

Parliamentary Reports and Policy Updates: December 14

Following on from our members' survey in 2014, we are in the process of looking at the content and delivery of our bulletins. This edition of the Parliamentary Reports also includes information about policy – the reviews of Access to Work and Personal Independence Payment (PIP); and information about the roll out of PIP in Scotland.



The Scottish Parliament
Pàrlamaid na h-Alba

Scottish Parliament

British Sign Language (Scotland) Bill Update

The Education and Culture Committee Call for Evidence

The **British Sign Language (Scotland) Bill** was introduced in the Scottish Parliament by Mark Griffin MSP on 29th October 2014.

The Bill and accompanying documents are available on the Parliament's website in English and BSL at: <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/82853.aspx>

The Education and Culture Committee has been given the role of gathering evidence to support the Bill and to scrutinise this evidence. The Committee has issued a call for evidence which closes on **Monday 2nd February 2015**.

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/83906.aspx>

For more information on how to give evidence to Committee, go to <http://www.scod.org.uk/bsl-scotland-bill/> and click on the “**call for evidence**” tab. The information is available in both English and in BSL.

The Education and Culture Committee held an evidence session with **Mark Griffin MSP** on the **16th December 2014**, and the video of the session is now available. It has audio, captions and a BSL translation. To view the video, go to the [Scottish Parliament](http://www.scottish.parliament.uk) website.

Deaf Children (Educational Disadvantage)

Motion S4M-11628: Kenneth Gibson, Cunninghame North, Scottish National Party

That the Parliament recognises that the National Deaf Children's Society (NDCS) is an organisation of families, parents and carers, providing emotional and practical support for families with deaf children and is the leading provider of impartial information and individual advocacy on every aspect of childhood deafness; is aware that NDCS estimates that there are up to 3,850 deaf children in Scotland; understands that about 80% of school-age deaf children are taught in mainstream schools and that 31% of teachers of deaf children are not fully qualified to do so, suggesting that the statutory duty to provide minimum levels of teachers qualified to work with deaf children is not being fully implemented; further understands that there is a significant gap in educational attainment for Scotland's deaf learners, including in Cunninghame North, which develops early and is evident through to school leaving age and beyond; notes calls for investigation into the causes for this significant gap in attainment, particularly around the provision of support to children and families, the provision of additional support for learning to deaf learners, and the emotional health and wellbeing of deaf children and young people, and considers that this is an urgent problem and that action is required to address and close this gap for deaf children and young people, to ensure that all are

ready to succeed when leaving school and have an equal opportunity to contribute to their own and Scotland's economic future prosperity.

The motion was debated on Thursday 11th December 2014. To read **the debate**, go to

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9686#.VK67TCusX4I>



www.parliament.uk UK Parliament

EDM 606: British Sign Language

Mike Crockart MP:

That this House welcomes the British Sign Language (Scotland) Bill which was introduced in the Scottish Parliament on 29 October 2014; recognises that the Bill promotes the use of British Sign Language (BSL) by requiring Scottish Ministers and relevant public authorities to prepare and publish BSL plans; further recognises that BSL is the preferred language of between 50,000 and 70,000 people within the UK and since 2003 has been recognised by the Government as an official minority language; and calls on the Government to bring forward similar proposals to raise awareness and promote BSL across the UK.

This motion has cross party support.

<http://www.parliament.uk/edm/2014-15/606>

Department of Work and Pensions

Employment and Support Allowance

Oral Q 906474:Mr Jim Cunningham (Coventry South) (Lab):

If he will make it his policy to pay employment and support allowance during the period of mandatory reconsideration.

The Minister for Disabled People (Mr Mark Harper):

I am afraid that I am going to disappoint the hon. Gentleman. We are not going to change our policy in that way. When someone is found fit for work, they should claim jobseeker's allowance and work with Jobcentre Plus to get back into the work force.

Mr Cunningham: I think that the Work and Pensions Committee has also termed the policy illogical, but does the Minister not realise that, by virtue of the fact that he is not prepared to change it, he is driving more and more people into hardship and that they, in turn, are having to use food banks? The Government must hold some sort of record on food banks, because under this Government their use is the only thing that is increasing.

