

STUC MEETING WITH TRADE UNION GROUP OF SCOTTISH LABOUR MPS. 18th JANUARY 2006.

Incapacity Benefit and Welfare Reform

Executive Summary

This paper is produced prior to the released of the Government's Green Paper on Welfare Reform and therefore makes a number of assumptions based on previous Government announcements and statements to the press from Ministers.

The STUC recognises that the existing system, particularly in relation to Incapacity Benefit (IB), can benefit from reform, to the potential advantage both of individual claimants and wider society. The STUC agrees with the Government its view that "incapacity" is an inadequate descriptor for the position of the range of disabled and sick people who find themselves unable to work.

In debating Welfare Reform it is unhelpful to start from the point, as many in the media have, that the significant numbers of those claiming IB do not suffer people with a disability. All available evidence suggests that IB fraud is low.

The STUC agrees with Government that a large number of those claiming IB wish to work. However there is an absence of suitable employment opportunities, barriers to employment and an apparent unwillingness from a large number of employers to employ IB claimants, particularly in cases characterised by long-term inactivity, mental health problems or advanced age.

Scotland's high level of IB claimants is partly a consequence of higher rates of disability and the previous concentration of heavy industrial workplaces. However, the clearest determinant of rates of IB claimants in the UK is the underlying state of the Labour Market. Areas in the UK with full employment are characterised by significantly lower levels of IB claimants.

The STUC supports the main thrust of the Pathways to Work pilots and notes encouraging results in relation to the proportion of successful outcomes. It is of particular note that the "person

centred” approach where a dedicated advisor works with a claimant has proved particularly successful. The planned expansion of Pathways to Work is supported.

Having consulted with a range of groups representing users and practitioners, the STUC is not convinced that compulsion will be helpful to the process of supporting claimants into work.

A number of concerns exist in relation both to potential measures on compulsion and the formation of two separate rates of benefit. Extreme care should be taken that the system does not become more bureaucratic. There is particular concern at the potential for IB appeals to rise.

The STUC would underline the importance of Regional Development; positive use of public procurement policy; and a joined up Scottish Executive Employability Strategy in order to tackle issues in relation to economic inactivity.

It is important to recognise the extreme difficulties being experienced by a range of DWP staff as a consequence of the ongoing cuts programme, as evidenced by the recent PCS vote for industrial action. The laudable aim of taking positive action to encourage and support, large numbers of claimants into the workplace must be matched with resource and staffing commitments which ensure that this aspiration can be delivered. STUC calls for a halt of the existing programme of cuts within the DWP.

Incapacity Benefit and Welfare Reform

Introduction

1.1 The STUC welcomes the opportunity to enter into discussions with members of the Trade Union Group of Scottish Labour MPS on the issue of Welfare Reform. In forming a view consultation has taken place with a range of groups supporting and representing disabled people and with the representatives of staff administering the service.

1.2 The STUC has been broadly supportive of this Government's welfare reform strategies such as the New Deal and Pathways to Work pilots.

1.3 This paper is written, and will be presented, prior to the expected launch of the Green Paper towards the end of January 2006. Nevertheless, there has been a significant level of general information provided in relation to the proposed reform, which is described by Work and Pensions Secretary John Hutton MP as "radical". In February 2005 the Government announced headline proposals for IB Reform. This paper bases its arguments around the following general aims of reform published on the DWP website.

- "The name 'Incapacity Benefit' will be scrapped so that people are not immediately classed as incapable.
- Initially people will be put on a holding benefit paid at JSA rates, accessing the new reformed benefits only once they have been through a proper medical assessment. This will take place within 12 weeks, and be accompanied by a new Employment and Support Assessment.
- Two new benefits "Rehabilitation Support Allowance" and "Disability and Sickness Allowance" will differentiate between those who have a severe condition and those with more potentially more manageable conditions.
- The majority, who have more manageable conditions, will receive the "Rehabilitation Support Allowance". It will offer everyone a basic benefit at JSA levels (about £55), but then ensure that they can build up to get more than today's long-term IB rate by giving them extra money, first for attending Work Focused Interviews, and then also for taking steps to get them back towards the labour market.
- Those with the most severe conditions will automatically receive more money than now on the 'Disability and Sickness Allowance'. They will be able to volunteer to take up employment support.

All of this will be built on the foundations of our successful Pathways to Work programme which is being extended to a third of the country on the road to making this a national offer.”

1.5 Media and general political speculation in relation to the proposed reforms has tended to focus on the aspects relating to claimant levels and the overall cost to the Treasury of Incapacity Benefit. The STUC believes that this has been unhelpful to the promotion of a balanced debate on the issue and has contributed to a fairly widespread and misplaced view that the central aim of reform is to lower the “welfare bill.” It is worth noting the recent falls in claimant rates and the general fall, that even under the present situation, this trend is predicted to continue.

1.6 This paper argues that the key considerations with respect to Welfare Reform should include:

- The existing situation with respect to sickness and disability in the UK.
- Existing claimant rates in Scotland.
- An assessment of the effect both *of* and *upon* the Labour Market of welfare reform.
- The financial and health impact upon claimants.
- The best means whereby positive return to work programmes can be promoted and uptake maximised.
- The impact of DWP budget cuts on reform programme.

How widespread is Sickness and Disability in the UK?

2.1 It is important to be clear that there is a distinction between sickness and disability. For most of the time disabled people are not sick and, equally, sickness should not be considered as temporarily disability. Nonetheless, the majority of those who receive Incapacity Benefit would qualify as disabled under the Disability Discrimination Act.

2.2 As implied in the introduction, there has been an unhelpful emphasis on the number of IB claimants in the UK, with the implication that many of these are not in reality sick or disabled. To many commentators it is counterintuitive to accept that 2.7 million people fall into this category. However Labour Force Survey data suggests that, in fact, 6,830,000 people of working age are

disabled – with more than 55% currently working. This suggests that disability amongst the working age population is far more prevalent than many commentators suggest.

2.3 The STUC is clear that disability does not imply incapacity in many cases. The STUC is therefore comfortable with the aim of the reforms, which suggest a removal of the “incapacity” tag. Equally, the Government’s estimate that at least 1 million of those receiving IB wish to work is not contested.

Is IB being claimed appropriately?

3.1 One unfortunate aspect of the debate on IB is the public perception promulgated by the media that fraud is common amongst IB claimants. All available evidence is to the contrary.

- A successful IB claim is reliant on being signed off by a medical practitioner, being assessed by a Job Centre Plus doctor and being liable to further assessment at the instigation of Job Centre Plus.
- As stated in the official Benefit Review of IB undertaken by the Office for National Statistics (2002) , fraud is negligible.

'Due to the small number of confirmed fraud cases found during the review, it is not possible to produce a robust central estimate of the total annual value of benefit overpaid due to fraud for short-term Incapacity Benefit and long-term Incapacity Benefit. However, an indicative upper limit has been produced. It is estimated that the amount of overpayment is less than £19m, i.e. less than 0.3% of all expenditure on cases in receipt of these rates of IB. Similarly, it is estimated that the percentage of all IBST(H) and IBLT cases that are fraudulent is less than 0.5%.'

- Suggestions that fraud is common because many IB claimants previously claimed JSA are contradicted in research conducted for the Department of Work and Pensions (Hedges and Sykes 2001).

'Moves from JSA to IB/IS among claimants in our sample mostly seem to have been appropriate, and were usually caused by the onset, recurrence or deterioration of a health problem. Both BA and ES staff allege a range of situations in which this move is made inappropriately in an attempt to manipulate the system, but there were few signs of this

in the research. Such cases no doubt exist and should be dealt with, but we suspect they may be fairly marginal in numbers.'

3.2 There is however, a wider suggestion in relation to the propriety of claims for IB, which suggests that whilst claims might not be fraudulent under current rules, a large number of claimants do not make significant efforts to seek jobs. It is suggested that IB reform will place them in a position where they are compelled to be more proactive. To ascertain whether this is a reasonable suggestion it is necessary to examine the current profile of IB claimants.

