Inclusion Scotland

Welfare Reform Bill Legislative Consent Memorandum

1 Inclusion Scotland is a network of disability led organisations, individual disabled people and other organisations that support the principles of the Social Model of Disability. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people’s everyday lives and exclude us from participating in the mainstream of society.

2 Scale of proposed Welfare Benefit Cuts
- £18 billion of cuts to welfare benefits;
- £9.2 billion taken away from households containing a disabled person.
- In Scotland, £2 billion is being taken out of local economies
- Inclusion Scotland estimate that at least half of the scheduled benefit cuts (+£1 billion) will fall on Scottish disabled people and their families

3 Welfare Reform Bill: general comments

3.1 Inclusion Scotland are extremely concerned that the current Welfare Reform Bill will leave hundreds of thousands of disabled people without an adequate income; breaches several of the rights contained in the UN Convention on the Rights of Disabled People (including the rights to an adequate income and to mobility); significantly reduces disabled people’s ability to fully participate in society by, for example, taking away the mobility component from disabled people who are resident in care homes and fails to take into account of consequential impacts on housing provision and care services in Scotland.

3.2 Current levels of anxiety about the proposed reforms amongst disabled people are extremely high and are being exacerbated by the unfair and unjust Work Capability Assessments which are removing many disabled people from entitlement to Incapacity Benefit/ESA and moving them on to Job Seekers Allowance (JSA). Amid further cuts to local authority care services, and the threat of having to pay more in charges for their care, disabled people’s fear is entirely understandable.

3.4 Below we set out the cumulative impact of the proposals in the Welfare Reform Bill and earlier welfare reforms. Taken together, the loss of income to disabled people and their families is truly staggering and will undoubtedly lead to greatly increased levels of poverty, destitution and homelessness.

3.5 But the loss of income will also lead to a loss in disabled people’s ability to live independently and to participate in community life. Inclusion Scotland believe that this amounts to a calculated attack on disabled people who because of their physical, sensory and learning impairments are isolated and thus less able to defend themselves than other sections of society.
4 Disproportionate Impact

4.1 A disproportionate amount of the cuts are falling on benefits paid to disabled people\(^{2}\) e.g. Disability Living Allowance, Employment Support Allowance, the Independent Living Fund etc. Many other benefit cuts will also have a disproportionate impact because disabled people are less likely to be in employment and thus more likely to be reliant on benefits for some or all of their income.

4.2 Scotland will also suffer more than its fair share of these cuts because we have more people with impairments & long term health conditions than other areas of the UK\(^{3}\).

4.3 Yet disabled people incur considerably higher living costs because of their impairments making the additional benefits that they receive essential to preventing poverty. Previous research by Leonard Cheshire Disability\(^{4}\) found that the cost of living for disabled people is on average 25% higher than that of their non-disabled peers.

4.4 As a result disabled adults are twice as likely to live in low income households as non-disabled adults, with 30% already classed as living in relative poverty. The proposed cuts to benefits will both increase the proportion of disabled people living in poverty and the depth of the poverty that they experience.

5 Employment Support Allowance & the Work Capability Assessment (WCA)

5.1 The Welfare reform Bill will time limit entitlement to contribution based Employment Support Allowance (ESA - the benefit gradually replacing Incapacity Benefit (ICB)) to a maximum of 12 months. In addition all current claimants to Incapacity benefit are gradually being subjected to Work Capability Assessments (WCA) to determine their fitness for work and entitlement to the new benefit.

5.2 Although the change to ESA was introduced under the last UK Government concerns have been mounting about how the Work Capability Assessment for the new benefit has been implemented. Professor Malcolm Harrington’s independent review of the Assessment regime last year concluded that there were serious failings in the assessment system which particularly failed those with mental illnesses and long term conditions. Yet little seems to have changed since he reported.

5.3 There have been a huge number of appeals against Work Capability Assessment decisions with over 400,000 already lodged with the Tribunal service across the UK. Almost 40% of those that have had their cases heard have had their appeals upheld and the proportion of successful appeals rises to 70% when the disabled person is represented by a CAB adviser\(^{5}\).
5.4 This means that potentially hundreds of thousands of disabled people have suffered incorrect decisions, reductions in their benefits and huge amounts of anxiety and distress. Moreover because they have been assessed as fully fit for work they have been denied the specialist assistance in seeking work that they should have been provided with.

5.5 Incapacity Benefit claimants are not evenly spread throughout the UK. Scotland, being one of the UK’s older industrial areas has a higher proportion of adults of working age claiming incapacity benefits. Three Scottish Local Authority areas are amongst the 20 (UK-wide) local authorities with the highest proportion of ICB claimants –

- Glasgow 12.3% of all working age adults are on ICB
- Inverclyde 12.2% of all working age adults are on ICB
- West Dunbartonshire 10.7% of all working age adults are on ICB

5.6 By contrast, in large parts of southern England the claimant rate is far lower, typically between 2% - 4%. What this means is that the switch to Employment Support Allowance and time limiting of entitlement will have a far greater negative impact in the deprived areas of Scotland than in other more affluent parts of the UK.

5.7 Recent research by Sheffield Hallam University estimates that by 2014 the reforms will cut incapacity claimant numbers by nearly one million across the UK, of which more than 800,000 will be existing incapacity claimants who will lose their entitlement.

5.8 Nearly 600,000 incapacity claimants will be pushed out of the benefits system entirely, either because they will fall foul of the time-limit on non-means tested entitlement or because they fail to qualify for other means-tested benefits. Scotland will be amongst the areas most affected by the reforms. Yet the reforms will have a negligible impact on the most prosperous parts of southern England.

5.9 Using the DWP’s own estimates together with experience gained in areas which have piloted reforms the researchers estimate that in Scotland the combination of people being re-assessed under the WCA regime combined with the time limiting of contribution based ESA to 12 months will lead to the number of Incapacity Benefit claims being reduced by 115,000. Of these –

- 65,000: will lose their entitlement to benefits entirely
- 36,000 : will be moved onto JSA (paid at a lower rate)
- 100,000 : more people will be looking for work

5.10 The 65,000 disabled people who lose entitlement to ICB altogether will lose at least £90.48 per week. That is equivalent to a loss of benefits across Scotland of £305.8 million annually. However we should point out that the household, as opposed to individual, losses could be considerably more as carers who until then had cared for the person receiving ICB could also lose
entitlement to Carers Allowance and be treated as non-dependant adults for Housing Benefit and Council Tax purposes. Research by Rights Advice Scotland\(^6\) shows that this would considerably increase the amount lost per household (see examples in Appendices 1 & 2).

5.11 The 36,000 disabled people who are moved off ICB and onto JSA will lose at least \(\mathbf{28.00}\) pw. The equivalent of a \(\mathbf{52.4}\) million annual benefit loss across Scotland. The remaining 14,000 people who lose entitlement to ICB are predicted to move onto other benefits such as Income Support or Carers Allowance which are also paid at a lower rate than Incapacity Benefit. We have estimated that their losses will be at least \(\mathbf{28.00}\) pw (this is a conservative estimate as they could be considerably more). That is equivalent to a benefit loss across Scotland of \(\mathbf{20.4}\) million annually.

5.12 So we are estimating that by 2014 the total benefit lost to disabled individuals, and local economies throughout Scotland, arising out of reform of ICB/ESA will be, at least, \(\mathbf{378.6}\) million annually.

5.13 The clock has already started ticking in terms of the 12 month time limit for contributory ESA. Some of those currently in receipt of ESA have been written to by the DWP warning them that as they will have already been in receipt of ESA for 12 months by April 2012 they will lose their benefit on that date (when the clause removing entitlement after 12 months receipt of ESA is enacted).

5.14 This is despite the fact that the legislation has not yet been adopted and the Government’s own figures show that 94% of people in the Work Related Activity Group (who because of their impairment(s) need specialist support to find work) will need ESA for longer than 12 months. Those affected, including 7,000 cancer patients, will lose over \(\mathbf{90}\) a week in support.

5.15 If all those in receipt of contributory ESA as of Feb. 2011 (the last date for which DWP figures are available) remain in receipt of the benefit as of April 2012 then at least 22,400 Scots will lose their entitlement to ESA overnight (as they will all have been in receipt of the benefit for more than 12 months). To give just a few examples of the impact in local areas more than 3,000 of these claimants live in Glasgow, 2,000 in North Lanarkshire, 1,380 in Edinburgh and 500 in Inverclyde.