Mr Harper: That was not the sort of question I normally expect from the hon. Gentleman. If someone is found fit for work, they should immediately apply for jobseeker's allowance, which is paid at the

same rate as the assessment rate of employment and support allowance, so there is no change in their income. They should then engage with their Jobcentre Plus contact so that they can be moved into work. That is the right way for someone to behave when they have been found fit for work, and there is no reason at all why their income should fall.

Stephen Mosley (City of Chester) (Con):

During my first couple of years in Parliament—2010-11 and 2011-12 —every week my constituency surgery seemed full of people concerned about appealing against ESA decisions. Recently, the number of appeals seems to have declined. Is that also the case nationally?

Mr Harper: We have seen a significant reduction in the number of appeals. The mandatory reconsideration process is helpful, because it means that we can make sure that the right decision is made more quickly rather than having to force someone to go through a very lengthy appeals process within the tribunals service.

Dame Anne Begg (Aberdeen South) (Lab):

I am surprised by the Minister's answer, because my Select Committee made exactly this recommendation and the Government have turned it down. The situation has got worse for people who are reapplying for employment and support allowance, because they think that their ill-health has got worse. In future, they are to be denied getting ESA at the assessment rate. Why does the Minister think that is the right approach rather than allowing people to claim an out-of-work benefit because they are too ill to work?

Mr Harper:

The hon. Lady, notwithstanding her position as Chairman of the Work and Pensions Committee, has not outlined the change correctly. If someone's condition has significantly worsened or they are claiming for a new condition, then of course they can claim employment and support allowance. What they cannot do is to keep reclaiming employment and support allowance for the same condition when they have already been found to be fit for work.

Mr David Nuttall (Bury North) (Con):

Will the Minister confirm that for no other benefit is payment usually made pending the claimant's appeal for the benefit to be returned?

Mr Harper: I can confirm that that is right. In all other benefits, when someone is found not to be entitled to it and then chooses to appeal, they are not paid anything while the appeal is ongoing. My hon. Friend is right that employment and support allowance is rather odd in that regard.

Sheila Gilmore (Edinburgh East) (Lab):

Nevertheless, the position is that when people do appeal, their ESA will be reinstated. There is no financial saving to the Government unless they expect people not to claim JSA during this period. It is therefore not just hard for the claimant but administratively expensive for the Department to put people through that process.

Mr Harper: This is about making sure that when someone goes for a work capability assessment and is found to be fit for work, the most important thing is that they then engage with the jobs market and get back into the workplace. It is not just about the benefits; it is about making sure that people are getting the benefit of getting into work. For most people with a mental health problem, it is very clear that working will not just be the right thing but will be better for their condition

<http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm141208/debtext/141208-0001.htm#1412082000005>

Statement on Access to Work

The Minister for Disabled People (Mr Mark Harper):

In the course of my evidence to the Work and Pensions Select Committee inquiry into Access To Work, I accepted that during the reorganisation of access to work operations, from April to October 2014, we had not met our customer service standards. Today I am pleased to report that we have achieved a significant improvement in customer service well ahead of schedule and our outstanding claims awaiting payment are now generally running at less than one day's worth of intake, compared with nearly 18 days' worth in October, so that payments will usually be made within 10 working days of receipt of a claim.

In addition I set out that I did not wish to delay making further improvements to the programme, which is on course to support more disabled people in work than last year. I am therefore pleased to announce the following improvements:

- establishing specialist teams to ensure that they understand the issues faced by customers and can produce consistent decisions. We have already established teams covering deaf and hearing loss customers, visually impaired customers and those with mental health conditions, and others are being considered;
- setting up a technology and innovation forum to help customers, stakeholders and staff understand how existing and emerging technology can help provide the support disabled people need to get and keep employment;
- working with stakeholders on a series of events early next year to raise awareness of the Mental Health Support Service;
- ensuring that communication with customers can be made via email more easily, subject to the customer's request for a reasonable adjustment. This will better meet customer accessibility requirements and greatly speed up the resolution of cases;
- working with stakeholders to develop user-friendly guidance, with the aim of beginning to publish this by the end of March 2015;
- improving transparency of the programme. I will set out more information about programme performance in the next set of official statistics due in January, and at that time will explore how this can be further expanded in subsequent releases.

