Government rejects calls for re-think of new employment and support allowance

The government has rejected calls for a re-think of its proposal for a two-tiered ‘employment and support allowance’, in place of the current system of incapacity benefits as outlined in January’s welfare reform green paper, ‘A new deal for welfare: Empowering people to work’.

NB – from 2008, the new allowance will be paid at a basic rate to those who comply with a stricter work-focused regime, and at a higher ‘support’ rate and without conditionality to those with the most severe health problems or disabilities.

With the publication of its response to the consultation on the green paper, the government acknowledges that there is ‘strong opposition’ to the proposal for a two-tiered allowance, and quotes from a sample of the 600 responses it received, that question, for example, whether it is possible to distinguish in a fair way between people for whom ‘work-related activity’ is appropriate and those for whom it would be unreasonable, and suggest that it might make more sense not to separate out the two groups, but instead make conditionality proportionate to the individual’s circumstances in all cases.

However the government says that, whilst it appreciates the strength of feeling, it nevertheless believes it is important to make a clear distinction between people who can engage in a programme of activity and those who cannot, and that it is right that the ‘support’ group should get additional financial support, as they are most likely to be on benefit for a longer time.

NB – the government says that it anticipates that the more focused ‘support’ group will be much smaller than the current Personal Capability Assessment exempt group.

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Moving towards a new pensions system

‘Security in retirement’ as Government publishes white paper

A ‘bold new pensions settlement that will provide the infrastructure for the system for the next forty years’ has been set out with the publication of the government’s white paper on pensions reform.

In his foreword to the white paper – Security in retirement: towards a new pensions system – Secretary of State for Work and Pensions, John Hutton, says that rather than spending more public money on the state pension alone, a new balance must be struck between the state, employers and individuals to share the responsibility to save and provide for the future. He also outlines five key tests that the reforms must meet in order to establish a new, successful, long-term structure for the UK pensions system –

‘They must promote personal responsibility, be fair – particularly to women and carers, and provide greater simplicity so that roles are clear. They must be affordable, and offer a sustainable solution that commands a national consensus. Our proposals for reform are designed to meet these fundamental requirements.’

The government identifies that the first priority for any new pensions settlement is to make it easier for people to save for their

(continued on page 4 column 1)

Only 10% of DWP staff have confidence in senior managers

A new DWP staff survey, recently published under the Freedom of Information Act, found that only 10% of staff agreed or strongly agreed that ‘overall I have confidence in the senior managers within DWP’ or that they ‘provide effective leadership’.

Designed to assist DWP managers in understanding how staff felt about their job and working for the Department, the survey also found that approximately 50% of staff felt that they had had insufficient training to enable them to carry out their job with confidence, and a similar proportion that they didn’t have enough information to do their job well, or access to information technology that provides effective support for carrying out their job.

Other findings included that just three out of ten staff said that their part of the DWP manages change effectively, and only half of the respondents said that the DWP acts on the feedback it receives from customers.

Whilst the DWP plans to use the survey results to ‘identify strengths and opportunities for improvement and to guide efforts to enhance people satisfaction’, just 16% of staff said that they believed that action would be taken on the problems identified. In addition, more than 32,000 staff reported that they intended not to be working for the DWP in 12 months’ time.
LHA roll-out in the social rented sector abandoned & payments to private tenants to be capped

The government has confirmed that it has abandoned plans to roll-out the local housing allowance (LHA) in the social rented sector; and also that it intends to cap the amount that recipients of the allowance in the private rented sector can receive.

In its welfare reform green paper published earlier this year – ‘A new deal for welfare: Empowering people to work’ – the government had said that proposals to roll-out the allowance in the social housing sector ‘need to be developed with caution and over a longer timescale.’

However, with the publication of its response to the consultation on the green paper, the government says that it recognises the concerns expressed about introducing the allowance in the social sector.

For example, in response to the consultation, Citizens Advice had said that, ‘in terms of the flat-rate element of LHA, (we) can see no merit in introducing this in the social rented sector’. In addition, Shelter had said that, ‘we are strongly against introducing a flat-rate for the social sector.’

As a result, the government advises that it has decided ‘not to take forward legislation to extend the approach to this sector’.

Instead the government says that it will develop proposals for using housing benefit to help address the high levels of worklessness in social housing, and to encourage tenants to take greater personal responsibility for managing their own rent payments.