Profile of IB claimants in Scotland

- Male IB claimants tend to be an older group – more than half are aged 50-64
- More than two-thirds are former manual workers
- Most have substantial work experience, often with long periods with the same employer
- Around half say they would like a full-time job
- Only around a quarter say they could do no work at all
- Around a quarter looked for work after their last job ended
- But very few – less than ten per cent – are still looking for work
- Around a quarter moved on to IB directly from unemployment benefits
- Most have been on this benefit for a very long time – around half for five years or more
- Muscular/skeletal conditions are the primary cause of IB claims, closely followed by mental health conditions.

3.3 To some degree, this profile supports the view that the proposal to offer a higher rate of benefit for those who actively engage in return to work programs will be effective. There is a clearly a disparity between the 50% of claimants wanting to work and the 10% actively seeking it.

3.4 However, it is also clearly the case that many of those who aspire to work cannot be categorised as “closest to the jobs market” under current conditions. A large proportion of claimants wishing to work but not seeking employment will be those whose previous efforts to find work have been serially unsuccessful due

to employer attitudes with respect to age, length of economic inactivity, mental health and willingness to embrace appropriate flexibility in the workplace.

Scotland's high rate of incapacity claimants

4.1 At 315,000 (10%) the IB claimant level in Scotland is particularly high.

4.2 IB rate is comparable with the North West of England and a little lower than the North East of England and Wales. It is significantly higher than all other English regions and more than twice that experienced in the South East of England (4.6%).

4.3 In Scotland, the trend described above is replicated. Glasgow City has the highest claimant level at 16.5%, with almost 1 in 5 men aged 16-64 being an IB claimant. Areas with IB claimant rates above the Scottish average are, Inverclyde, North Lanarkshire, West Dunbartonshire, Renfrewshire, Dundee City, Clackmannanshire, East Ayrshire, South Lanarkshire and North Ayrshire. Scotland's lowest claimant rates at 5.2% are found in Orkney and Shetland, yet even this relatively low rate is similar to the overall claimant rate for the South East of England.

4.4 As with the rest of the UK, Scottish rates of IB claimants massively increased through the 1980s and 1990s but have recently flattened off and a small fall was recorded in Scotland in 2004. As with the rest of the UK, the overall rises that were recorded in Scotland since between 1997 and 2003 were accounted for by women claimants, the majority of whom were 'NI Credits only' claimants.

4.5 Scottish IB rates reflect the trend across the UK for older industrial areas where traditional manufacturing and heavy industry has been lost, to record higher claimant levels.

4.6 Ill health is clearly a factor. In areas such as Scotland where claims are higher than the UK average, the proportion of the population with a limiting long-term illness is also higher.

4.7 Nevertheless, the difference in rates of ill health does not fully explain the disparity between high claimant areas such as Scotland and lower claimant areas in England. Indeed, there is

persuasive evidence suggesting that it is the state of the Jobs Market, which is the key determinant for IB claimant levels in a given region.

Labour Market Conditions

5.1 The facts contained in the recent statement from Work and Pensions Secretary John Hutton MP linking deprivation with high levels of IB claimants are not contested. However, the facts are however susceptible to more than one interpretation.

5.2 Whilst fully supporting the view that equipping job seekers (whether IB or JSA) with relevant skills and education and properly supporting new starts can boost overall employment, the STUC is not convinced that supply side employment measures are the primary solution to such deprivation.

5.3 Regions such as the South East of England that enjoy full employment also have low IB claimant levels. The opposite is true for regions in which unemployment persists and this is particularly the case in areas in which unemployment was particularly high prior to the massive expansion in employment opportunities heralded by the 1997 Labour Government.

5.4 In effect, as employment has increased over the past decade, regions with higher claimant unemployment have filled vacancies from JSA applicants, whereas areas with low claimant unemployment have filled more vacancies from those claiming IB. This suggests that welfare reform may be far more effective in areas where high employment demand exists than in areas where it does not.

5.5 The above point strongly suggests that employer attitude, rather than claimant availability for work, is a key factor in determining IB claimant rates.