6 Disability Living Allowance & The Personal Independence Payment

6.1 The Government intends to reduce DLA expenditure by 20%. For Scotland\(^7\) this will lead to benefit losses of approx \(\mathbf{268}\) million p.a.

6.2 The Personal Independence Payment (PIP) will replace DLA in 2013/14. A new assessment test, similar to the Work Capability Assessment, will be introduced and recipients of DLA will have to undergo an assessment before they obtain any entitlement to the PIP. As the new assessment tests are restricted to claimants of working age it is expected that almost all of the
20% savings in expenditure will have to be obtained from that age group (16-65).

6.3 There will be 4 different rates of PIP but there is no equivalent to the Lower Rate of Care for DLA. All current working age recipients of Lower Rate Care, some 60,000 Scottish disabled people are therefore almost certain to lose their current entitlement saving approx. £60 million p.a.

6.4 To give just a few examples of the impact of the loss of the lower rate care component in local areas - 10,200 lower rate care claimants live in Glasgow, 4,300 in North Lanarkshire, 4,400 in Edinburgh and 3,850 in Fife. A very high proportion of Lower Rate Care recipients have learning difficulties, cognitive impairments (such as autism) and/or mental health issues.

6.5 However to make the additional +£200 million expenditure savings that the Coalition Government wants to make tens of thousands more Scots disabled people currently on higher rates of the Care and/or Mobility Component of DLA will also have to lose their current entitlement. To give another example, of the impact of these reforms in local areas, a 20% reduction in DLA expenditure will see Glasgow claimants, and thus Glasgow’s local economy, losing £43.62 million annually.

6.6 Other Potential Losers: The Mobility Component of PIP is to be taken away from all disabled people living in residential care from April 2013. This will save £135 million a year (across the UK) by 2014-15. The current mobility component is: £18.95 (lower rate); £49.85 (higher rate).

6.7 According to DWP figures this will affect a total of 74,850 disabled people across the UK. Although there are no detailed figures for care home residents within Scotland Inclusion Scotland believes that, based on the current Mobility Component DLA caseload, at least 8,000 Scots disabled people are likely to lose entitlement due to this change.

7 Housing Benefit (HB)

7.1 A package of changes to Housing Benefit has already been introduced this year (2011) that affect tenants in the private rented sector. In Scotland the changes will see 49,730 recipients of Local Housing Allowance (97% of all Local Housing Allowance recipients) losing an average of over £10 a week in rent support.

7.2 This will result in a total loss of more than more than £27million per annum and is expected to lead to increased rent arrears, evictions and subsequent homelessness.

7.3 Although the changes that have occurred in 2011 are negative they do not disproportionately impact on disabled people. However the changes planned to take place in 2013 do. From April 2013 housing benefit for working age people in social rented homes will be linked to the size of property that
the Government believes that they need. This change will disproportionately impact on households containing disabled people.

7.4 The DWP’s own Equality Impact Assessment\(^\text{10}\) shows that across the UK out of a total of \textbf{670,000} households affected by this change about \textbf{450,000} (66\%) will contain a disabled person. These households will see their Housing Benefit cut by an average of \textbf{£13 per week}.

7.5 However the impact of these cuts will also be disproportionately large in Scotland. The Scottish Government estimates that \textbf{95,000} Scottish households will be affected. If the two thirds DWP estimate continues to hold good then at least \textbf{62,000} households containing a disabled person will lose up to \textbf{£16 a week} in housing benefit. This is expected to lead to total annual losses of \textbf{£64 million} in rental support of which households containing a disabled person will lose approx. \textbf{£42 million}.

7.6 Although tenants will be penalised for under-occupying, they have little option as there is a chronic shortage of 1-bedroom properties\(^\text{11}\). Although 44\% of working-age Housing Association tenants need a one-bedroom property only 24\% occupy one.

7.7 Inclusion Scotland fears that to maintain a roof over their heads disabled people will be forced out of council and housing association homes that have been specially adapted to their needs and also away from local support networks. This is likely to result in increased expenditure for local authorities who may have to step in and provide professional homecare services that have until now been provided by friends and families.

