

CVSNI RESPONSE TO THE DSD CONSULTATION PAPER ON PERSONAL INDEPENDENCE PAYMENT – ASSESSMENT THRESHOLD

The Commission for Victims and Survivors for Northern Ireland (the Commission) was established in June 2008 under the *Victims and Survivors (Northern Ireland) Order 2006*, as amended by the *Commissioner for Victims and Survivors Act (2008)*.

The Commission is a Non-Departmental Public Body (NDPB) of the Office of the First Minister and deputy First Minister (OFMDFM). The principle aim of the Commission is to promote awareness of the interests of victims and survivors of the conflict. It has a number of statutory duties that include:

- Promoting an awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests;
- Keeping under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors;
- Keeping under review the adequacy and effectiveness of services provided for the victims and survivors by bodies or persons;
- Advising the Secretary of State, the Executive Committee of the Assembly and any Body or person providing services for victims and survivors on matters concerning the interests of victims and survivors;
- Ensuring that the views of victims and survivors are sought concerning the exercise of the Commission's functions; and
- Making arrangements for a forum for consultation and discussion with victims and survivors.¹

The Commission is pleased to have the opportunity to provide a brief response to the Department for Social Development consultation relating to the Personal Independence Payment and the 'Assessment Thresholds'. In redefining the activities contained within the second draft, it has taken account of pressing issues raised within the first consultation process relating to this particular issue.

- The Commission is of the opinion that the impact of these changes together with the introduction of the suggested new process can only be properly evaluated following full implementation.
- It is acknowledged that a sampling of 900 individuals has already taken place and this has provided a foundation upon which to build and to assess the potential impact of full implementation from Disability Living Allowance (DLA) to the Personal Independence Payment (PIP). However, the examples given do not indicate the current provision under DLA what the changes and impact will be on each individual. The Commission would argue that that there has been no specific reference or consideration given to the unique

¹ The functions of the Commission relate to those set out in the *Victims and Survivors (Northern Ireland) Order 2006* as amended by the *Commission for Victims and Survivors Act (Northern Ireland) 2008*.

circumstances of the consequences of a civil conflict and the legacy of mental and physical health issues experienced by victims and survivors.

- The Commission recognises the importance of establishing accurate descriptor weightings.
- We would also contend that a 'one size fits all' approach should not be adopted in applying the weightings to vulnerable clients such as those from within the victims and survivors sector. It is therefore, essential, that as far as possible, activity descriptors are broad enough in order to take account of the variable needs and capabilities of individual victims and survivors.
- The Commission would take the view that this is a medical-based process with a concentration on the ability to complete physical activities and does not take into account the social wellbeing of the clients.
- The Commission would endorse the considerations taken in relation to Mobility activities. In terms of victims and survivors who suffer from mental and psychological illness and distress, it is imperative that a high level of cognizance is given to them whilst planning and following a journey. For example this would prove particularly difficult for a claimant who suffers from a paranoia related condition. It is further recommended that this element scores highly within the descriptor weightings.
- The Commission would support the need to differentiate between the uses of aids required, as there is a vast difference in monetary terms in the cost of a walking stick to the cost incurred in the purchase of a specialised electric wheelchair.
- The Commission would also contend that the document assumes that everyone has all the necessary equipment, help and support required, when in reality, this is not the case.
- In terms of whether the draft regulations achieve the 'intent of the assessment' as set out in the explanatory notes for this consultation, the Commission would wish to highlight the unique circumstances which relate to victims and survivors as a result of many years of conflict. The high prevalence of DLA claimants within Northern Ireland compared to other regions within the United Kingdom would suggest that these unique circumstances should be taken into consideration. Decades of violence, bereavement, intimidation and displacement have embedded a legacy of psychological trauma and mental ill-health not least those who have been physically injured. These factors remain so for those claimants moving to the newly proposed Personal Independence Payments.
- The Commission acknowledges the extensive work already undertaken by the Department of Work and Pensions and in particular the pro-active

consultative process set out by the Social Security Agency in Northern Ireland in helping to develop a fair and effective assessment process for PIPs. With this in mind it is important that special consideration is given to those victims who suffer from mental and/or physical health conditions whilst undergoing the assessment process. It is important that victims and survivors are treated in a sensitive manner and that due regard is given to avoiding any re-traumatisation of a claimant.

- For victims who are dealing with psychological and physical injuries and conditions as a consequence of the conflict there are likely to be fluctuations and variations in each individual's daily condition. It is recognised that many of these conditions are altered by seasonal differences, which will impact on the individual condition and therefore on the assessment process. For example, amputees can experience more pain in cold conditions. The Commission appreciates the difficulties which can be encountered when considering the many variables which impact on an assessment but the Commission believes it is imperative that these issues are addressed if the assessment for PIP is not to disadvantage individuals who are unable to articulate their current situation as it may re-traumatise them
- Although the proposed changes as far as they relate to the impact experienced by individuals for 'more than 50 percent of the time' are to be welcomed, the Commission still have concerns that a percentage of victims who may fall just outside this measurement may face undue financial hardship, even though they suffer from debilitating conditions.
- The assessment could be described as subjective and must therefore incorporate a fair and independent appeals process for those who fail to meet the required thresholds. In terms of the adequacy of providing a set of clear definitions, the Commission would agree that this can assist in removing a degree of ambiguity; however, this could also present difficulties if it is too stringent. There should be flexibility to allow for special circumstances relating to specific clients to be taken into consideration.
- Further consideration must be given to access to services and their location in terms of urban and rural settings. This also presents a number of additional difficulties for those with disabilities attending assessment centres.
- The Commission acknowledges the many challenges ahead with the introduction of the new assessment processes together with the full implementation of the PIPs. It is recognised that these changes will have a direct impact on the lives of many victims and survivors and their immediate families who have suffered as a result of the conflict. The Commission would therefore reiterate the imperative that appropriate professional health and occupational experts should be fully integrated into the assessment process and that the unique needs of individuals from within the victims and survivors sector are dealt with sensitively.

APRIL 2012