5.5 In 2004 there were 73,400 vacancies in Scotland and of these, 33,500 (46%) were considered 'hard-to-fill' by employers. Given that a number of transactional vacancies will be expected at any given time and given that the JSA claimant figures is around 95,000, the STUC is not optimistic about the prospect of a significant dent being made in economic inactivity through welfare reform. Neither does the Futureskills Scotland estimate of a

further 80,000 new jobs to be created in the next 2 years offer much grounds for optimism, especially in view of rising levels of immigration.

The impact of Welfare Reform on IB claimants

6.1 The introduction of a two tier payment system based upon levels of disability and willingness to participate in return to work programmes will have a clear financial impact for those who receive payments at the lower rate. The rights and wrongs of such a system are discussed below. However, it seems indisputable that the lower rates of benefit will move a significant proportion of the population into further poverty.

6.2 Similarly, the proposal to pay new applicants at JSA rates for the first 12 weeks prior to a medical assessment will contribute to poverty. There is significant concern amongst disability support groups and a range of advice agencies that it will prove hard to resource and organise effective adherence to the 12 weeks period.

6.3 Such is the unanimity on the view that disabled people face significant barriers to employment, it is not necessary to catalogue in detail the various difficulties faced. Later in this paper, the STUC will explore a number of the positive measures required to increase access to employment.

6.4 In its submission to the Work and Pensions Select Committee in November 2005, the TUC stated:

“In a world where disabled people and non-disabled people had equal opportunities no one could object to their having equal duties. Alternatively, if other forms of social provision for disabled people had reached something recognisable as a minimum acceptable level, it would be only reasonable to talk about tougher obligations for people claiming Incapacity Benefit. But unions will object if rights that are still too often mainly theoretical are used to justify responsibilities that are very concrete”.

The STUC would strongly endorse this view.

6.5 The STUC recognises that the Government's aim, as currently stated, with respect to recipients of the proposed new Rehabilitation Support Allowance (RSA), leaves considerable room for interpretation.

“... giving them [*RSA recipients*] extra money, first for attending Work Focused Interviews, and then also for taking steps to get them back towards the labour market.

However, given that the experience of very significant number of disabled people seeking work is of serial rejection and given the near unanimous view from disability support organisations that compulsion is unhelpful and unacceptable, the STUC is not minded to support the measures implied.

6.6 The primary focus of reform must be to provide employment opportunities, remove barriers and provide encouragement and support for the one million IB claimants who want to work.

Will the proposed reforms be effective?

7.1 On the assumption that the aim of the legislation is to increase the number of IB claimants seeking and attaining sustained employment, the STUC is not convinced that the proposals as currently outlined are the most effective way to proceed.

7.2 The proposal to differentiate between those who have a severe condition and those with more potentially more manageable conditions, is likely to be fraught with difficulties. The STUC is sceptical that a clear and effective medical differentiation will be achievable and would be interested to hear, in this respect from the BMA.

7.3 As well as potentially producing unfairness, an ineffective points system is likely to spawn a very large number of appeals effectively tying resources which could otherwise be used more positively. Under the current system appeal success is high – around 70% in Glasgow - with a large proportion of successful appellants being those with Mental Health conditions.

7.4 In the following section, this paper will set out a number of the positive initiatives being undertaken, or which could be undertaken, to promote opportunity and to reduce economic inactivity amongst claimants. In the context of these proposals, we question whether the most effective method of moving significant numbers into sustained employment is through compulsion. The STUC is clear that more than a sufficient number of claimants with

disability demonstrate the capacity and motivation to work in order to fill all available vacancies *and* to provide such supply side boost as is economically possible. We therefore applaud positive Government initiatives such as Pathways to Work.

Positive Measures to reduce IB claimant levels

8.1 Expanding the Pathways to Work initiative

In general, Pathways to Work, has been positively received by unions. It achieves a higher rate of success for IB claimants (nearly 50%) than all JSA claimants (around 25%). Thus the proposed expansion of the project is supported by the STUC. Whilst the STUC is aware of a number of problems raised by agencies in respect of Pathways to Work (including suggestions that it has worked better for those closer to the jobs market - for whom more cost effective solutions can be found - to the detriment of the “harder to place”) there can be little doubt that the scheme has the potential to provide significant further opportunities.

