



Department for

**Social
Development**

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Welfare Reform Bill

Regulatory Impact Assessment

May 2007

WELFARE REFORM BILL

REGULATORY IMPACT ASSESSMENT

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WELFARE REFORM BILL

Purpose and intended effect

Objective

The proposals for welfare reform will contribute to the long-term aim of increasing the employment rate for people of working age. This will help to meet the challenge of an ageing society and increase social inclusion, by the delivery of genuine opportunity for disadvantaged people.

Background

To increase the employment rate there is a need to reach out to people who have not benefited from the extensive support on offer, including those receiving incapacity benefits. To reach these people, the 'inactive' benefits they receive need to be reformed to fully engage with and support them.

The proposals build upon the successful welfare to work policies, based upon a comprehensive menu of advice and support along with clear rights and responsibilities for the individual. This approach has demonstrated its effectiveness through the Pathways to Work pilots which by April 2007 have helped 730 people into work.

From experience with the New Deals and Jobseeker's Allowance it is known that successful support is founded upon complementary benefit and support structures; providing the incentives to engage fully and to move into employment with the safety net needed to take risks in leaving benefit dependence. Reaching out to those with more complex needs will require flexibility in delivery, with the need to remove perverse incentives to claim and remain on benefits and provide the support people need to make the step into work and to remain in work.

Rationale for intervention

There is a responsibility to deliver equality of opportunity to employment for everyone. In addition to the obvious costs, long-term worklessness creates poverty, which translates readily between generations creating social exclusion, limiting aspirations and mobility.

The growth in those claiming lone parent and incapacity benefits through the 1980s and 1990s reflects problems created over the course of a generation. Significant progress has been made in supporting people who are on lone parent and incapacity benefits to make the transition back to work, but there is still more to do. Putting in place comprehensive support, balanced with new responsibilities, will tackle these entrenched problems by helping far more people avoid benefit and move from benefit into work.

Society has a responsibility to support people at a time when they cannot be expected to work, but it is crucial that the benefit system is built upon the principle of rights and responsibilities. A claimant's right to financial security should be matched

by a requirement upon those capable of employment to take steps towards work. Helping more people from these groups find jobs will indirectly support wider long-term targets on child poverty, lone parent employment, extending working life and strengthening the economy.

Intervention is also motivated by the potential benefits in public expenditure saving and economic benefit in terms of increasing the number of people in work, and an increased employment rate for people of working age helping to meet the challenge of an ageing society and drive towards a more inclusive society.

Consultation

Internal

The welfare reform proposals represent the ongoing development of joint working arrangements across several Departments and directly support a number of crosscutting strategic priorities such as economic regeneration, anti-poverty and social inclusion.

Public Consultation

The welfare reform proposals were set out in the Green Paper, *A new deal for welfare: Empowering people to work*. A 13-week formal consultation period ended on 21 April 2006. 320 copies of the Green Paper were issued in Northern Ireland and 10 substantive responses were received, most of which were broadly supportive of the thrust of the proposals. The report on the consultation exercise is available at [www.dsdni.gov.uk/index/consultations/archived\)_consultations2/a_new_deal_for_welfare_empowering_people_to_work](http://www.dsdni.gov.uk/index/consultations/archived)_consultations2/a_new_deal_for_welfare_empowering_people_to_work)

Options

Option 1: Do nothing

Stopping Pathways to Work and return-to-work support on inactive benefits would result in an increase in the number of claimants, and the objective of increasing the employment rate to help to meet the ageing challenge, eradicate child poverty and increase social inclusion would not be met. In addition, savings and economic benefit (in terms of gain to the economy) that could be generated as a result of the reforms may not be possible. A 'do nothing' option carries significant opportunity costs to benefit recipients, society and the whole economy. The scarring effects of worklessness on children and local communities would continue.

Option 2: Ongoing development of policy at current rates

The current welfare to work policies have produced impressive results but they are not sufficient to deliver the long-term aim of increasing the employment rate, so ongoing development of policy at current rates would fail to deliver the labour and skills needed and would fail to address the generational impacts of worklessness upon children.

Option 3: Introduce joined-up welfare reform

Only a change in policy development will deliver substantially improved outcomes. This cannot be achieved unless a joined-up service is delivered to those claiming benefits and employers are encouraged to retain and employ people with manageable health conditions. A joined-up service with the right balance of rights, incentives and responsibilities is necessary.

Costs and benefits

Sectors and groups affected

There are clear benefits to individuals, their families, employers, taxpayers and communities as well as society if the reforms are successful. The proposals will deliver a healthier and more prosperous society with improved support to children and families and a ready supply of skills and labour for employers.

Employers

Overall, welfare reform proposals are designed to increase labour supply and skills. This will help employers adapt to a more inclusive labour market and therefore the reforms will have a direct benefit to employers looking to recruit in a competitive labour market.

Individual claimants

For incapacity benefits claimants, in addition to increasing awareness of the obvious financial and health benefits of work, it is intended to provide clear financial incentives for both engaging in back-to-work activity and returning to work. Through Pathways to Work individuals will be given the skills and help they need to return to and remain in work, which could bring all of the benefits of employment and inclusion to individuals and their families.

Voluntary and private sector

The proposals will make the benefit rules clearer and will actively encourage claimants to engage in activity of all types, including voluntary work. This approach will have a positive impact upon the voluntary sector. It will add clarity to the current position, and have a positive impact on voluntary organisations who deliver services to people with health conditions, and to disabled people.

Housing Executive

The proposals for Housing Benefit are likely to result in significant improvements for the Housing Executive through operating fairer and less complex rules that would improve processing times.

The Department funds the Housing Executive to administer Housing Benefit for tenants and any additional work from welfare reform changes will also be funded by the Department.

Economic impact

The roll out of the proposals carries an initial cost to public expenditure but long term substantial savings are expected. Details may be found in individual Regulatory Impact Assessments attached.

For the economy substantial benefits are expected once the policies reach steady state, including additional earnings. This is particularly pertinent at a time when the working-age population is not growing, so any extra labour supply to sustain economic growth has to come from the economically inactive.

The social impact of the measures is harder to quantify but the potential benefits associated with a move into work include positive influences on health, poverty, income levels and self-esteem. It will also help break the cycle of deprivation in some of our poorest communities.

Small business impact test

Developing proposals that increase the supply of labour and skills will obviously benefit employers. Developing proposals which address the needs of disadvantaged communities is likely to benefit smaller employers in these areas further.

The objective of the reforms is to increase the number of people leaving benefit for work and does not relate to specific markets or firms.

Enforcement and sanctions

The proposals are based upon clear rights and responsibilities for claimants. Claimants' engagement in back-to-work activity and work itself will be rewarded. They will be provided with a comprehensive menu of assistance. Where a claimant, without good cause, does not comply with the new conditionality regime Employment and Support Allowance will be reduced to the basic level of benefit. Claimants will have a right of appeal to independent appeal tribunals against such decisions.

Monitoring and review

The welfare to work policies will be evaluated periodically.

The governance of the welfare reform programme as a whole will be overseen using approved methodology for planning and review.

Summary and recommendation

Option	Total benefit per annum	Total cost per annum
1	There would be no short or long-term benefit to doing nothing	The short-term cost of doing nothing may not be insurmountable; however, the long-term cost of failing to meet the challenges being faced would be huge and cause lasting damage to society and the economy
2	There may continue to be short-term benefits as labour market policies continue. There would be no long term benefit to this option	There would be no immediate extra costs to this option. As the ageing challenge and globalisation progress, the labour supply would decline. The ability to spend on essential services would be reduced; inflation and the economy's ability to compete globally would be damaged
3	This option has almost immediate and exponential benefits for those individuals stuck on inactive benefits; excluded communities; employers; the economy and society as a whole. Once fully established these policies will save money as well as helping secure on-going social and economic prosperity	Once these policies are in place fully, they would actually save money for taxpayers and employers alike There would be no extra public administrative burden that has not received proper funding and headcount

It is recommended that option 3 is the preferred option.

The Welfare Reform Bill corresponds to provisions in the Welfare Reform Act 2007 and is in keeping with the long-standing principle of parity between Great Britain and Northern Ireland in the field of social security, and the commitment under section 87 of the Northern Ireland Act 1998 to secure a single system of social security for the United Kingdom.

Declaration


I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.



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EMPLOYMENT AND SUPPORT ALLOWANCE (INCAPACITY BENEFIT REFORM)

Purpose and intended effect

Objectives

This Regulatory Impact Assessment covers the elements of the Welfare Reform Bill dealing with the reform of services for incapacity benefits claimants, including—

- replacement of incapacity benefits with a new Employment and Support Allowance; and
- rollout of Pathways to Work across Northern Ireland by 2008.

The Green Paper "*A new deal for welfare: Empowering people to work*" published in January 2006 set out proposals for a range of measures aimed at—

- reducing the number of people who leave the workplace due to illness;
- increasing the number leaving benefits; and
- better addressing the needs of all those on benefit.

To do this requires rollout of the successful Pathways to Work pilots across Northern Ireland by April 2008. The pilots, delivered by the Department for Employment and Learning, are based on a wide-ranging review of both national and international initiatives and evidence, and combine a balanced package of rights and responsibilities, which aims to target a number of the health-related, personal and external barriers to returning to work.

This is the first large-scale intervention to deliver such positive results for people with an illness or disability. Claimants, personal advisers, employers and service providers have responded very positively to the pilots and early evidence is very encouraging. Statistics show in Pathways to Work areas an increase of 16 percentage points in the proportion of people leaving Incapacity Benefit within six months of claim.

A new Employment and Support Allowance will also be introduced that will simplify the benefit system. From 2008, this new integrated contributory and income-related allowance will replace Incapacity Benefit and Income Support paid on the grounds of incapacity for work. To most claimants it will be paid in return for undertaking work-related interviews, agreeing an action plan and participating in some form of work-related activity. If benefit recipients do not fulfil these agreed responsibilities, the new benefit will be reduced.

For those claimants with the most severe health conditions or disabilities, the benefit will be paid without conditionality and they should get more money than the current long-term rate of Incapacity Benefit.

There will be work with existing claimants, balancing responsibilities to prepare to return to work with the right to fair treatment. Their existing level of payment will be protected and they will receive regular medical re-assessments and be asked to participate in work-focused interviews.

These measures, with others outlined in the Green Paper, form the basis of the aspiration to reduce the number of incapacity benefit recipients.

Background

The proportion of the working age population in receipt of incapacity benefits (or previous equivalents) in the UK has increased from around 3% in the 1960s to over 7% today, in Northern Ireland the figure is 10.7%. Much of the increase occurred between the late 1970s and mid-1990s and is largely explained by decline in the proportion of claimants that leave within the first 18 months and consequently increasing numbers of the caseload with long durations. Currently, just over half of the caseload has been on benefit for more than 5 years. It is clear that to reduce the caseload the strategy must focus on improving the rate at which people leave incapacity benefits. Further reductions in inflows will also contribute to lowering the numbers.

Risks (rationale)

Significant innovations, such as the New Deal for Disabled People and Pathways to Work, have been introduced. However, fundamental issues remain—

- little is done to prevent people moving onto incapacity benefits;
- the gateway to benefits is poorly managed – with claimants receiving incapacity benefits before satisfying the main medical test;
- benefits trap people into a lifetime of dependency – the longer a person remains on benefits, the less chance they have of leaving;
- there are perverse benefits incentives – paying more the longer people claim;
- almost nothing is expected of claimants – and little support is offered. Those who try to plan their return to work through volunteering and training feel that they run the risk of proving themselves capable of work and therefore losing their entitlement; and
- the very name of incapacity benefits sends a signal that a person is incapable and that there is nothing that can be done to help get them back into the labour market.

The success of Pathways to Work has demonstrated that, with the right help and support, many people on incapacity benefits can move back into work. By helping people who are economically inactive and extending opportunities to many of those traditionally seen as outside the labour market will increase the labour supply – crucial at a time when the working age population is no longer growing. In the short term, economic growth can be sustained at good levels without sparking inflation, and in the longer term, this will be essential to cope with the challenges presented by an ageing population. As a result, this programme of reform should deliver long-term

savings, more than offsetting the initial investment, and yield significant economic and social benefits.

Consultation

As set out in the overarching section on consultation, the proposals for Employment and Support Allowance were consulted on widely as part of the public consultation on the Green Paper. Responses were broadly supportive of the proposals on both Employment and Support Allowance and Pathways to Work.

Options

Option 1: Do nothing

The implications of doing nothing are well established and have not changed since the publication of the Green Paper. Doing nothing is certainly the easier and cheaper option, but it is not acceptable to write off people in this way.

Option 2: Implement Employment and Support Allowance without rolling out Pathways to Work

Implementing Employment and Support Allowance without Pathways to Work would be substantially cheaper than other options (see costs section below) but would be considerably less effective and could pose substantial risks. In particular, imposing additional conditionality without also providing the full range of support services would not be very effective; it would give little prospect of achieving the aspiration of fewer people on Incapacity Benefit because it is unlikely to increase off-flows and therefore will also not generate substantial savings.

Option 3: Rollout Pathways to Work but without reforming benefits

Continuing to roll out Pathways to Work but without reforming the benefit would not rule out changes to incapacity benefits. Whilst more help to voluntary participants would be provided, the ability to engage with all claimants would be restricted severely. It would also fail to tackle many of the inherent problems within the benefit system outlined in the 'risks' section above.

Option 4: Rollout Pathways to Work alongside the proposed Employment and Support Allowance

Rolling out Pathways to Work and replacing incapacity benefits with the Employment and Support Allowance would ensure that the approach is based on the correct balance of rights and responsibilities and alleviates the problems outlined in the partial solutions already outlined. Modernising the benefit system would mean providing an integrated 'one stop shop' which complements the Pathways to Work programme and encourages people to make the most of their talents.

The way that the welfare state interacts with people who are claiming benefits because of a disability or health condition needs to change. Building on the success of the Pathways to Work pilots, there needs to be engagement with people to support

those who are able to work back into employment. To do that reform of both the benefit and the services on offer is required.

Option recommended

Having consulted the public and considered the options it has been decided to implement option 4 – to rollout Pathways to Work across Northern Ireland by 2008 and replace incapacity benefits with a new Employment and Support Allowance. This will maximise the chances of achieving the aspiration of fewer people on incapacity benefits, thus delivering substantial economic and social benefits.

Costs and benefits

Sectors and groups affected

Clearly, these reforms will have the greatest impact on people currently in receipt of incapacity benefits, and those new claimants from 2008 onwards making a claim for Employment and Support Allowance.

It is expected that, given support to build up their capacity, most claimants will be capable of and would benefit from some form of activity or employment, which would often increase over time as personal advisers work with claimants to build up their individual capacity for work. As the Pathways to Work approach is established across Northern Ireland and as resources permit, everyone apart from those with the most severe disabilities and health conditions will be asked to engage in work-focused interviews, produce action plans and engage in work-related activity, or see their benefit level reduced.

In time, the frequency with which claimants are assessed will increase. Over time, as resources allow, consideration will be given to extending work-focused interviews to existing claimants to ensure that they are aware of the opportunities available to them, including Pathways to Work support as it becomes available. This will be in addition to the regular Personal Capability Assessments that people will undergo to gauge whether their condition has changed or improved.

Benefits

The potential benefits of the Pathways to Work service are described in the sections above. Employment and Support Allowance will simplify the system for all new claimants. The new allowance will—

- be an integrated, contributory and income-related allowance, replacing current Incapacity Benefit and Income Support on the grounds of incapacity;
- not automatically label someone as being ‘incapable of work’;
- not automatically go up the longer someone is on benefit, once the individual is in the main phase;
- provide underlying and targeted financial support for those with needs arising from health problems or disabilities;

- reward those who take steps to make a return to work possible, where that is reasonable; and
- do much to remove the complexity surrounding existing benefits.

Whilst the impact of Pathways to Work rollout and reform of incapacity benefits cannot be estimated separately, an overall assessment of their combined impact suggests that in steady state a successful Pathways to Work programme working in tandem with the new Employment and Support Allowance could deliver substantial savings. These will be monitored as more evidence becomes available.

The measures proposed in the Green Paper – improvements to workplace health, reform of the gateway, increased support for claimants and removing the perverse incentives in the system should, over time, significantly reduce the number of people claiming incapacity benefits. It is difficult to quantify the precise impact of these measures. If, however, public sector employers, employers and health professionals come together to tackle this challenge, the aspiration to significantly reduce the number of incapacity benefits claimants can be realised.

Costs

Initial estimates by the Department for Employment and Learning suggest the annual cost of a Pathways to Work service throughout Northern Ireland would be in the region of £21.25 million.

The overall cost of moving to the new Employment and Support Allowance will be dependent on where the benefit rate is set. In addition, it is likely that there will be implementation and IT costs incurred during the transition; again these costs will vary depending on the agreed solution.

Indirect costs

There will also be wider indirect Employment and Support Allowance implementation costs in amending other primary and subordinate legislation that refers to “Incapacity Benefit” or “Income Support” and the related publications.

There are also several areas where the structure of the new benefit may impact upon costs for other Departments. For example, the change in structure (higher applicable amounts after three rather than twelve months) may bring forward receipt of income-related benefits. This in itself could lead to more claims for free school meals and free prescriptions, for example, in the early months of a claim, although the exact magnitude of these costs will depend on final decisions about the level of benefit. On the other hand, it is expected that the number of these claims will fall because of the combined effect of a successful Pathways to Work programme working in tandem with the new Employment and Support Allowance in increasing the proportion leaving benefit.

It is likely that, if the overall reform package is successful this latter effect will dominate and the net effect will be savings for other Departments.

Implementation and delivery plan

The Social Security Agency will be responsible for the implementation of Employment and Support Allowance, working closely with the Department for Employment and Learning in the rollout of Pathways to Work. From an early stage, the Social Security Agency has been involved in the development of the proposals and project management arrangements are in place, helping to ensure that they can be implemented as quickly and efficiently as possible.

Small business impact test

These proposals would not impose any legislation on small businesses. There may be additional benefits for employers in terms of increased supply of labour in the workforce and wider recruitment pool from which to draw.

Competition assessment

There are no competition issues associated with the replacement of incapacity benefits with Employment and Support Allowance.

Monitoring and evaluation

The Social Security Agency and the Department for Employment and Learning will put in place comprehensive monitoring and evaluation strategies to assess the impact of these reforms on an ongoing basis. This will build on the thorough and wide-ranging evaluation of the Pathways to Work pilots already carried out.

LOCAL HOUSING ALLOWANCE AND HOUSING BENEFIT CHANGES

Purpose and intended effect

Objectives

- To restructure the benefit support for people on low incomes by moving to a more simple, transparent and fairer way of calculating housing costs met by Housing Benefit, in line with the objectives of the Housing Benefit reform programme; and
- To encourage tenants to take greater personal responsibility for managing their own rent payments.

To do this by introducing Local Housing Allowance for tenants in the private-rented sector.

Further intentions of the Bill include—

- widening the information-sharing gateways in connection with Supporting People grants and facilitating take-up of, and claims to, benefits;
- removing the need for tenants who qualify for the 4-week extended payment to make a new benefit claim for any in-work Housing Benefit;
- paying benefit to tenants rather than landlords where possible, thus promoting financial inclusion;
- providing powers for the Housing Executive to investigate and prosecute fraud against other social security benefits, alongside fraud against Housing Benefit; and
- providing for the Department to take account of additional information when considering whether to direct the Housing Executive to improve its administration of Housing Benefit, and to widen the scope of what such directions may require.

Restructuring Housing Benefit

Background

Overview of Housing Benefit

In October 2002 proposals for the short and medium term reform of Housing Benefit were set out in a reform prospectus '*Building Choice and Responsibility: A Radical Agenda for Housing Benefit*'.

The purpose of Housing Benefit is to enable people on low incomes to have a decent home. It is payable to pensioners, families and people of working age with a rent¹ or rates liability who meet income and capital eligibility requirements.

Currently almost 127,000 tenants in Northern Ireland receive Housing Benefit, about 40,250 of whom live in the private-rented sector and 86,600 live in the social sector (Housing Executive and housing association properties). Some types of tenancies have rents that are regulated to stay below market rent levels.

Problems with the current Housing Benefit system

Housing Benefit for tenants is administered by the Housing Executive, which is funded for this work by the Department. Housing Benefit administration is complex: there are many criteria for assessing eligibility, with other income-related benefits impacting on the assessment. This complexity can hamper the service provided.

On application, there is a lack of transparency about likely levels of benefit support available (benefit rates are individually and privately assessed for tenants in the private sector – see below). This can inhibit a tenant's ability to secure a tenancy, reduce a tenant's choice with respect to the type of accommodation he or she can afford and may act as a barrier to work (because an in-work benefit calculation is not available until the benefit has been processed).

Presently, payment can be made to either the tenant or the landlord, but is made directly to the landlord in the majority of cases, which does nothing to increase personal responsibility and promote financial inclusion. However, direct payments to landlords do reduce the risk of eviction and debt accumulation.

Housing Benefit for most private sector tenants is currently controlled by assessing whether—

- the rent is 'significantly' or 'exceptionally' high;
- the property is 'over large' for tenants' needs;
- the rent is higher than the mid-point of rents for similar properties in the locality (the Local Reference Rent);
- the tenant is a single person under 25 years old covered by the Single Room Rent rules.

These restrictions have been brought in over successive years, along with differing forms of protection for existing tenants, resulting in four parallel sets of rules in place for tenants who rent privately.

Also, current Housing Benefit rules fail to provide tenants with a clear interest in the level of their rent. Tenants who find cheaper accommodation or negotiate a lower rent with their landlord are likely to find themselves no better off as a result.

¹ In this document 'rent' is used to refer to rent and other housing costs that can be covered by Housing Benefit

Summary

The complexity of the current Housing Benefit rules and problems with its administration combine to restrict choice for low-income tenants, hinder tenants from taking responsibility for their finances and make it more difficult for the tenant to move from benefit to work.

Overview of the Local Housing Allowance scheme

Local Housing Allowance will establish published maximum rates of benefit, which will vary in accordance with the number and mix of occupiers of the property and the level of rents in a particular area, known as a Broad Rental Market Area.

To ensure that rates reflect varying housing market conditions and rent levels across Northern Ireland, Local Housing Allowance rates will be based on the median value of market rent levels for properties of a given size in a given location. The Housing Executive will establish a set of maximum allowance figures for different sizes of property in each area. The precise rules on calculating Local Housing Allowance rates will be prescribed in secondary legislation.

The Housing Executive will also set and review boundaries for the Local Housing Allowance areas (Broad Rental Market Area), which is an area—

- comprising two or more distinct areas of residential accommodation, each adjoining at least one other in the area;
- within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from facilities and services of the same type and similar standard; and
- containing residential premises of a variety of types, and including such premises held on a variety of tenancies.

Local Housing Allowance rates will be published and updated regularly with entitlement to Housing Benefit calculated using the allowance rate in force on the date of claim. Any changes in the tenant's circumstances would be considered in the usual way. Each year the Housing Executive would recalculate the amount of Housing Benefit payable based on the Local Housing Allowance rate in force at the time.

Entitlement to Housing Benefit will be adjusted to take account of income, savings and non-dependants in the household. Single tenants aged under 25² will be entitled to an amount based on the rent for shared accommodation. This reflects the type of housing in which most single young people in employment expect to live and will reduce the opportunity for young people to become trapped on benefit.

² This does not apply to under 25s who have the severe disability premium in their benefit assessment. Certain tenants under the age of 25 are not classed as a "young individual", therefore these would not be subject to the shared rate Local Housing Allowance rules

Where the rent is less than the level of Local Housing Allowance, tenants can use any additional income to help with other household expenses or they can find another property better suited to their needs. This excess will be subject to a cap. This provides tenants with a direct interest in their level of rent. Where the rent is higher than the Local Housing Allowance tenants could seek a cheaper property, renegotiate the rent level with their landlord, or find the balance from their overall income. The latter is already common practice for many Housing Benefit tenants as around 66% of private tenants already have their benefit restricted to a level below their rent liability by one of a number of rent restrictions.

Currently 73% of private sector Housing Benefit payments are made directly to landlords, rather than to tenants. Payments of Local Housing Allowance to tenants would—

- promote financial inclusion (experience of piloting in Great Britain is that tenants have been encouraged to open bank accounts);
- promote personal responsibility through budgeting and paying rent, to empower tenants to make choices about their housing; and
- to smooth the path, where appropriate, to move into employment.

Discretionary and mandatory safeguards would allow payment to landlords in certain circumstances. The safeguards would be set out in secondary legislation and supported by guidance to the Housing Executive. For example payments to a landlord could be made where it is considered that tenants were likely to have difficulty managing a budget or unlikely to pay their rent; or where a large first payment is due – this may be made payable in the name of the landlord. In addition, it could be mandatory for payment to be made to the landlord if a tenant has fallen 8 weeks or more into arrears.

Secondary legislation would specify the circumstances in which Housing Benefit payments may be made in part or wholly to the tenant, to the landlord, to another third party, or where payments are to be split.

These changes will be introduced for new claimants (and existing claimants that move house or have a break in their claim) so that no existing tenants will lose out at the point of introduction of Local Housing Allowance.

Rationale for intervention

The measures to implement Local Housing Allowance proposed in the Bill will address longstanding problems with Housing Benefit and will contribute towards meeting the objectives of the Housing Benefit Reform Programme in the private-rented sector.

Consultation

As set out in the overarching section on consultation, the changes were outlined in the Green Paper *A new deal for welfare: Empowering people to work*, published in January 2006.

Options

Option 1: Do nothing

This option would not enable the objectives for Housing Benefit reform (outlined above) to be met.

Risks

By maintaining the status quo this option presents no change in risks.

Compliance and enforcement

This option would be maintaining the status quo so the existing compliance and enforcement procedures would be retained.

Unintended consequences

Maintaining the status quo should result in no unintended consequences.

Option 2: Introduction of Local Housing Allowance without payment to tenants

The option to make payments to tenants rather than to landlords has proved to be one of the most controversial aspects of Housing Benefit reform. Consideration was given to implementing the Local Housing Allowance scheme for private tenants while continuing with the existing payment methods, whereby landlords receive the benefit payments directly from the Housing Executive in the majority of cases.

Risks

This option fails to—

- increase personal responsibility;
- increase financial inclusion;
- move toward payment modernisation;
- bring those on benefit into mainstream financial services;
- help bridge the gap into work.

There would be administrative consequences for the Housing Executive in paying Housing Benefit, as there would be a requirement to split payments between the landlord and tenant in cases where entitlement to Local Housing Allowance exceeded the rent payable.

There is also a potential risk that the transparent Local Housing Allowance rates could distort conditions in local rental markets, through influencing rent levels charged by landlords.

Compliance and enforcement

The existing system of compliance and enforcement for Housing Benefit would continue to be used.

Unintended consequences

While the likely negative consequences have been described above, there could be the positive unintended consequence that Local Housing Allowance results in a more efficient use of the housing stock as people make choices in line with their family circumstances.

Option 3: Introduction of Local Housing Allowance with payment to tenant

This option would increase personal responsibility, help bridge the gap into work and promote financial inclusion, mainstreaming of financial services and payment modernisation.

Risks

Making payments to tenants could lead to a higher level of rent defaults and associated increases in homelessness in cases of eviction. It could also increase landlord costs and lead some to withdraw from the market. An insensitive application of the rules presents a risk of problems, but safeguards would be set up to prevent this.

Mitigation strategies have been developed to deal with these potential risks. In circumstances where the risk of default is high, there would be discretionary (eg vulnerability issues) and mandatory (arrears equal or exceed 8 weeks' rent) safeguards to allow for payments to be made to a landlord.

The possibility that some landlords may be reluctant to let to tenants in receipt of Housing Benefit adds to the potential risk that the Local Housing Allowance rates could distort conditions in local rental markets through influencing rent levels. While some landlords claim that the Local Housing Allowance will affect their behaviour, evidence from piloting in Great Britain suggests that that this is not an issue – some landlords leave the market while others enter it. Overall the supply of rental accommodation to Housing Benefit tenants remained constant.

Introducing Local Housing Allowance only to new claimants (and those that have a break in their claim or move house) could discourage some existing claimants on Housing Benefit from making a move into work in the fear that when making subsequent claims they would have to take on the responsibility for budgeting for and paying their own rent.

Compliance and enforcement

The existing system of compliance and enforcement for Housing Benefit would continue to be used.

Unintended consequences

There could be a beneficial effect on homelessness if landlords, wishing to retain payment to themselves, offer more tenancies to people classed as ‘vulnerable’.

Sectors and groups affected

Option 1: Do nothing

As the existing system would continue, no new sectors or groups would be affected by any changes.

Option 2: Introduction of Local Housing Allowance without payment to tenants

Those affected immediately would be the Housing Executive (as it will implement Local Housing Allowance) and private sector tenants making new claims for Housing Benefit, or existing tenants who have a break in their claim or move house.

The main beneficiaries of a Local Housing Allowance scheme operated in this way would be private tenants. If their rent liability was below the Local Housing Allowance rate they would be allowed to keep the extra up to a maximum cap amount and, as the allowance level would be set, it would provide them with a greater degree in choice with regards to their accommodation.

Private landlords have expressed their opposition to making payments to tenants and this option provides for the continuation of rents being paid to them in the majority of cases.

If the majority of payments were made directly to landlords, it would negate the need for the Housing Executive to consider tenant vulnerability although it would result in the need to make greater numbers of split payments.

In the longer term, there may be additional benefits in terms of expenditure and reduced administrative costs. While behavioural effects are difficult to assess, if Local Housing Allowance reduces barriers to work, this may result in lower levels of benefit spend and a higher volume of tax receipts.

Option 3: Introduction of Local Housing Allowance with payments to tenants

In addition to those affected identified above, further groups would be affected by a Local Housing Allowance scheme involving payments being made to tenants.

Landlords and letting agencies

The primary business sector affected by making payments to tenants will be landlords (whether owned by private individuals or by companies or organisations) and the letting agents they employ.

Some private landlords have expressed opposition to payments being made to tenants. Not only would their rent now not be guaranteed, if tenants fall into arrears, they would also incur additional rent collection costs.

Banks

Making payments to tenants would have a marginal impact on the banking sector, as more tenants would need regular use of a bank account.

Housing Executive

Tenants who are unable to take on the responsibility of paying their rent may ask for the rent to be paid directly to the landlord. This may require that the Housing Executive provides a higher level of advice to some tenants, for example, about how to open a bank account. Also where tenants accumulate arrears of rent for 8 weeks and above, the Housing Executive will have to pay the landlord directly for a period until the arrears are below the 8-week level.

Tenants

Tenants would also be affected by having to take on the responsibility of budgeting for and for paying their rent. For some this will prove advantageous by promoting work readiness, while others may find the responsibility difficult to manage.

Costs and benefits

Option 1: Do nothing

There would be no new costs or benefits in maintaining the existing Housing Benefit scheme.

Option 2: Introduction of Local Housing Allowance without payment to tenant

COSTS

Public Expenditure

While the eventual public expenditure cost will depend on the precise design of the scheme, the overall impact on Departmental costs is expected to be cost neutral in the long term. However, there will be initial costs to the Department in respect of communication with stakeholders and supporting the Housing Executive to implement the changes.

Housing Executive

While operating a simplified scheme will reduce administration by the Housing Executive, there will be one-off implementation costs associated with the scheme. In addition, the intention to introduce Local Housing Allowance as new claims are made will require the Housing Executive to operate dual systems for a transitional period. However, the Department funds the Housing Executive for administering Housing Benefit.

BENEFITS

Private sector tenants making new claims for Housing Benefit or moving home

The main beneficiaries of a scheme operated in this way would be tenants. They would see a number of benefits, for example—

- tenants whose rent liability is below the Local Housing Allowance rate will benefit from being able to keep some of the benefit in excess of their rent (income and non-dependants will still be taken into account);
- quicker claims processing times resulting from the simplified nature of the scheme;
- removal of obstacles to work; and
- better placed to make informed choices about the affordability of accommodation.

Although it is recognised that there are many other social and economic factors that will determine a household's decisions about where they live, being able to keep some of the excess allowance above their rent may encourage tenants to seek better value accommodation.

The new scheme also has a direct link to improved work incentives, as quicker processing times should give tenants more confidence in the Housing Benefit system and help reduce any reluctance to take a job through fear of delays in calculating any in-work Housing Benefit, or in reclaiming if the job is unsuccessful.

Publicly available Local Housing Allowance rates will enable tenants to ascertain in advance the level of rent that would be covered by Housing Benefit. Clearer information will allow tenants making claims for Housing Benefit more scope to trade between the price of their accommodation and property attributes such as size and locality.

Housing Executive

Published maximum allowance rates for each area will remove the need to decide rent levels on an individual case basis, which will reduce the administrative burden on the Housing Executive and contribute to speeding up claims processing.

Landlords

Landlords should be more likely to find it worthwhile to let to Housing Benefit tenants if average processing times are improved. Over time, they should benefit from the quicker processing times available from a simplified system.

Voluntary sector

Simplifying the Housing Benefit rules should make the provision of advice easier for the voluntary organisations working with tenants.

Option 3: Introduction of Local Housing Allowance with payment to tenant

COSTS

Local Housing Allowance paid to tenants would have further implications for costs and benefits to those outlined for option 2.

Public Expenditure

As with option 2, any impact on benefit expenditure will depend on the precise design of the scheme. In addition, direct costs would be broadly similar in respect of communicating the policy to the Housing Executive and supporting it to implement the changes.

Housing Executive

In order to protect tenants who may be unable to manage the responsibility for paying their rent, the Housing Executive would need to operate safeguards so that payments can be made to landlords where appropriate. Evidence from the Great Britain pilot areas indicates that on average, these safeguards have been applied to 15% of tenants where payments have been made to landlords. As this is not a task that the Housing Executive currently performs it could potentially lead to increased administration costs although this could be offset by the administrative easements gained through the simplification of the scheme as a whole.

There would be one-off implementation costs to the Housing Executive on moving to Local Housing Allowance, however, these have yet to be agreed.

Evidence from the Great Britain pilot areas indicates no increase in homelessness resulting from the introduction of Local Housing Allowance.

Voluntary sector

The introduction of Local Housing Allowance with payments made to tenants may lead to an increased demand in helping tenants to open bank accounts and providing financial advice. However, with Local Housing Allowance introduced for new claimants, this would mean that there should not be an initial increased demand on the services of voluntary agencies.

Costs for landlords and letting agents

Currently 73% of private sector tenants have their Housing Benefit paid to their landlord. Encouraging them to receive the payments themselves aims to encourage personal responsibility and to promote work readiness, by reducing the differences experienced by being in and not being in work.

While some landlords may find that collecting the rent makes them more aware of tenants' behaviour and thus able to resolve issues at an earlier stage, the proposal to make payments of Housing Benefit to tenants may be generally unpopular with private landlords.

Some landlords may have concerns that arrears would rise and that they would incur additional costs in respect of rent collection.

Making payments to tenants should not be considered as an additional burden on landlords because rent collection and managing arrears are an integral part of a landlord's responsibility, which they would be expected to undertake in any normal tenancy agreement. While some landlords choose to engage a third party to collect rent, there would inevitably be costs associated with this approach.

In addition, as well as the 27% of private tenants in receipt of Housing Benefit that receive their own benefit payments, there are also cases where shortfalls have arisen due to Housing Benefit not meeting rents in full, which also require landlords to make arrangements for collecting rents and managing arrears.

While maintaining that rent collection is the responsibility of landlords, the Department recognises that the withdrawal of what has *unintentionally* become a free rent collection service would have an impact on landlords. The Department does not expect that the additional rent collection and rent management costs (per tenant) for landlords are likely to be significant. The cost impact of Local Housing Allowance is unlikely to be a significant overhead to all landlords.

However, landlords' concerns have been taken into account in developing the Local Housing Allowance scheme, with discretionary and mandatory safeguards to enable the Housing Executive to make payments to landlords where appropriate.

BENEFITS

Private sector tenants receiving Housing Benefit

Making payments to tenants is an important step in helping them make the transition to work. Encouraging tenants to open and use bank accounts and to take on the responsibility of handling their own rent payments (in the same way that working tenants are expected to do) reduces the differences experienced between being in and out of work.

Receiving their own Housing Benefit entitlement puts the onus on the individual to manage their finances and helps to develop or enhance budgeting skills. Tenants receiving their own Housing Benefit entitlement paid into a bank would also benefit

from an increased level of financial inclusion. Tenants currently not operating a bank account are unable to make savings via direct debits on utility bills, are more vulnerable to loss or theft and may face additional barriers to employment. In addition, they are far more likely to use the alternative credit market and pay interest many times that of a standard personal loan, often contributing to spiralling debt.

Landlords

Under the current scheme where the majority of payments are made to landlords, overpayments of Housing Benefit are recovered from landlords. This is unpopular as it disrupts the landlord's cash flow and can require considerable administrative effort. Under the Local Housing Allowance scheme, where the tenant receives the payments, any overpayments would be recovered from the tenant reducing the administrative burden on the landlord.

Summary of costs and benefits

While introducing Local Housing Allowance without making changes to the payment arrangements would deliver some benefits, the costs would fall mainly on the Department. The option to introduce a Local Housing Allowance scheme with payments made to tenants (option 3) would increase costs to the Department more than if option 2 were to be introduced. However, option 3 provides substantial long-term benefits for tenants with regards to better work incentives and increased personal responsibility. Thus, option 3 would also fit with the objectives of the Housing Benefit reform programme and those of wider long-term initiatives.

Small business impact test

A majority of landlords and letting agents working in the Housing Benefit sub-market are small businesses. As Local Housing Allowance would affect landlords and letting agents, there is concern about their costs increasing due to having to collect the rents themselves and non-payment by tenants. Management costs would increase, due to a number of causes—

- rent collection being more labour intensive, with some landlords choosing to collect rent by going door-to-door;
- rent collection is more expensive due to more frequent transaction costs from banks;
- rent accounting is more complicated, with an increased number of individual payments to be handled;
- increased risk to the business through arrears and loss; and
- increased fees from letting and managing agents.

A number of safeguards will be included—

- direct payments will be made to landlords where the Housing Executive considers the tenant to be vulnerable or 'unlikely to pay'; and
- as with the current Housing Benefit scheme, the first cheque (often for a large amount where backdated benefit is due) can be paid to the tenant in a cheque

made payable to the landlord. This reinforces the message that tenants are responsible for paying the rent while safeguarding the interests of the landlord.

In addition, it is likely that some of the envisaged problems will reduce over time, as the Housing Executive and landlords gain familiarity with the safeguards. Introduction for new claimants should contribute to making any changes more easily manageable.

Competition assessment

Local Housing Allowance is not expected to have a significant impact on levels of competition in the affected markets. The proposed changes are extremely unlikely to decrease competition because any impact would apply to all firms.

Local Housing Allowance could lead to a change in the number of landlords in the market, if landlords were to exit the Housing Benefit segment of the market because of the risk of tenants defaulting, then competition between remaining landlords would increase, possibly driving up rents. Conversely, the greater clarity about levels of Housing Benefit support could encourage some landlords to enter the market.

Implementation and delivery plan

Local Housing Allowance introduction cannot begin until the necessary secondary legislation has been made and there will be consultation with the Social Development Committee before regulations are made. The Housing Executive has been kept informed through the development stages of reform.

Summary

Option	Total new benefits (economic, environmental, social, policy and administrative)	Total new costs (economic, environmental, social, policy and administrative)
1. Do nothing	Nil	Nil
2. Introduction of a Local Housing Allowance scheme without direct payment to tenants	<p>Tenants – current estimates are that over half of new claims to Housing Benefit would have a Local Housing Allowance payment that was higher than the amount of rent they would have been eligible to had the current Housing Benefit rules still applied</p> <p>Public expenditure – decreased barriers to work should result in a reduced benefit spend</p> <p>Housing Executive – benefits from simpler administration</p> <p>Landlords – greater certainty</p>	<p>One-off implementation costs – mainly Housing Executive implementation costs</p> <p>Running costs – costs to the Department would depend on the exact design of the scheme, but are expected to be higher at the start of the scheme and then falling in the medium to longer term</p> <p>Tenants – current estimates are that less than half of new claims to Housing Benefit would have a Local Housing Allowance payment that was lower than the amount of rent</p>

Option	Total new benefits (economic, environmental, social, policy and administrative)	Total new costs (economic, environmental, social, policy and administrative)
	<p>and lower risk from letting to Housing Benefit tenants, so lower costs</p> <p>Voluntary sector – simpler scheme should lead to voluntary bodies being able to provide better advice</p>	<p>they would have been eligible to had the current Housing Benefit rules still applied</p>
<p>3. Introduction of a Local Housing Allowance scheme with direct payment to tenants</p>	<p>As above and additionally—</p> <p>Tenants – harder to quantify benefits of increased personal responsibility, greater financial inclusion and bridging the gap for being in and out of work</p> <p>Landlords – reduced burden from recovery of overpayments</p> <p>Public expenditure – bridging the gap for tenants being in and out of work should also result in less benefit spend</p>	<p>As above and additionally—</p> <p>Voluntary sector – should not be substantial</p> <p>Landlords – costs should fall in the longer term as use of bank accounts increase</p>

PRESCRIBING THE MANNER IN WHICH HOUSING BENEFIT IS PAID TO TENANTS

Purpose and intended effect

Objective

This is a measure to provide powers to prescribe the manner in which Housing Benefit is to be paid to all types of tenant.

Background

Proposals may be developed in Great Britain to promote financial inclusion and help address the high levels of unemployment in the social sector by encouraging tenants in the social rented sector to take responsibility for managing their own rent payments.

In Northern Ireland approximately 86,600 people in receipt of Housing Benefit live in the social rented sector, either in accommodation provided by the Housing Executive (68,600 people) or accommodation provided by registered housing associations (18,000 people). This sector differs from the private rental market in several ways—

- rent levels are generally lower than comparative private sector levels;
- a larger proportion of the tenants in the social rented sector claim Housing Benefit; and
- housing association and Housing Executive finances operate differently from private sector landlords (the Housing Executive does not pay out Housing Benefit to its own tenants, but instead rebates or offsets it against the tenant's rent liability).

There are no plans at present to use this general regulation-making power.

Consultation

There would need to be very careful consideration as to whether equivalent proposals would be appropriate for Northern Ireland. There will be no move forward on this without detailed consultation with the Social Development Committee and all interested stakeholders.

Costs and benefits

Social tenants receiving Housing Benefit

Some social sector tenants who claim Housing Benefit take little, if any, responsibility for paying their rent and some remain unaware of how much their rent actually is. This encourages a culture of benefit dependency and can leave tenants uncertain about the impact that taking a job or moving home might have on their finances. Helping tenants to take on the responsibility of budgeting for and paying their rent themselves (eg through a bank account) can help bridge the transition into work, when paying at least a part of their rent themselves is likely to be necessary.

To minimise the risk that vulnerable people could be faced with eviction as a result of falling into rent arrears, any scheme would contain safeguards to protect against this.

Public Expenditure

The Department would face costs in respect of managing the implementation and communicating the policy to the Housing Executive (which administers Housing Benefit for tenants), housing associations and tenants. However, narrowing the gap for claimants of being in and out of work may also result in less benefit spend in the longer term, although this is hard to quantify.

Housing Executive

The Housing Executive would need to communicate any new arrangements to housing associations and tenants. It is also likely that a higher proportion of Housing Benefit claimants in the social rented sector would require consideration of their suitability for receiving their own payments than would be the case in the private sector.

Housing associations

Housing associations are likely to face additional administrative costs as a result of the need to increase tenancy management. There is also the potential cost of higher levels of arrears, and increased staff costs for the more active rent management. The level of any additional costs would depend on the extent to which the current rent collection systems need to be strengthened. These costs could be offset to some extent by savings in the cost of dealing with the Housing Executive and by encouraging tenants to pay their rent by direct debit or standing order.

Housing associations will be concerned that paying Housing Benefit directly to tenants increases the risk of arrears and default on rent payments. To counter such concerns, it will be necessary to ensure adequate safeguards are in place.

Voluntary sector

If more tenants require specialised budgeting/debt management advice as a result of taking on the responsibility of budgeting for and paying their rent, it could lead to increased demand on voluntary sector advice organisations.

Summary of costs and benefits

It is not possible to summarise the costs and benefits at this stage as the details of an appropriate approach have yet to be developed. However, stakeholders would be consulted on development.

HOUSING BENEFIT ANTI-SOCIAL BEHAVIOUR MEASURES

Purpose and intended effect

Objective

To tackle anti-social behaviour caused by people on Housing Benefit, which will encourage them to take steps to address the underlying causes of their behaviour. This is not intended as a primary way to tackle problem behaviour but rather is a measure that will complement earlier interventions.

Background

Anti-social behaviour remains a key area of concern for the public and can blight the lives of individuals and whole communities. Evicting people is discouraged as a way of dealing with anti-social behaviour. It simply displaces the problem and should normally be a step of last resort. However, in certain cases landlords may feel that it is the right solution for a particular tenant, perhaps if other methods have been tried and failed, or where behaviour is so bad that eviction must be sought. Only a very small proportion of tenants are evicted each year for anti-social behaviour. However, it is likely that those concerned will be problem tenants who have made their neighbours' lives a misery and who need help in order to change their behaviour and re-establish a normal tenancy.

Rationale for intervention

The anti-social behaviour of 'problem tenants' can severely disrupt the quality of life of whole communities. The proposal to sanction benefit is intended to encourage people to take up rehabilitation when, for whatever reason, they have slipped through the net of help or it has not been effective at an earlier stage.

Consultation

The number of Housing Executive tenants evicted for anti-social behaviour in 2006-2007 was 17, so the overall figure for evictions for anti-social behaviour should not be significant. The measure is therefore not likely to impact significantly on business, the public sector, charities, the voluntary sector or on a specific sector or sectors of the community and a full public consultation does not seem to be justified.

Options

Option 1: Do not sanction benefit

Not sanctioning benefit could mean that people evicted for anti-social behaviour could simply move, claim state support for new accommodation and their behaviour and impact on neighbours would continue unchecked. Doing nothing also raises the question about whether it is right for taxpayers to support the housing costs of someone who behaves badly towards their neighbours.

Not sanctioning Housing Benefit could mean—

- anti-social families evicted and in need of help may not receive it;
- communities would still suffer; and
- on eviction, people could simply move to another area and behave as before.

Option 2: Withdraw or reduce payment of Housing Benefit to anti-social tenants who have been evicted and who refuse to engage with the Housing Executive for rehabilitation purposes

This option proposes to withdraw payment of Housing Benefit to people who have lost their tenancy due to anti-social behaviour *and* who refuse to engage with the Housing Executive to take part in a suitable package of rehabilitation.

Early intervention is the key to tackling anti-social behaviour. However, some people will slip through the net. The intention is to engage with people in need of support who have not been previously helped by rehabilitation, perhaps because there has not been a co-ordinated approach to their needs or because they have simply refused.

Certain conditions will need to apply before a benefit sanction can be applied—

- a court has made a possession order on grounds of anti-social behaviour (or issues a warrant following such an order being made);
- the actual eviction of that household; and
- the person refuses to work with the Housing Executive for the purpose of being assessed for rehabilitation or refuses to comply with any package of rehabilitation offered. If this is the case, and it considers it appropriate, the Housing Executive will issue a ‘sanction warning’ and if the person refuses to comply with it, a sanction will follow.

The intention is that the sanction will be tenure neutral in that it will cover both private-rented and social sector tenancies.

It is not intended to legislate for how the offer of rehabilitation will work as this falls within existing powers and processes. It could work in the following way, although it will, of course, be for the Housing Executive to determine its own processes.

Offer of rehabilitation

In every case where a possession order has been made on the grounds of anti-social behaviour, the intention is that the tenant should attend an initial meeting where he or she will be given the chance to discuss the position and engage with rehabilitation services. At the same time the tenant will be told that he or she could be sanctioned for not participating.

If the tenant agrees to co-operate, then a package of rehabilitation will be drawn up, ideally co-ordinated by a key worker taking into account

the needs of the whole family and the community. It will be delivered with no further involvement of benefit sanctions.

However, if the tenant refuses to co-operate, the Housing Executive will have to decide if a sanction would be an appropriate tool in the case. The Housing Executive would take into account the circumstances of all those involved and their needs, such as whether the tenant involved had mental health issues and needed to be referred to specialist services, or whether instead another tool such as an Anti-Social Behaviour Order would be more effective. The Housing Executive would also consider the impact of a sanction on the person and any family members especially if there are children in the family.

If it decides that a sanction is appropriate, the Housing Executive can issue a 'sanction warning'. This will explain what the tenant needs to do to be treated as complying. Refusal to comply with the warning will lead to a benefit sanction if benefit is in payment or is subsequently claimed.

Where a sanction is imposed, payment of Housing Benefit will be withdrawn or payable at a reduced rate for a defined period. The sanction will be a 10% reduction of benefit for 4 weeks, followed by a 20% reduction for 4 weeks, followed by a total removal of benefit for a maximum of 5 years, or until the claimant complies with the rehabilitation. For those people in vulnerable categories (for example those with caring responsibilities, or where a member of the household is pregnant or seriously ill) hardship rates will apply. In these cases, the sanction will be the same for the first 8 weeks but then instead of a complete removal of benefit, it will be reduced by 30% for the rest of the sanction period.

Although some other benefit sanctions remove a smaller proportion of benefit, it is felt that, if this sanction is to be effective in persuading people to take up rehabilitation, it must be set at a level sufficient to achieve this. The fact that the sanction will be staggered, and the fact that if the person engages with the rehabilitation after the sanction has started the sanction will stop, offers those people sanctioned the chance to change their mind and receive benefit. However, if they then drop out of the programme, the sanction will be re-imposed and will run for the balance of the sanction period unless there is further compliance.

The Housing Executive or its representative will decide whether tenants are simply going through the motions to avoid being sanctioned, or if they are genuinely trying to co-operate with rehabilitation, even if attendance is variable. Good cause will be defined in regulations and broadly follow the existing 'good cause' rules for other social security sanctions.

Once the sanction has run its course, or rehabilitation is taken up, Housing Benefit can be paid in the normal way. The sanction can be applied at any time within a 5-year period beginning with the date on which the possession order is made or warrant issued. After this time, a sanction can no longer be applied.

Costs and benefits

Sectors and groups affected – option 1

Option 1 would impact on a similar group of people as for option 2 (set out below). There would clearly be no need to change current working practices but this could also mean that the time spent and costs incurred in tackling anti-social behaviour would continue.

Benefits

The benefits of maintaining the current position would be that it would require no change to legislation, with established processes continuing or other ways being developed to tackle anti-social behaviour.

Costs

If anti-social behaviour is not tackled, over years the cost of ‘problem families’ will be high compared to other tenants. Not introducing a sanction could mean that a number of families with problems avoid the intensive support that they need. In the long term tackling such families is cost effective.

Sectors and groups affected – option 2

The proposal will mainly impact upon—

- the Housing Executive;
- people identifying and tackling anti-social behaviour;
- housing teams;
- homelessness sections;
- Housing Benefit staff;
- social services;
- organisations providing financial advice; and
- voluntary sector organisations providing rehabilitation schemes.

The impact on voluntary groups is estimated to be minimal because of the small number of cases involved. Voluntary sector groups may already be involved in assessing people for rehabilitation but this proposal will place no new burdens on them in relation to this. There may also be a need for advice groups to advise tenants who have been evicted or give benefit or financial advice, but because this is a last resort measure, many of the tenants may have already sought previous advice.

There will be an impact on landlords if they take on a tenant who has a benefit sanction. The effect will be that the tenant may be unable to meet the full rent liability and the landlord will need to pursue the balance. There is no information collected on the number of tenants evicted for anti-social behaviour from the private-rented sector,

as the presumption is that landlords tend to use other grounds to evict. In the 2006-2007 year, 17 Housing Executive tenants were evicted for anti-social behaviour.

It will have an impact on the people who have committed anti-social behaviour and are on benefit. Housing Benefit is payable to people with a rent liability who meet the eligibility conditions. Currently, almost 127,000 tenants in Northern Ireland receive Housing Benefit and it can be paid to pensioners, families and people of working age. About 40,250 of these live in private-rented accommodation with a further 86,600 (68%) living in housing association and Housing Executive properties (the social rented sector). Under these proposals, a very small minority may find that their benefit is removed for the period of the sanction and this could affect their ability to secure accommodation in the private-rented sector once they are evicted. It may also result in them owing arrears of rent if they secure a property but get sanctioned.

Impacts on the wider community (such as tenants affected by poor behaviour) should be positive in that the proposal will help change the behaviour of some 'neighbours from hell' and this will improve the overall local environment and should help further problems occurring in the future.

Health and disability assessment

People who are known to health services and have a known or identifiable mental health problem should not be affected by the sanction. This is because either the courts or a landlord would take significant health issues into account in deciding whether to evict and the Housing Executive would elect not to pursue a sanction if the person was vulnerable.

People may have lower level health or mental health issues, perhaps compounded by drugs or alcohol but are not necessarily known to health services nor are being treated, and these people could be affected by a sanction. Piloting in England will give the opportunity to assess the health issues of people who are evicted and ensure that the safeguards are robust. A health professional will play a key role in the family support projects and this should also provide a safeguard.

Impact on the Housing Executive – benefit administration

The Housing Executive will have responsibility for administering the Housing Benefit sanction regime. Upon receiving notification that the conditions for a sanction have been met, it will have the task of checking that there is a valid Housing Benefit claim relating to the anti-social person, and applying the rules for reducing the benefit. In practice, the experience of existing benefit sanction regimes suggests that the administrative cost of withdrawing benefit is negligible, especially considering the small number of cases where a sanction is likely to be administered. Information Technology systems should not need to be amended to deal with these cases.

Impact on Housing Executive – functions to tackle anti-social behaviour

The Housing Executive could also incur some additional costs if its role in tackling anti-social behaviour is expanded. Upon receipt of a notification that a tenant is to be, or has been, evicted due to anti-social behaviour, the Housing Executive will—

- need to be involved at the initial contact with the person to discuss the availability of rehabilitation and warn that benefit may be sanctioned if the person refuses to co-operate;
- liaise with the person who is to assess for and offer rehabilitation; and
- keep the Department informed.

There could also be costs if a person decides to apply for a Judicial Review. However, due to the small number of cases involved, the Department would expect the numbers to be minimal, if any.

Appeals

If a person is not happy when engaging with the Housing Executive over rehabilitation needs, he or she will have the right to seek a Judicial Review of any of the Housing Executive's decisions. In relation to Housing Benefit decisions, appeals will be made in the normal way to an appeal tribunal. The structure for these and rules as to how appeals are governed is already provided for in legislation. This sets out that the claimant has the right to appeal decisions to an independent tribunal within a set time and that he or she has the right to attend a hearing and be given assistance to do so, if necessary.

In view of the contentious nature of the sanction decisions, there is the likelihood of appeals. However the number of cases involved in sanctions should be very small and there should not be any significant impact for appeal tribunals (or the Social Security Commissioners).

Impact on legal system

The courts will have to notify the Department when a relevant possession order is made and it is intended to develop a standard proforma for this purpose. Due to the small number of cases, the expected costs are minimal. If people apply for Judicial Review there could be increased legal aid costs.

Impact on landlords

Neither of the options involves placing new duties on landlords or regulating the landlord/tenant relationship. The contractual relationship between the tenant and landlord remains the same: it remains the duty of the tenant to pay rent and the responsibility of the landlord to collect it. People may have more difficulty in securing accommodation following eviction and sanction. They will also have more difficulty paying the rent if income is withdrawn or reduced. However, this is the penalty for *their* actions. If at any point during the sanction the tenant decides to accept rehabilitation, benefit will be reinstated in full.

Virtually all social landlords, and the majority of private landlords, have their tenants' Housing Benefit paid direct to them. If benefit payments are withdrawn or reduced, landlords would have to collect the balance of the rent from the tenant. However, they have to do this already where there is a shortfall between benefit and the rent

payable. Furthermore, rent collection is a landlord’s responsibility and part of the normal tenancy agreement.

As a worst case, if all tenants subject to a sanction did not paid their rent and no effective collection or eviction action could be taken, landlords would effectively bear the cost of the sanction and have to pursue the arrears.

Small business impact test

Landlords will be the principal small businesses affected by a Housing Benefit sanction. The expected effect on landlords is covered in the section on costs.

Landlords are likely to be concerned about the impact on their income. Because of the sanction tenants may accrue debts that are difficult to collect and this may result in chasing arrears. This could dissuade some landlords from offering accommodation to benefit claimants. The impact on landlords depends on whether they offer accommodation to tenants who are subject to a benefit sanction, the behaviour of their tenants and how both parties respond to a sanction. It is expected that no more than a handful of claimants will have their benefit sanctioned.

Competition assessment

There is no one company or interest that holds exclusive or significant interests in the housing market. It is expected that the number of sanctions or resultant costs for landlords are not likely to be significant nor sizeable enough to have implications for competition. In any case the number of sanctions could decline over time as the deterrent effect becomes more evident.

Implementation and delivery plan

The intention is that this measure will not be introduced until piloting of the sanction in England has been fully evaluated.

Summary and recommendation

Option	Total new benefits	Total new costs
1. Do nothing	Nil	Nil
2. Introduction of Housing Benefit sanction	<p>Local community/police – improvement in local areas and underlying issues tackled</p> <p>Landlords – ‘problem families’ dealt with and problem not simply displaced</p> <p>Public expenditure – reduced costs of anti-social behaviour for taxpayers</p>	Implementation and running costs should not be significant in view of the small number of cases likely to be involved

It is recommended that option 2 is the preferred option.

RECOVERY OF OVERPAYMENTS

Purpose and intended effect

Objective

To remove any ambiguity surrounding the requirement for decisions changing the award of benefit and the recoverability of any overpayment to be made simultaneously when the overpayment has arisen because benefit has been paid directly into a bank account.

Conclusion

This will help to maintain the current long-standing policy and process; there is no financial impact on businesses, charities or the voluntary sector and it will not increase public expenditure; therefore, a full Regulatory Impact Assessment is not necessary.

COMPENSATION FOR PNEUMOCONIOSIS

Purpose and intended effect

Objectives

To amend the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 to—

- incorporate a more practical version of the “relevant employer condition” easing the condition that every relevant employer must have ceased to carry on business before compensation can be claimed; and
- widen the group of dependants who may make a claim.

Background

The purpose of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 is to provide compensation to sufferers of certain dust related diseases, or their dependants, where the disease had developed as a result of dust exposure in their employment, but they were unable to claim damages from their employers because those employers had ceased to carry on business. The diseases to which that Order applies are pneumoconiosis, byssinosis, diffuse mesothelioma, primary carcinoma of the lung (where there is accompanying evidence of asbestosis and/or bilateral diffuse pleural thickening) and bilateral diffuse pleural thickening.

One of the conditions of entitlement is that all relevant employers have ceased to carry on business. “Relevant employer” is defined as meaning any person by whom the person suffering from the disease was employed at any time during the period which he was developing the disease and against whom he might have or might have had a claim for damages in respect of the disablement.

Article 5 of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 sets out the meaning of “dependant” of a person who, immediately before his death, suffered from a disease to which the Order applies.

Conclusion

This will make it easier for people to claim compensation; there is no financial impact on businesses, charities or the voluntary sector and therefore a full Regulatory Impact Assessment is not necessary.

BENEFITS FOR WIDOWS AND WIDOWERS

Objective

To remove an unintended consequence of the Tax Credits Act 2002 so that where a widowed parent does not have the child living with them, Widowed Mother's/Parent's Allowance will be paid provided that contributions are made to the upkeep of the child at not less than the amount of Child Benefit.

Conclusion

The clause on Widowed Mother's Allowance and the clause on Widowed Parent's Allowance will have no impact on business, charities or the voluntary sector and/or little or negligible impact on the public sector; therefore, a full Regulatory Impact Assessment is not necessary.

SOCIAL FUND

Objectives

To make minor amendments to the Social Security Administration (Northern Ireland) Act 1992 and the Social Security Contributions and Benefits (Northern Ireland) Act 1992 so that allocations can be made in different ways and to reflect the simplified approach in respect of the making of budgeting loans from the social fund.

Conclusion

The changes have no impact on business, charities or the voluntary sector and little on the public sector. A full Regulatory Impact Assessment is therefore not necessary.

EXTENSION OF THE LOSS OF BENEFIT PROVISION (“TWO STRIKES”)

Purpose and intended effect

Objectives

To extend the loss of benefit provision, contained within the Social Security Fraud Act (Northern Ireland) 2001, from a three to a five year period, to—

- build upon the positive deterrent effect already seen on the reducing volume of benefit fraud re-offenders since the loss of benefit provision commenced in 2002; and
- to tackle those remaining habitual offenders by extending the length of time over which benefit fraud investigators can check on previous fraud offences.

Conclusion

As this proposal will not affect businesses, charities or the voluntary sector a full Regulatory Impact Assessment is not necessary.

DISABILITY LIVING ALLOWANCE AND ATTENDANCE ALLOWANCE

Withdrawal of payment of Attendance Allowance and the care component of Disability Living Allowance from residents in care homes – amendment of sections 67 and 72 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992

Objectives

To simplify and clarify the primary legislation that provides the regulation-making power to provide for circumstances in which payment of Attendance Allowance and the care component of Disability Living Allowance can be withdrawn from those resident in a care home, namely where the cost of the accommodation is borne out of public funds under a specified enactment.

This is a purely technical measure that has no impact on public expenditure, and will neither increase nor decrease the numbers of care home residents from whom payment of Attendance Allowance or the care component of Disability Living Allowance are withdrawn.

Conclusion

A Regulatory Impact Assessment has not been prepared for this measure as it has no impact on business, charities or voluntary bodies.

Entitlement to Disability Living Allowance for people on or around the age of 16 years – amendment of section 72 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992

Objective

To amend existing legislation which governs the application of the Disability Living Allowance entitlement conditions to people on or around the age of 16 years. This is a technical measure that has no impact on public expenditure.

Conclusion

A Regulatory Impact Assessment has not been prepared for this measure as it has no impact on business, charities or voluntary bodies.