Finally, I will consider carefully the findings of the Work and Pensions Select Committee Report into Access to Work when it is published and will respond to it in due course.

<http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm141218/wmstext/141218m0001.htm#14121844000005>

Improving Access to Work for disabled people – Review Report

The report of the Improving Access to Work Review has been published. To read the report, use the following links:

English:

<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmworpen/481/48102.htm>

BSL: <https://www.youtube.com/watch?v=lsG8r5GI5U0&feature=youtu.be>

Easy Read: <http://www.parliament.uk/documents/commons-committees/work-and-pensions/Access-to-Work-summary-EasyRead.pdf>

Conclusions and recommendations from the report that relate to deaf people

The case for additional funding

3. It is not currently possible to ascertain with certainty the number of people whom Access to Work might benefit; the range of needs they would have in work; or the cost of providing support which meets the range of currently unmet need. However, it is clear that substantial unmet need includes that which exists amongst people with mental health problems, learning disabilities and autism spectrum disorders, young disabled people trying to enter work for the first time, and people found fit for work as a result of the Employment and Support Allowance eligibility process. While it is widely accepted that supporting disabled people in work brings a long-term return to the Exchequer through reduced spending on out-of-work benefits and increased income tax returns, there is a lack of published official data to support this. (Paragraph 44)

4. We **recommend** that, as a priority, DWP undertake research to establish a) the likely level and range of currently unmet need; and b) a cost-benefit analysis of Access to Work expenditure, including its likely long-term impacts on social security expenditure and income tax returns. We believe that such a study is likely to produce an overwhelming case for substantial additional funding for Access to Work, which we recommend be presented to HM Treasury at the earliest possible opportunity. Our hope is that HM Treasury will be able to announce substantial additional funding before the next Comprehensive Spending Review. (Paragraph 45)

Employer cost-sharing arrangements

6. We welcome the Minister's assurance that the current employer cost-sharing arrangements are being considered by the Department as part of its internal review. We believe that DWP could do more to clarify and simplify the arrangements, which might encourage more employers to engage with the programme. We **recommend** that DWP publish case studies on the Access to Work webpages, to illustrate the types of support which are typically considered to be "reasonable adjustments" under the Equality Act, and those which would normally qualify for publicly funded support. Case studies should also illustrate the circumstances in which employers' contributions are typically regarded as mandatory, and those in which contributions are voluntary. (Paragraph 47)

7. Given the severe constraints on DWP's budgets, we **recommend** that the Department encourage increased voluntary employer contributions, particularly from larger employers. DWP should publish and promote case studies which illustrate examples of employers which have gone beyond their legal requirements to support the recruitment of disabled people, to encourage others to follow their example. The Access to Work webpages should include an employers' page, and links to Disability Confident promotional material, to promote the benefits of employing disabled people. We also **recommend** that Access to Work be more prominently featured in the Disability Confident marketing campaign. (Paragraph 48)

Mental health support

8. While the Department has made some progress in broadening the emphasis of Access to Work to include support for people with mental health problems as well as physical and sensory impairments, there is clearly a very long way to go in this regard. We agree with the Minister that addressing mental health needs has a big part to play in closing the employment gap between disabled people and the rest of the population. While its introduction is welcome, the current Access to Work provision for mental health, the Workplace Mental Health Support Service, is far from sufficient, given the scale of mental health problems in the UK and their impact on employment. (Paragraph 63)

9. In scaling up Access to Work, priority should be given to supporting people with mental health problems, and other more hidden intellectual, cognitive and behavioural impairments, and learning disabilities, to gain and continue in employment. We recommend that DWP take steps to publicise the Access to Work Workplace Mental Health Support Service (WMHSS) to mental health service providers. It should also ensure that the provider of the new Fit for Work service is fully aware of the WMHSS and refers people where appropriate. (Paragraph 64)

