauma caused by childhood abuse, against addiction and dealing with my health problems, including an acquired brain injury and sleep apnoea, but the PIP assessment left me worse than I ever was. All the work I did over years to deal with childhood abuse and addiction – this process has undone all of that. It's thrown me into chaos and pain.

The whole PIP process has caused me such stress and anxiety that the night before the assessment I wrote out what I saw as my final will and testament, in case I didn't make it through the night. I told the assessor that if I'd had any alcohol in the house I'd have ended up having a drink, despite being sober for 18 years.

In the past I was never listened to when I told people about the abuse I experienced as a child. Instead I was made out to be a liar. This is exactly what has happened again through the PIP assessment process.

On the morning of the assessment I couldn't have pretended to be anything other than how I was, but you feel like they are trying to trip you up. You are trying to remember what exactly you put on your

form. My condition varies, I get good days and bad days, some days the psychological trauma and absolute terror takes over and I literally can't move.

You can't be yourself – they make you doubt yourself. Because I laughed at one stage during the assessment I began to think that would be used against me, that they'd say I was fine. I lay in bed after the assessment that night going over everything in my head, doubting myself. That's how they get to you – they reduce your life down to such petty details.

The assessor said she found nothing wrong with my memory, yet I'd told her that memory loss is a feature of acquired brain injury, and that in recent times both my sons had contacted me separately from abroad where they live to tell me I'd sent birthday cards to their children on the wrong dates.

The assessor wrote in her report that she saw no evidence of fatigue yet I hadn't slept at all the night before due to worry. The impact of sleep apnoea was also not recognised – this can cause me to fall asleep during daily chores such as cooking with all the attendant risks.

I think the system is stopping people from appealing, because after what I went through in the assessment I don't want to go through anything like that ever again; it's too raw.

The financial support I received from DLA let me live alone in my flat, a place where I feel safe and secure, but at the end of the day it's not about the money for me. It's what they are doing to vulnerable people, to people who know what it's really like to survive emotionally, physically and mentally, people who wonder where their next meal will come from, people who

struggle to stay clean from addictions, people who struggle with flash backs and memories of childhood abuse, and the worst is people who end their lives because of all the upset.

All I want is to live the rest of my life in peace but instead I still have to fight all of this. At the end of the day I have a life and that life is not points. We are all human and deserving of dignity and respect of having our voice heard and listened to.

APPENDIX D: PROFILE OF SURVEY RESPONDENTS

Gender

Respondents were almost evenly divided among females and males, with just slightly more female respondents.

Age

Over two thirds of respondents were aged between 35 and 64 years of age, with the largest single number of respondents being within the 35-49 age bracket.

Personal Circumstances

Over half of all respondents had a long term illness, while four in ten had a disability. A further third indicated that they wanted to work but that there were no suitable jobs available, while 14% had full time caring responsibilities. 15% indicated that they were sick but hoped to recover. One in ten respondents reporting having literacy and/or numeracy difficulties, and the same proportion indicated that they were engaged in unpaid family support or volunteering in their community.

The majority of respondents indicated that they had children (58%) but it wasn't always clear from the responses whether these were dependent children under 18 years of age or not.

Some survey respondents selected more than one of these circumstances as pertaining to them, therefore the total adds up to more than 100%.

Type of Social Security Benefit

The majority of respondents were claiming Job Seekers Allowance (almost four in ten), followed by Employment Support Allowance and Disability Living Allowance/ Personal Independence Payment (one in three for each respective benefit). Approximately a quarter of respondents were in receipt of housing benefit. Smaller numbers of respondents were in receipt of a range of other benefits such as Income Support or Carers Allowance. Only 1.4% of respondents had been transferred to Universal Credit at the time of the survey;

the roll out of Universal Credit only began in September 2017 so this figure was to be as expected.

Of those who indicated that they were unemployed, over two thirds or 65.5% indicated that they were long term unemployed i.e. 12 months or more. This figure correlates almost exactly with the official figures for long term unemployment rates for NI. The Labour Force Survey results published in August 2018¹²⁰ indicated that the rate of long term unemployment was 63.1%, almost two and a half times that of the UK as a whole (at 26.7%).

120 <https://www.nisra.gov.uk/statistics/labour-market-and-social-welfare/labour-force-survey>





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