8.2 Measures proposed in the Scottish Executive’s Employability Strategy

The STUC participated, as far as it was able, in the formation of the aforementioned strategy. At the time of writing the strategy has yet to be formally launched, however the following positive proposals are likely to form part of the strategy.

- The bringing together of the various agencies concerned with employability to achieve a more joined up approach.
- Bringing together a strategy unit within the SE Welfare to Work Department to direct policy.
- A more ‘person centred’ approach to dealing with obstacles to participation.
- More ongoing support for employers and employees following successful placements.
- For more pre-employment training to be undertaken by employers in conjunction with agencies
- For a continuing lead to be taken by the Public Sector in providing opportunities.

Additionally, STUC has made the case that there needs to be greater focus on the role of SMEs in providing employment opportunities for the currently inactive.

8.3 *Procurement Policy*

There is clear potential within procurement policy for a focus on tackling both employment and employability issues. Through the process of Scottish Executive Consultation on Scottish regulations implementing the Public Sector and Utilities Procurement Directives, the STUC continues to argue strongly for an interpretation which places the maximum power in the hands of procuring organisations to combat social and economic inequalities.

8.4 *Regional Development*

Without significant and more successful regional development, Welfare Reform will fail to deliver significant numbers of IB claimants into productive work. Employment demand figures suggest a relatively small number of vacancies (around 20,000) for those who might be better trained in 'soft skills'. There currently exists more than sufficient JSA claimants to fill this gap if effective training and ongoing support is provided.

8.5 STUC is clear that, supply side measures alone, which might be appropriate in regions with full employment, are not adequate to deal with economic inactivity in Scotland.

DWP resource and staffing issues

9.1 A key concern of the STUC is that the proposal for Welfare Reform is being taken forward at the same time as budget and staffing cuts within the DWP which are having a significant detrimental effect on the quality of service provision and the jobs and conditions of DWP staff, the vast majority of whom are represented by the Public and Commercial Services Union (PCS).

9.2 The trade union movement is not alone in its concerns. Consultation with a wide range of Scottish support and advocacy groups reveals a widespread view that existing pressures on DWP staff and resources provides significant problems for clients despite the sterling work undertaken by staff. Reference to

submissions from stakeholders to the Work and Pensions Select Committee further underlines the existing pressures within the system.

9.3 PCS has informed the STUC that successful reform will lean heavily on the existing network of trained and experienced Disability Employment Advisers (DEAs) who have invaluable local and national knowledge. The intention is that these Advisers will work closely with the IB Personal Advisers and the NHS Trust to identify the best outcome for their customers. Thus the DEA workload will increase. There already exists evidence that some DEAs are resigning from their posts, or seeking transfers because of the unacceptable pressure being put on them. The fear is that this trend will be exacerbated without further staffing resources being invested in the IB Reforms and Jobcentre Plus Advisory structure.

9.4 PCS has also raised our concerns in relation to the plans by 2008 to close at least 577 Jobcentre Plus sites. The STUC agrees with PCS that this huge reduction in offices would make it very difficult to deliver the Pathways to Work programme in Jobcentre Plus. Even if it remains possible then customers (who by the very nature of their inclusion in the pilot are likely to be less mobile than most) will find themselves forced to make difficult journeys to attend mandatory interviews. Again, this concern is strongly supported by support and advocacy groups.

9.5 Further concerns exist in relation both to training and IT. Current resource levels place in serious question the ability to match the ambition of the programme with adequate training. Equally, early suggestions are that significant extra resources will not be made available for the IT interface and accessibility. The STUC is clear that were this to be the case, it would be unacceptable. Such is the intolerable nature of understaffing, backlogs, increasing workloads and stress within the DWP, that members of PCS have voted to take industrial action. The STUC fully supports the PCS demand that the government and management halt the cuts programme and work with the union to provide adequate staffing levels, based on what the service needs, with no compulsory redundancies.