10. To increase the reach of the service, we recommend that DWP change its practice and begin to accept initial referrals to the WMHSS from employees' advocates and employers, where the employee's consent has been given. DWP also needs to take immediate steps to ensure that all of its call centre staff are aware of the WMHSS and that they refer callers appropriately. DWP should publish case studies on the Access to Work webpages to illustrate to potential service users and employers how the programme can support people with mental ill health; learning disabilities; and other cognitive, intellectual and developmental impairments. (Paragraph 65)

11. People with physical and sensory impairments have an element of choice in how their Access to Work support is provided; there is currently a lack of choice in Access to Work mental health support. We recommend that DWP develop a range of mental health provision, in addition to the WMHSS, with a broader focus and which is better able to address difficulties faced by people with more severe and enduring mental health conditions. Once this additional provision is in place, we further recommend that DWP make clear that the Access to Work pre-employment eligibility letter is available to all disabled job applicants, including those with pre-existing mental health problems. (Paragraph 66)

BSL interpretation

12. The way in which DWP has recently applied the Access to Work guidance on full-time Support Workers, and capped the hourly rate at which it is prepared to reimburse Support Workers' costs, has had a profoundly detrimental impact on many service users, particularly deaf people who require a significant amount of British Sign Language (BSL) interpretation in order to do their jobs effectively. DWP's recognition of this adverse impact, and the temporary suspension of the guidance, is welcome; however, its stringent application of the guidance in this context demonstrated a lack of understanding of how BSL interpretation is currently provided and highlights the need for much improved consultation with stakeholders prior to significant changes to service delivery in the future. (Paragraph 79)

13. We **recommend** that DWP fulfil its commitment to undertake full and proper award reviews in all cases where service users believe that the guidance on full-time Support Workers, or caps on hourly rates, as applied to BSL interpretation, has rendered them unable to source effective BSL interpretation appropriate to their needs at work. (Paragraph 80)

14. We **recommend** that DWP re-issue the guidance on full-time Support Workers, making it clearer that reimbursement of costs on the basis of an annual salary, rather than an hourly, half-daily or daily rate, should be considered on a case-by-case basis, and only applied in circumstances where it reflects the reality of how effective support can be provided. We **further recommend** that the guidance explicitly state that this does not typically apply to BSL interpretation. (Paragraph 81)

15. We **recommend** that DWP consult the BSL interpreting profession, through the Association of Sign Language Interpreters and the National Union of British Sign Language Interpreters, to establish suitable maximum permissible hourly, half-daily and daily rates for BSL interpretation funded by Access to Work, based on robust research. The Government should also consult formally on improving the efficiency of the market for BSL interpreting services across the public sector. This consultation should consider steps which could be taken to increase the number of BSL interpreters in the UK. (Paragraph 82)

16. We **recommend** that DWP establish a specially trained team to deal with high-cost ongoing Access to Work awards, including those for BSL Interpretation. This team should receive intensive training in deaf awareness and on the full range of communication support options, including the latest technological innovations and the most cost-effective solutions. DWP staff and Access to Work service users should be encouraged to consider technological solutions to communication support, where it is appropriate to needs and cost-effective. (Paragraph 83)

17. The recent problems in relation to the 30 hour guidance have, in part, arisen from a lack of consultation and engagement with service users. We therefore **recommend** that DWP makes it its policy to consult on all significant future changes to Access to Work policy and guidance, through the newly established Access to Work stakeholders' forum, and to undertake much more effective communication about changes to the programme. We request that the Department sets out, in its response to this Report, the membership of the forum, and the processes by which stakeholders will be consulted on future changes. (Paragraph 84)

Clarity and transparency of decision-making

18. Many Access to Work applicants and service users are unclear about the basis on which the Department makes decisions on eligibility and levels of awards. There is currently an unacceptable lack of clarity and transparency around this. DWP appears recently to have taken an inflexible approach to some Access to Work awards, particularly those for relatively high cost support such as Support Workers. This is regrettable. We believe that it is important that Access to Work remain focused on its fundamental policy intention: to provide the minimum level of effective support to help disabled people overcome their disability-related barriers in work. (Paragraph 92)

19. While it is important to maintain a reasonable level of consistency, individual needs will to some extent always be different and decision-making should reflect this. Access to Work is not a social security benefit; although the use of substantial amounts of public money through a programme with limited transparency and accountability is a concern, the discretionary nature of Access to Work should be a strength of the programme. A "box-ticking", "one size fits all" approach is inappropriate. (Paragraph 93)

The self-employed and entrepreneurs

21. We believe that Access to Work should aim to level the playing field for disabled people in the labour market, including by aiming to facilitate the same chance of success in self-employment and entrepreneurship as applies to the rest of the population. We therefore welcome the Minister's assurance that the clarity of the guidance in relation to self-employment will be a priority within DWP's internal review. We also welcome the Minister's urgent amendment to the guidance in relation to minimum earnings requirements for Company Directors. (Paragraph 100)

22. We **recommend** that the guidance on support for self-employed people be substantially re-drafted and clarified. In cases where the applicant is a business owner the full history and circumstances of that business should be taken into account in determining AtW support, including whether it employs staff. The guidance also needs to be amended so that it encourages DWP staff to take greater account of the financial realities of working on a freelance basis, including intermittent and fluctuating earnings. (Paragraph 101)

Administrative issues

25. Access to Work is clearly a good model for effective specialist disability employment support, but its efficiency and effectiveness have sometimes been undermined by poor administration, cumbersome processes, and a distinct lack of consultation with stakeholders. Service users were not consulted on the recently introduced central call centre system and were not told in advance about the change; consequently it was poorly implemented and does not currently work well, particularly

for those users who require support to take a telephone call or greater certainty about when a call from an Adviser will be received. (Paragraph 115)

Central call centre

26. We recommend that DWP take urgent steps to address the ineffectiveness of the central call centre system. It is unacceptable that a programme designed to help disabled people should be inaccessible or inconvenient for a substantial proportion of service users. We appreciate the difficulty of delivering a personalised service for a growing caseload, and the rationale for a more centralised system, given the Department's welcome intention to "scale up" the programme. However, DWP needs to focus on making the call centre system more flexible and user-friendly, including by improving the flow of information from the call centre to trained Advisers, allowing them seamlessly to pick up cases with which they are not personally familiar. We also recommend that a system is established in which service users receive a communication, in response to calls to the DWP call centre, in a format and at a time that is suitable and convenient for them. We request that DWP updates us on progress with these improvements, in response to this Report. (Paragraph 116)

Disability awareness and accessibility of information

28. Some DWP staff administering Access to Work have displayed an unacceptable lack of disability awareness. We **recommend** that DWP consult with disability representative organisations, with a view to highlighting areas where the disability awareness of DWP staff is currently weak and that it collaborate with them on establishing enhanced staff training to address those issues. (Paragraph 126)

30. We **recommend** that DWP take urgent steps to increase the accessibility of the Access to Work webpages on the GOV.UK website, including by introducing "Easy Read" content to help people with learning disabilities understand Access to Work and how it might help them, and British Sign Language content for deaf service users. (Paragraph 128)

31. We understand that work to improve the accessibility of government services is being undertaken on a cross-departmental basis. However, we believe that there is a particularly strong case for DWP to improve the accessibility of its disability-related services. We therefore **recommend** that DWP introduce a Video Relay Service, to enable deaf BSL users to contact the Department more easily, as a priority. (Paragraph 129)

Personal Independence Payment

Personal Independence Payment (PIP) **is being further rolled out** to working age Disability Living Allowance (DLA) claimants in these additional postcode areas.

From **26th January 2015**, PIP will be extended to postcode areas: **Glasgow (G)**, Newcastle (NE), Warrington (WA), Wigan (WN), Durham (DH), Sunderland (SR) and **Inverness (IV)**.

Claimants in these postcode areas will be invited to make a claim to PIP where either:

- their existing DLA claim's fixed term award is coming to an end, or
- they are approaching age 16, or
- we receive information about a change in their care or mobility needs, or
- an individual chooses to claim PIP instead of their DLA.

PIP Independent Review

The first Independent Review of PIP, carried out by Paul Gray, was published on 17 December 2014. This is the first of two Independent Reviews as required by the Welfare Reform Act 2012.