In relation to private sector tenants, the government says that, whilst it will take forward legislation to allow roll-out of the LHA as described in the green paper, a cap on the amount of the allowance that a claimant can receive above their rent will be set at £15 a week.

In addition, the government says that it will undertake a review of the scheme after two years, and will take the opportunity at that stage to consider whether existing housing benefit claimants should be transferred onto the new allowance.

Changes to the right to reside rules for means-tested benefits

New means-tested benefit regulations have been issued that, from 30 April 2006, amend the right to reside aspect of the habitual residence test for means-tested benefit purposes.

The new rules are introduced as a result of a new EC Rights of Residence Directive that consolidates a number of existing pieces of EC legislation relating to rights of residence. The new Directive has been ‘transposed’ into domestic legislation through the Immigration (European Economic Area) Regulations 2006 (SI.No.1003/2006) which also came into force on 30 April 2006.

However, Article 6 of the Directive provides for a new right to reside for all European Community nationals and their family members for the first three months of their stay in the UK, without any conditions or any formalities other than the requirement to hold a valid identity card or passport.

As a result, if the current social security right to reside requirement had not been amended after 30 April 2006, then EC nationals and family members who were not economically active could, on the basis of the Article 6 right of residence, have become eligible for income-related benefits (providing they were considered to be habitually resident and meet the other conditions of entitlement).

In consequence, the new social security regulations – the Social Security (Persons from Abroad) Amendment Regulations 2006 (SI.No.1026/2006) – amend the income-related benefit rules to ensure that economically inactive EC nationals who reside solely on the basis of an Article 6 right (or equivalent Home Office regulations) are not given a right to benefit just because they have a right to reside.

NB – the new regulations do however provide that EC work-seekers who have a right to reside under EC rules that relate to the freedom of movement of workers, and who are habitually resident, will, provided they satisfy the other conditions of entitlement, be eligible for income-based JSA and, in turn, for housing benefit and council tax benefit.
Housing benefit sanctions to be used to tackle anti-social behaviour

The government has announced plans to use housing benefit sanctions to tackle anti-social behaviour in pilot areas.

The intention is to start pilots in 2008, targeting around 10 local authorities where housing benefit sanctions will be applied to those who have been evicted for anti-social behaviour. The government proposes that –

- if a household is evicted on grounds of anti-social behaviour, the members of the household concerned will be offered ‘appropriate rehabilitation’;
- if the household does not engage with the referral and rehabilitation process a local authority will be able to issue a warning notice, if it considers it to be appropriate, asking the household to engage with the rehabilitation;
- if, without good cause, the household does not comply with the warning notice, it will be sanctioned when claiming housing benefit;
- the sanction will increase incrementally – a 10% loss of benefit for 4 weeks, 20% for a further 4 weeks and then a total removal for up to 3 years if they do not co-operate (although lower rates will apply to those in hardship);
- sanctions will carry the right of appeal to the Tribunal Service; and
- the offer of support can be accepted at any stage in the process, at which point the benefit payment would be reinstated.

Announcing the new initiative, Secretary of State for Work and Pensions, John Hutton, said –

‘The threat of sanctioning housing benefit will send a clear signal to the handful of people evicted each year for anti-social behaviour that they must address their problem behaviour and engage in rehabilitation.

It is not right that people who get evicted should be able simply to move to another area and continue their bad behaviour. These anti-social neighbours must realise they have reached the end of the line.’

Mr Hutton added that the right to housing benefit must and will carry a responsibility to be ‘a decent neighbour’.

New social fund review rules

Following representations made by the Social Fund Commissioner of the Independent Review Service (IRS), Sir Richard Tilt, new rules have been introduced in relation to how to apply for a review by a social fund inspector.

The changes have been made as a result of the Social Fund Commissioner’s view that the previous rules – that required an independent review request to be submitted to a DWP office – led both to delays in the IRS receiving the application and undermined claimants’ confidence in the independence of the inspector’s review.

In force from 24 April 2006, the Social Fund (Application for Review) (Amendment) Regulations 2006 (SI.No.961/2006) instead provide that an application for review by a social fund inspector may be made to the IRS itself instead of to a DWP office. In addition, they provide that, from 2 April 2007, a review application may only be made to the IRS.

NB – allowing a choice over the next 10 months as to where applications for further review may be sent is intended to give claimants and their representatives the time to become accustomed to the new system and for all publicity and notifications to be fully compliant with the April 2007 change in procedure.