7.8 The Department for Communities & Local Government estimates that, in England & Wales, up to 20,000 households could become homeless due to the introduction of the benefits cap. This is on top of the 20,000 households expected to become homeless because of other changes to benefits.

7.9 This would translate into approximately an additional 4,000 households becoming homeless in Scotland. However it is very likely that the homelessness impact will be higher in Scotland as the cumulative impact of benefit reform has a disproportionate impact both on disabled people and on older industrial areas that have larger numbers in social housing. Needless to say providing temporary and/or supported accommodation is vastly more expensive for local authorities than providing ordinary social housing and so the so-called savings in public expenditure are likely to be largely illusory.

7.10 The Scottish Federation of Housing Associations\(^\text{11}\) estimate that due to claimants losing DLA, ESA, HB and/or other benefits as many as 1 in 5 Housing Association tenants may have their incomes affected, with some very substantial income losses for some tenants.
8 Cumulative Impact

8.1 Inclusion Scotland are estimating that by 2014 the total loss to disabled people resulting from reforms to just three welfare benefits will be £688 million annually –

i) Time limiting contributory ESA to 12 months and people failing WCA and losing benefit altogether or moving onto JSA will result in annual losses of £378.6 million.
ii) The 20% reduction in DLA/PIP expenditure will result in a £268 million loss in benefits and
iii) the loss in Housing Benefits to disabled people’s households who are social housing tenants will amount to £42 million annually.
iv) Total annual loss from these three benefits = £688 million

8.2 It should be borne in mind that all of these losses are being suffered only by disabled people of working age. Moreover many thousands of those that lose entitlement to Employment & Support Allowance are also likely to lose entitlement to the Personal Independence Payment (especially those on Lower Rate Care) as support is re-directed to those with the highest needs. In turn many of these disabled people who are social tenants (who will already have lost approx. £2,500 a year in benefits) will also face having to find £750 a year in additional rent payments to keep a roof over their heads.

8.3 But of course it is not just three benefits which are affected by the Welfare Reform Bill. Job Seekers Allowance, Income Support, Carers Allowance, Widows Allowance, Bereavement Benefit and Attendance Allowance are all also payable to disabled people.

8.4 All of those benefits are also affected by the change from up-rating benefits in line with the Retail Price Index (RPI) to the Consumer Price Index (CPI). Altogether the collective lower rating of each benefit through CPI rather than RPI means that over £92 million will be lost this year (2010/11) by Scots benefit recipients. Losses from this change in how benefits are up-rated will also increase year on year.

8.4 CPI losses for Glasgow this year (2011/12) total over £11 million of which disabled people and their carers are losing more than £7 million. This suggests that across Scotland disabled people and their families will have lost at least £60 million this year from this one change alone.

9 Additional Costs for Local Authorities

9.1 As we have outlined above local authorities are likely to face greatly increased cost in dealing with homelessness caused by the impact of Welfare Reform. It is also likely that social work and social care services may face greatly increased demand through the increasing levels of poverty and destitution within local communities. There may also be a decline in business rates revenue as businesses close as a consequence of reduced spending in
localities where there are a disproportionate number of benefit claimants affected (i.e. Glasgow and other older industrial areas).

9.2 Council revenues may also suffer increased expenditure due to the closure of the Independent Living Fund to new applicants and a reduction in revenue from care charges (i.e. disabled people who lose entitlement to their Disability Living Allowance/PIP and/or ESA will have less money to contribute towards the cost of their care).

9.3 The City of Edinburgh Council has undertaken a review of the likely additional costs and loss in revenue and concluded that by 2014/15 the authority will face additional social care and supported accommodation costs of over £1.8 million per annum and a loss in revenue of over £150,000 a year.\textsuperscript{12}

9.4 Replicated across Scotland this will amount to tens of millions of pounds in additional social care costs/loss in revenues to councils at a time when they are already facing reductions in their central government grant.

10 Conclusion

10.1 Legislative Consent: The Scottish Parliament will shortly consider a Legislative Consent Memorandum on the Welfare Reform Bill. Inclusion Scotland are aware that legislative consent has never previously been withheld by the Scottish Parliament. But we are asking that the Committee give serious consideration to recommending the withholding of consent for the Welfare Reform Bill.