<https://www.gov.uk/government/publications/personal-independence-payment-pip-assessments-first-independent-review>

<http://www.parliament.uk/documents/commons-vote-office/December%202014/17%20December/17-DWP-PIP.pdf>

These are the **recommendations** made from the review:

Improving the claimant experience

The Department should:
In the short-term

1. Revise external communications with claimants so that they understand what to expect at the assessment and to reinforce claimant rights and responsibilities [page 49, paragraph 19]
2. a. Redesign the structure and content of decision letters; and b. Review case manager training and guidance to strengthen decision letter writing skills and make sure quality checks take place [page 50, paragraph 22]
3. Take action to begin a sustained programme to build better working relationships between case managers and health professionals [page 52, paragraph 30]
4. Ensure assessment provider assessment rooms are configured so that the assessor and the claimant sit at a 90 degree angle [page 48, paragraph 14]

In the medium-term

5. Maximise the use of more proactive communications with claimants throughout the claims process for example greater use of outbound SMS messages [page 47, paragraph 11]
6. Ensure that the policy intent for award review arrangements is being met and that guidance reflects this; and that decision letters provide a clear explanation of the rationale for review timings in individual cases (not using the language of ‘interventions’) [page 51, paragraph 24]

In the longer-term

7. Review the PIP claims process, adopting a design that maximises the opportunities presented by greater use of digital and other technologies and can be implemented in a phased and progressive way, which:
 - a. gives high priority to the introduction of a mechanism, such as an online portal, that allows claimants to track the status of their claim
 - b. moves away from a ‘one size fits all’ model for the claims process and supports a more tailored approach based on the needs of claimants
 - c. uses contact with the claimant to identify what information and evidence may already be available to support the claim
 - d. makes the claimant journey more integrated under common branding [page 53, paragraph 38]

Further evidence

The Department should:
In the short-term

8. For the face-to-face assessment, reinforce existing guidance for health professionals to ensure consistency in how they introduce themselves and the functional nature of the assessment and limit the emphasis placed on collecting clinical information [page 58, paragraph 25]

In the medium-term

9. Explore opportunities for improving the collection of further evidence by:
- reviewing external communications so that messages about further evidence are consistent and give greater clarity about the type of evidence required and who is responsible for gathering the information
 - where appropriate and relevant, sharing information and evidence from a Work Capability Assessment or other sources of information held by the Department
 - examining the potential for wider sharing of information and evidence across assessments carried out in other parts of the public sector for example health and social care reports [page 56, paragraph 15]

The effectiveness of the assessment

The Department should:

In the short term

10. Monitor the application of Activity 11 'Planning and following journeys' and ensure there is a clear explanation of the purpose of the Activity for departmental staff, health professionals and claimants [page 60, paragraph 9]

11. Review how aids and appliances are taken into account in PIP assessments against original policy intent, and make any necessary adjustments to guidance and training [page 61, paragraph 12]

12. Ensure the consistent application of existing guidance for health professionals on reliability and fluctuating conditions [page 62, paragraph 16]

In the medium term

13. Put in place and announce a rigorous quantitative and qualitative evaluation strategy, with a scheduled plan for the publication of findings which includes a priority focus on the effectiveness of PIP assessments for people with a mental health condition or learning disability [page 63, paragraph 22]

14. Provide assurance of fair and consistent PIP award outcomes by supplementing existing 'vertical' quality assurance with the assessment of 'horizontal' consistency [page 64, paragraph 25]

EDM 655 Campaign to save the Independent Living Fund

John McDonnell MP

That this House commends and supports campaigners in their ongoing fight to save the Independent Living Fund (ILF) on which nearly 18,000 disabled people with high-support needs rely to live with choice and control in life instead of going into residential care; notes the failure of the High Court case taken by two ILF recipients to stop the Government closing the ILF in June 2015, while noting the judge's comment that the Minister was made fully aware of the inevitable and considerable adverse effect that closure would have on disabled people; further notes that the judge declined to rule on whether the closure may put the UK in breach of its international obligations to advance disabled people's rights to independent living and equality of opportunity under the United Nations Convention on the Rights of Persons with Disabilities; and reminds all parliamentarians that, as part

of Operation Disabled Vote, manifestos and pledges will be measured against the precepts of international human rights as well as of social justice by 12.2 million disabled voters.

<http://www.parliament.uk/edm/2014-15/655>