New DLA/AA ‘special rules’ awards to be reviewed after 3 years

From July 2006, all new ‘special rules’ awards of disability living allowance and attendance allowance are to be made for a fixed period of 3 years.

NB – the ‘special rules’ apply to claimants who have a progressive disease and are not reasonably expected to live for more than 6 months.

The change, that does not require legislation, is to be implemented following recommendations by the Disability Living Allowance Advisory Board – an independent statutory body set up in 1991 to advise the Secretary of State for Work and Pensions and Social Security Medical Services doctors on matters relating to DLA and AA.

The recommendation is contained in a new report, commissioned by Maria Eagle, former DWP Parliamentary Secretary, in which the Disability Living Allowance Advisory Board also suggests that –

- a DLA mobility component award made at the same time as a ‘special rules’ award should also normally be for the same fixed period of 3 years;
- an indefinite DLA mobility component award already in place when a ‘special rules’ 3 year fixed period award is made, should stand; and
- claiming under the ‘special rules’ should be improved so that evidence of terminal illness submitted by or on behalf of the claimant turns a normal claim into one made under the ‘special rules’.

The Advisory Board also recommends that, from the next version of the DLA and AA claim forms, the ‘special rules’ box should include a definition of what the rules mean.
Moving towards a new pensions system (continued from page 1 column 3)

retirement. In consequence, it proposes to reform state pensions so they are simple and more generous by, during the course of the next Parliament –

● re-linking increases in the basic state pension to average earnings (but in advance of this, taking steps to ensure that means-tested pension credit provision continues to be focused on those with a low level of savings); and

● reforming the state second pension so that it becomes a simple, flat-rate weekly top-up to the basic state pension.

In addition, to make the state pension fairer and more widely available, particularly to women and carers, the government proposes to reform the contributory principle by –

● streamlining the contribution conditions for the basic state pension by reducing the number of years needed to qualify to 30;

● replacing home responsibilities protection with a new weekly credit for those caring for children; and

● introducing a new contributory credit for those caring for severely disabled people for 20 hours or more per week.

Finally, to encourage extended working lives, the government proposes –

● a gradual increase in state pension age in line with life expectancy – to 66 over two years between 2024 and 2026, to 67 between 2034 and 2036, and to 68 between 2044 and 2046; and

● to take measures to support longer working, such as improving back-to-work support for JSA claimants who are over 50; working with employers to extend flexible working opportunities to older workers; and greater flexibility around state pension deferral.

Organisations and individuals wishing to comment on the government's pension reform proposals need to do so by 11 September 2006. The white paper and details of how to respond are available @ www.dwp.gov.uk/pensionsreform

Massive increase in number of tax credit complaints

Three quarters upheld in the claimant’s favour, reports Adjudicator’s Office

The number of tax credit complaints submitted to the independent Adjudicator’s Office increased three-fold last year, and almost three quarters of the complaints dealt with were upheld in the claimant’s favour, according to the Adjudicator’s Office 2005/2006 Annual Report.

In her foreword to the report, the Adjudicator, Dame Barbara Mills, highlights that the highest proportion of complaints submitted to her during the year continued to relate to tax credits, and that the numbers received increased dramatically as the year progressed. Most of the complaints, at least in part, concerned disputed overpayments.

The Adjudicator acknowledges the series of measures announced by the government in May 2005 designed to tackle many of the problems highlighted in her last report, and that a programme of work is now underway within the Revenue — including important changes in how the tax credit office handles complaints — that should, over time, deliver significant improvements. However, there may be some delay before the full impact of this programme of work is seen on the number and kind of tax credits complaints being submitted, the Adjudicator says, because inflexibility with the IT system constrains the quick delivery of some of the most desired changes.

Elsewhere in the report, the Adjudicator’s Office highlights that whilst it investigated fewer complaints this year where multiple award notices were an issue, it nevertheless saw an increasing number of complaints where overpayments had arisen because the claimant’s award was based on incorrect information.

In addition, the Adjudicator’s Office says that a particular problem had been how the hardship provisions, as set out in the COP 26 code of practice (which, she says, were not, in themselves, clear), had actually been applied. In some cases it was obvious that the tax credit office was not identifying hardship cases at all.

The Adjudicator’s Office reports however that the introduction of a facility to suspend collection of overpayments proved to be an important step in limiting the number of complaints received, as was the significant reduction in the number of cases where there had been manual payments.

For more information on all these changes see — www.rightsnet.org.uk

the welfare rights website for advice workers

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