



Law Centre (NI)

The Executive Office
Draft Programme for Government (2016-2021)

Law Centre (NI) response

December 2016

About Law Centre (NI)

1. Law Centre (NI) works to promote social justice and provides specialist legal services to advise organisations and disadvantaged individuals through our advice line and our casework services from our two regional offices in Northern Ireland. The Law Centre provides advice, casework, training, information and policy services to our member organisations in different areas of law: employment, health and social care, social security and also supports young victims of human trafficking.
2. We welcome the opportunity to respond to the draft Programme for Government (“PfG”) consultation. In July 2016 we responded to the draft PfG Framework. . This consultation response builds upon and develops the recommendations set out in our July response. Our response is limited to the PfG outcomes, indicators and proposed action most relevant to our work.

Comments on foreword / introduction

3. In relation to the UK’s exit from the EU, the Executive states that it will seek to ensure that ‘Northern Ireland’s interests are protected and advanced’ (p3). We welcome this but consider that a more robust statement is required. The PfG should commit the Executive to ensuring that there is no regression from current levels of equality and human rights protections, including for EEA migrants who are already living, working and studying in this jurisdiction.
4. Further, there should be a clear and emphatic commitment to meet international obligations under treaties and conventions including UNCRPD, UNCERD, UNCRC, etc.
5. We welcome the Executive’s commitment to moving to outcomes-based approach. We also welcome the named senior official who is personally responsible and accountable for each indicator; this will improve communication and accountability.
6. We share the PfG commitment to a partnership working approach.

Comments on outcomes

7. **Outcome 3** is ‘We have a more equal society’. We suggest that this outcome clearly links to the action outlined at Outcome 10 to develop an anti-poverty strategy based on objective need (p.135).
8. We recommend that the PfG is emphatically clear that this outcome applies to all members of society including migrants and persons who are subject to immigration control.
9. The PfG commits to a number of measures to support people to become more active in life and work (p.52). We welcome the proposal to develop a new Social Inclusion

Wraparound Service that will provide tailored interventions to support people at risk. We believe that the advice sector has an important part to play in this new service and we offer our support. We also strongly support the introduction of a Cost of Work Allowance.

10. The PfG suggests a number of actions designed to encourage people into work. We suggest that an additional action is included whereby the Department for Communities monitors whether the implementation of Universal Credit strengthens work incentives.¹
11. Indicator 19² will measure the % of population living in absolute and relative poverty. We strongly suggest that an additional free standing measure looking at child poverty should be introduced, as recommended by the Social Mobility & Child Poverty Commission³ (2013), the Children's Society,⁴ among others.
12. **Outcome 4** is 'We enjoy long, healthy lives'. The PfG notes that patients/clients and carers have a right to experience respectful and professional care which delivers improved quality of life outcomes, where privacy is respected and dignity maintained (p. 58) We believe that access to quality information and independent advice on social care rights will help to realise this outcome. It is also interesting to read the discussion on '*consultation fatigue*' whereby some patients feel that they are constantly giving feedback and/or making complaints but that nothing materialises.⁵ Thus we recommend that PfG commits to ensuring that patients have access to independent advice services that can help patients otherwise pursue and/or remedy complaints.
13. In our previous response, we highlighted the need for a specialist trauma service that is available to asylum seekers and refugees especially in the context of Northern Ireland's participation in the Syrian Vulnerable Persons Resettlement scheme. This scheme has been in place for a year and unfortunately we have become aware of health needs arising from trauma. We are therefore encouraged to see that there is a proposal to develop a mental trauma service (subject to political agreement).⁶ We strongly support this proposal. .
14. **Outcome 6** is 'We have more people working in better jobs'. This outcome focuses on the need for higher quality jobs. A new 'better work index' (indicator 18) is being developed. This index will comprise measures relating to earnings quality and job

¹ We have concerns that the fact that a person is not entitled to a mortgage interest payment from Universal Credit for any assessment period where the person/couple has any earnings could act as a work disincentive.

² <https://www.northernireland.gov.uk/sites/default/files/publications/newnigov/dp-population-living-in-absolute.PDF>

³ Social Mobility & Child Poverty Commission, 'