

Benefits to rise by just 1% from April 2005

Millions of claimants are facing benefit increases of just 50p a week from April 2005, the smallest rise for 30 years.

The increase in most income-related benefits is based on the Rossi index – a measure of inflation that excludes rent, mortgage interest payments and council tax – for September. The Government's Office for National Statistics has announced that the index for September 2004 was 1.0%.

Paul Wheatley, a senior policy officer at Citizen's Advice, said the relative decline in income-related benefits meant the Government risked missing its poverty reduction targets –

'This 1 per cent increase is worrying. It is rather objectionable when commentators and politicians accuse people of languishing on benefits ... These benefits are not linked to wages or even prices so they are building potential inequality into the system which, I think, needs to be reviewed as a matter of urgency.'

Paul Dornan, a policy adviser at the Child Poverty Action Group, said that it was also worried by the potential impact on children –

'Family income needs to be seen in the round. You cannot ignore the uprating of adult payments when considering the family's incomes, since family income may be made up of payments for both adults and children.'

'If adult benefits – such as income support – fall in real terms this impacts on the family's spending power. To ignore that impact is a sleight of hand, making increases appear more valuable than they actually are.'

As well as the benefit increase being the lowest since 1974, it is also less than a third of the current 3.1% inflation rate. □

Defending Incapacity Benefit

The Trades Union Congress (TUC) has responded to recent media speculation that the government is considering radical reform of incapacity benefit.

Although the government has yet to confirm any specific changes, remarks made by the Prime Minister in two October 2004 speeches allude to future reform. In one, he set out his vision of a true 'opportunity society' replacing the traditional welfare state, which 'for too many ... simply pays out benefits, trapping people into long term or even lifelong dependency.' In another, he indicated that incapacity benefit cuts might be used to cope with Britain's pensions shortfall as 'we will probably have to spend more as a government supporting pensions in the future ... but that will mean we will have to spend less, particularly in areas where there are people who could work but who presently languish on benefits.'

Rumoured proposals said to be under consideration include limiting the payment of incapacity benefit to just two or three years, and compulsory life skills classes and work placements for claimants, with benefit penalties imposed on those who fail to attend or comply.

In response, the TUC briefing – *Defending Incapacity Benefit* – argues that –

- the biggest problem with incapacity benefit is that the amount it pays each week to claimants is far too low;
- the number of people who get incapacity benefit has been falling for years;
- Britain spends much less on employment help for disabled people than other European countries – this is a better priority for reform than the benefit that is relied on by hundreds of thousands of poor families; and
- the government's 'Pathways to Work' pilots are a 'very positive experiment', and the TUC would much rather see the pilots extended than incapacity benefit cut.

The TUC briefing is available from www.tuc.org.uk □

New Motability scheme rules

150,000 disabled motorists to benefit

Motability – the independent not-for-profit organisation, that provides mobility solutions for disabled people – has announced that access to the scheme has been extended to those in receipt of shorter awards of the mobility component of DLA.

Previously, to be eligible to join the Motability contract hire scheme, claimants needed to have been awarded the higher rate of the mobility component for three years.

However, Don Brereton, Director of Motability, has announced that –

'In the past, a disabled person receiving the relevant Disability Living Allowance and

therefore a potential user of the Motability service could miss out because their award length fell short of the Motability requirements of three years.

Motability has now adjusted the requirements of the Scheme to ensure that it is accessible to these people as well. Our experience shows that most of these allowances will be renewed to cover the three year lease of their car.

Now, Motability welcomes applications from potential customers who have 12 months or more of the DLA award remaining.'

Further information about the scheme is available from www.motability.co.uk □

Families on benefit and the transfer to child tax credit

The Paymaster General Dawn Primarolo has announced that the phased transfer to child tax credit of the remaining families with children in receipt of income support/JSA will not now happen until next year.

In a written Ministerial Statement to parliament, the Paymaster General said –

'I said in a written answer on 11 March 2004 that the timing of the phased transfer ... planned to begin from October, would be subject to a final review in the summer ...

It is extremely important to safeguard continuity of support for children among this particularly vulnerable group. Following further consideration of the proposed timetable, I have decided that the transfer should be deferred and begin instead in the course of next year. This will allow a full cycle of tax credits activity to be completed before these families are transferred in.'

The Paymaster General also confirmed that, in the meantime, claimants would continue to receive the same level of financial support through their benefits as they will from child tax credit. □

Pension Credit and access to Jobcentre Plus programmes

The DWP has announced that, from 25 October 2004, pension credit will become a qualifying benefit for Jobcentre Plus programmes.

Many Jobcentre Plus programmes were previously only available for people who had been in receipt of working-age benefits, and older people were not eligible for this more intensive support. Including pension credit as a qualifying benefit removes age barriers and gives people the opportunity to volunteer for extra help.

The change is intended to ensure that the DWP complies with age discrimination legislation, due to be introduced by October 2006, that stems from the EC Directive relating to anti-discrimination in employment. □

Further Local Housing Allowance pilots confirmed

The DWP has confirmed the names of a further nine local authorities that will pilot the Local Housing Allowance (LHA) from April 2005, chosen from 70 councils who expressed interest in joining the scheme.

In addition to the nine existing authorities piloting the LHA, this second group will provide further information on the best way of implementing the LHA more widely, and in particular test operational issues such as access to bank accounts and computer software.

Housing Benefit Minister Chris Pond, announcing that from April 2005 the LHA will be extended to Argyll & Bute, East Riding of Yorkshire, Guildford, Norwich, Pembrokeshire, Salford, S. Norfolk, St. Helens and Wandsworth, said –

'The (LHA) provides a simpler, fairer service that ensures that people on low incomes can afford a decent home which meets their needs. And it also helps people break out of the poverty trap and get back to work.'

NB – The original Pathfinders are currently subject to a full evaluation by a consortium of leading research universities with experience in the field. They will look at the effect of the LHA on claimants, landlords and councils, and at changes in housing and labour markets.

The DWP target date for a national roll-out of the LHA is March 2008, with any extension to the social sector being subject to piloting first. □

Eligibility for New Deal for Partners extended

The DWP reports that new rules are being introduced to extend eligibility for the New Deal for Partners employment programme.

New Deal for Partners aims to help partners of those claiming benefits to find a job, suitable training or bring their skills up to date, and was previously available to the partners of people claiming income support, JSA, incapacity benefit,

severe disablement allowance, or carer's allowance.

However, from 25 October 2004, new rules extend eligibility for the programme to either member of a couple receiving working tax credit who are not working, or work less than 16 hours a week, and partners of people claiming pension credit who are not working, or work less than 24 hours a week. □

Automatic HB/CTB backdating

Extended in line with Pension Credit

New regulations have been issued that extend automatic housing benefit and council tax benefit backdating in line with the new pension credit rules introduced from 6 October 2004.

The *Housing Benefit and Council Tax Benefit (Miscellaneous Amendments) (No. 2) Regulations 2004* (SI.No.2303/2004) introduce a new

housing benefit regulation 72BA and council tax benefit regulation 62BA that provide, from 6 October 2004, for those who have attained the qualifying age for state pension credit, for example, for benefit to be automatically backdated for up to 12 months (providing all the conditions of entitlement are met throughout that time). □

www.rightsnet.org.uk

the welfare rights website
for advice workers

Overpayments & 'reasonable failure to disclose'

Twenty years of case law swept away

Case law stretching back over twenty years, which held that recovery of a benefit overpayment caused by a failure to disclose a material fact was dependent on whether or not it was 'reasonable' for a claimant to have made the disclosure, has been swept away by a new Tribunal of Commissioners decision.

The appeal to the Commissioners – in CIS/4348/2003 – was taken by the Child Poverty Action Group (CPAG) in the hope of resolving the question of when mental capacity may be relevant to a failure to disclose.

However, the Tribunal of Commissioners' deliberations ranged much wider than the question of mental capacity and they concluded that the 'classic test' formulated in 1982 in R(SB)21/82 (and cited with approval by all other Commissioners since then), of whether disclosure of a material fact was 'reasonably to be expected', is wrong and should not be followed.

Instead the Tribunal of Commissioners held that –

- Regulation 32 of the Claims and Payments Regulations 1987 imposes an

unfettered duty on a claimant to provide information and evidence to the Secretary of State; and

- any consideration of whether it was 'reasonable' for a claimant to have failed to make a disclosure is irrelevant in determining whether or not any resulting overpayment of benefit is recoverable.

NB – In relation to mental capacity, the Tribunal of Commissioners said that 'claimants who lack capacity are not without all protection or recourse (since) ... they have at least two means of protection: the power to appoint an appointee to act on their behalf, and the discretion of the Secretary of State not to recover overpayments even where he is entitled to do so.'

CPAG are looking to appeal the Tribunal of Commissioners decision to the Court of Appeal. In the meantime, advisers representing clients disputing the recovery of an overpayment on the basis of 'reasonable' failure to disclose should consider asking that the case be put on hold until the final outcome of the appeal is known. □

Government proposes maternity and paternity pay reform

Extending the maternity pay period and increasing the rate at which statutory paternity pay is paid are amongst ideas being considered by the government, according to a new pamphlet published by the Institute for Public Policy Research.

In *Unfinished business: The new agenda for the workplace*, Secretary of State for Trade and Industry, Patricia Hewitt, outlines practical measures that have come out of DTI consultations and the Labour Party's 'Big Conversation' that will 'support ... mothers and fathers to get the choice of working hours and services they need' –

'Firstly, doubling maternity pay from the present six months to twelve and making part or all of the second six months available to either father or mother.

Secondly, (because) disappointingly few fathers are using the fortnight's paternity leave ... raising the level of payment from

the current one-hundred pounds to ninety per cent of earnings (in line with mothers).'

Welcoming the Secretary of State's comments, Julie Mellor, Chair of the Equal Opportunities Commission said –

'Patricia Hewitt's ideas for introducing further changes to employment rights are good news for Britain's working families ...

Increasing paternity pay so that fathers receive 90% of their earnings will give more fathers the opportunity to take leave around the time of the birth of their new baby. Early evidence suggests fathers are using paid holiday rather than taking parental leave at £102 a week.

We also welcome the idea of giving parents more choice about how to share the responsibility for looking after a baby and earning family income in the first year.'

Unfinished business: The new agenda for the workplace is available from www.ippr.org.uk □

Tax Credits – an 'agenda for improvement'

Welfare and tax organisations – including the Low Incomes Tax Reform Group, Child Poverty Action Group, Citizens Advice, and One Parent Families – have jointly submitted a list of essential changes and improvements needed to the tax credits system to the Inland Revenue.

The *Tax Credits Agenda for Improvement* outlines minimum measures required to eradicate the common difficulties that welfare rights advisers encounter daily, and which in many cases cause hardship, distress and anxiety to claimants.

Launching the *Agenda for Improvement*, John Andrews, Chair of the Low Incomes Tax Reform Group (LITRG) said –

'It is disappointing that 18 months after the implementation of the tax credits system we are still discussing fundamental deficiencies which we, and other bodies, identified as needing modification right at the start.'

The improvements called for include –

- making award notices more intelligible so that claimants can understand how their tax credit awards are made up;
- automatic calculation of three months backdating where claimants are entitled to it;
- better training for staff operating contact centres and helplines, to reduce the risk of wrong answers being given to callers;
- a greater willingness not to recover official error overpayments, particularly where, because award notices are so difficult to understand, it is impossible for claimants to check whether they are being paid the right amount; and
- a straightforward and workable system whereby the Inland Revenue will deal with an authorised representative by phone and all contact and correspondence can be directed or copied to them if requested.

The *Tax Credits Agenda for Improvement* is available from www.litr.org.uk □

rightsnet awarded the CLS Quality Mark for websites

Lasa's **rightsnet** website has become the first second-tier website – providing services to welfare rights workers and related information and advice providers – to be awarded the Community Legal Service Quality Mark standard for websites.

Developed in 2001, the Quality Mark for websites comprises a set of standards designed to ensure that a service is well run and has its own quality control mechanisms that relate to the quality of the information or advice that the service provides. Users accessing a website which complies with the standard should have confidence that the website provides a quality service.

rightsnet receives 55 million hits a year from more than 450,000 visitors representing more than 3000 advice organisations across the UK, and provides free access for advisers to the most up-to-date welfare benefit and tax credit information on the internet.

To keep up to date with all that's new on **rightsnet** including –

- the more than 750 news stories published each year;
- new legislation, case law and court decisions, official guidance, and policy documents;
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Claiming crisis loans by telephone

The Social Fund Commissioner has called on the DWP to take action to address continuing problems with crisis loan telephone application procedures.

Despite the Commissioner's request in his 2002–2003 Annual Report that the DWP review their telephone applications procedures and remedy any issues arising, his 2003–2004 report again details persistent 'problems and poor practice'.

In addition to difficulties in applying for crisis loans due to offices having constantly engaged telephone lines, the report highlights other examples of continued poor practice, including –

- refusal to accept a crisis loan application other than by telephone;
- applicants refused a crisis loan not being given a formal decision against which they have the right of review; and
- appointments, whether for telephone or in-person applications, that can only be made during certain hours of the day.

The Social Fund Commissioner stresses that the DWP must take steps 'to ensure that these practices are eliminated and provide suitable assurance that this has happened.'

The Social Fund Commissioners Annual Report 2003–2004 is available from www.irs-review.org.uk

New 'job preparation premium'

... and extra work-focused interviews in pilot areas

The DWP has confirmed that a new 'job preparation premium' and additional mandatory work-focused interviews will be launched in the Pathways To Work in-capacity benefit pilot areas early next year.

The new measures, first announced in Budget 2004, will be introduced from February 2004 and will provide for –

- a new job preparation premium of £20 per week that will be paid for a maximum of 26 weeks for agreeing an action plan detailing a return to work and participating in relevant, verifiable activity that supports that return to work; and
- three additional mandatory work-focused interviews, for those who started an IB claim in the two years before the respective pilots went live (excluding those who are exempt from the Personal Capability Assessment).

NB – the pilot areas are Renfrewshire, Derby, Bridgend, Essex, Gateshead and S. Tyneside, Somerset and E. Lancs.

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