10.2 We therefore call on members of the Committee to look to the future welfare of disabled people in their constituencies and to work with their colleagues in the Parliament and with Scottish Government to do everything possible to secure genuine change in this Bill. The Scottish Parliament & Government should seek assurances that all of the following amendments to the Bill’s proposals are adopted\textsuperscript{13}:

(i) Allow those living in residential care to continue to claim the Mobility Component of Personal Independence Payments (PIP).
(ii) The time limit on contribution based ESA should be removed.
(iii) Those with sufficient supporting evidence should be exempted from independent medical assessments for PIP.
(iv) The UK Government should reverse its decision to reduce the disability premiums that families with disabled children receive by 50%.
(v) The UK Government should reverse changes to Housing Benefit which will have a massively disproportionately affect on disabled people.

10.3 Should the UK Government be unwilling to give such assurances, and given the truly dreadful consequences for Scotland’s disabled people if this Bill is passed un-amended, then we believe that it should not be supported in any way.
References


3. Centre for Regional Economic and Social Research at Sheffield Hallam University “Incapacity Benefit Reform: The local, regional and national impact”, published Nov 2011


6. See Appendices 1 & 2 taken from a Welfare Reform Presentation by Richard Gass, Convener, Rights Advice Scotland, June 2011,


8. DWP statistics on DLA Lower Rate Care cases in payment in Scotland as of Feb 2011.


13. See Appendix 3, Joint Capability Scotland and Inclusion Scotland Briefing on Welfare Reform Bill.

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Appendix 1

- Mother age 50 living in a rented house with her son age 30.
- Mother is partially sighted and is in receipt of DLA lower rate care & lower Mobility, she also gets Jobseekers Allowance.
- Son works full time, wage = £250 per week.
- Mother is the tenant, house rent is £100 per week. The full rent met through Housing Benefit.

Current Financial Position DLA Lower Rate Care £19.55

<table>
<thead>
<tr>
<th>Mother (weekly)</th>
<th>Son (weekly)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DLA Lower Rate Care £19.55</td>
<td>Wages £250.00 gross</td>
</tr>
<tr>
<td>DLA Lower Mobility £19.55</td>
<td></td>
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<tr>
<td>Jobseekers Allowance £96.35</td>
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<tr>
<td>Includes a disability premium</td>
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<tr>
<td>Housing Benefit £100</td>
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Mother then loses Lower Rate Care DLA on introduction of PIP

<table>
<thead>
<tr>
<th>Mother (new weekly income)</th>
<th>Son (weekly income)</th>
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</thead>
<tbody>
<tr>
<td>DLA Care £NIL</td>
<td>Wages £250</td>
</tr>
<tr>
<td>DLA Lower Mob £18.95</td>
<td></td>
</tr>
<tr>
<td>JSA £96.35</td>
<td></td>
</tr>
<tr>
<td>Housing Benefit £100 - £48.45</td>
<td></td>
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<tr>
<td>(Non Dependant deduction) = £51.55</td>
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<tr>
<td>Also less Non Dependant deduction on Council Tax of £5.70</td>
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**NB:** Total Loss to weekly household income is not the £19.55 lost because of Lower Rate Care no longer being in payment but £73.70.

This is because as long as his mother was in receipt of the Care Component of DLA the working son could be treated as a carer for his mother and his income ignored in calculating her entitlement to Housing Benefit and Council Tax Benefit. As she lost her Lower Rate Care entitlement he could no longer be classed as a carer and was re-designated as a Non-Dependant. In April of this year Non-Dependant deductions rose by 27% meaning the family lost an additional £11.30 of HB and Council Tax Benefit.
Appendix 2

- Father age 50 living in rented accommodation with daughter age 30.
- Father is partially sighted and is in receipt of DLA middle rate care, and also ESA
- Daughter is registered blind and also gets DLA Middle rate Care and Low Mobility and also ESA.
- Father is the tenant and the rent is £100 per week. The full rent is met through Housing Benefit.

