

Mr Nelson McCausland MLA  
Minister, Department of Social Development  
Lighthouse Building  
1 Cromac Place  
Gasworks Business Park  
Ormeau Road  
Belfast  
BT7 2JB

7 February 2014

Dear Nelson,

**The Jobseeker's Allowance (Habitual Residence) (Amendment)  
(Northern Ireland) Regulations 2013 (SR 2013 No. 308)**

**The Jobseeker's Allowance (Habitual Residence) (Amendment)  
Regulations (Northern Ireland) 2014**

The two above-named sets of regulations have recently been presented to the Committee for our consideration. The first set came into force on 1 January 2014 and came to us under sections 149(2) and 150(1)(a) of the Social Security Administration (Northern Ireland) Act 1992, whilst the second set are draft proposals that you intend to bring into force shortly.

As you will know, both sets closely mirror the equivalent GB legislation which received careful scrutiny at our meeting of 30 January. Although we decided that we did not wish to take either, or both, sets of Regulations on formal referral, we nonetheless had a number of serious concerns which we felt needed to be brought to the attention of the Secretary of State for Work and Pensions. Following our meeting I therefore wrote to Iain Duncan Smith setting out those concerns. Because they inevitably relate equally to recently agreed, or proposed, Northern Ireland legislation, it is right that I should alert you to the substance of what was communicated.

*The position of returning UK nationals*

We have raised concerns about the position of returning UK nationals. Whilst we acknowledge that a returning UK national generally needs to satisfy the habitual residence test in order to access entitlement to income-related benefits, the period in question can often be considerably less than three months and, in some cases, they are treated as having satisfied the test immediately upon their return. The effect therefore upon UK nationals returning, for example, after a break-down in their relationship, at the end of a short-term contract of work overseas or a young person following a gap year,

or others returning from volunteering abroad or missionary work could be significant under the new rules.

We have welcomed the fact that DWP has, since the beginning of this year, started to collect management information through the application of the Habitual Residence Test in relation to the nationality of those claiming income-based benefits. We hope that Northern Ireland will also be putting arrangements in place to collect similar management information to help build a clear picture about the potential numbers of UK nationals likely to be affected by this policy.

#### *Genuine Prospect of Work*

The second issue we highlighted was the importance of ensuring that effective guidance on the Genuine Prospect of Work test to decision makers was in place by 1 July - the point at which the six months' rule for the possible ending of JSA entitlement for certain EU migrants will have been reached. We have expressed a willingness to review that guidance as it emerges.

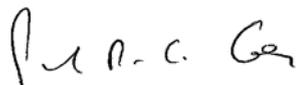
#### *Housing Benefit Amendment Regulations*

Finally, we have asked that we be sent the recently-announced proposals to restrict Housing Benefit entitlement for EU migrants as soon as draft regulations are available.

Once we have the Secretary of State's response and we know where we are with the GB legislation, we will be in contact with your officials on the specific position of the Northern Ireland legislation.

I trust that this is helpful.

Yours sincerely,



Paul Gray  
Chair