<table>
<thead>
<tr>
<th>Income Prior to PIP Re-Assessment</th>
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</thead>
<tbody>
<tr>
<td><strong>Father</strong></td>
</tr>
<tr>
<td>DLA Care £49.30</td>
</tr>
<tr>
<td>ESA £149.55</td>
</tr>
<tr>
<td>Including Work related activity component</td>
</tr>
<tr>
<td>&amp; Severe Disability Premium</td>
</tr>
<tr>
<td>Housing Benefit £100</td>
</tr>
<tr>
<td>Max Council Tax Benefit</td>
</tr>
<tr>
<td><strong>Daughter</strong></td>
</tr>
<tr>
<td>DLA Care £49.30</td>
</tr>
<tr>
<td>DLA Mob £19.55</td>
</tr>
<tr>
<td>ESA £149.55</td>
</tr>
<tr>
<td>Including Work related activity component</td>
</tr>
<tr>
<td>&amp; Severe Disability Premium</td>
</tr>
</tbody>
</table>

On assessment for PIP father loses entitlement and daughter keeps her entitlement.

Result of Loss of Father’s DLA
- On loss of his DLA entitlement the father also automatically loses his entitlement to the Severe Disability Premium.
- The daughter also loses her Severe Disability Premium which is not payable if any other people in the household are not disabled people.
- Other benefits are now subject to Non Dependent Deductions

<table>
<thead>
<tr>
<th><strong>Father</strong></th>
<th><strong>Daughter</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>DLA Care £NIL (-£49.30)</td>
<td>DLA Care £49.30 (no change)</td>
</tr>
<tr>
<td>ESA £91.45 (-£55.30)</td>
<td>DLA Mob £19.55 (no change)</td>
</tr>
<tr>
<td>Housing Benefit £90.80 (-£9.20)</td>
<td>ESA £91.40 (-£55.30)</td>
</tr>
<tr>
<td>Council Tax Benefit (-£2.85)</td>
<td></td>
</tr>
<tr>
<td>In total Father loses £116.65</td>
<td>In total Daughter loses £55.30</td>
</tr>
</tbody>
</table>

Total Weekly loss to household = £171.95
Before passing a Legislative Consent Motion, the Scottish Parliament should insist upon assurances that the UK Government will:

1. **Allow those living in residential care to claim the Mobility Component of Personal Independence Payments (PIP)** The mobility component is used to cover the cost of getting around, including things like public transport, the Motability scheme and the cost of electric wheelchairs. As a result, much of the burden of this cut will fall on local authorities and the NHS wheelchair service. Research has also found that the measure will deprive thousands of people of basic human rights. A relative of one of Capability Scotland’s services users says, “These changes will turn home into a prison and lead to frustration, depression and potential aggression – a permanent state of cabin fever.”

2. **Remove the time limit on contribution based Employment Support Allowance.** The Government plans to limit eligibility for contributory Employment Support Allowance (ESA) to 12 months for those people who fail to find work. This means that disabled people will have their income slashed for failing to find jobs – despite the fact that suitable jobs often do not exist and that disabled people are discriminated against in the workplace. By time limiting ESA, the Government will be pushing disabled people further from work, denying them the funds needed to cover the costs of finding employment such as additional transport costs, support and training.

3. **Exempt those with sufficient supporting evidence from independent medical assessments.** The Government proposes that all claimants should have to go through an independent medical assessment. This is stressful, expensive and largely unnecessary. Where there is written evidence of severe impairments such as blindness, paralysis or lack of limbs, it is common sense to accept the evidence and require no further assessment.

4. **Reverse the decision to reduce the disability premiums that families with disabled children receive by 50% under Universal Credit.** The plans to change disability premiums would result in the income of thousands of families with disabled children being reduced by up to £1358.76 per year. These benefit premiums are provided to help meet the extra costs of raising a disabled child, including buying additional clothing for their child and meeting their specific dietary requirements. Many parents would be forced to rely more and more on local authority and NHS services if this is implemented.

5. **Reconsider changes to Housing Benefit which will disproportionately affect disabled people.** From April 2013 housing benefit for working age
people in social rented homes will be linked to the size of their property. If the Government decides that someone is in a home that is bigger than they require, then they will have their income cut by an average of £13 per week. This change will have a disproportionate impact on disabled people who are more likely to live in the social rented sector and less able to find a suitable alternative home. Department for Work and Pensions figures show that across the UK of a total of 670,000 households affected by this change about 450,000 (66%) will contain a disabled person.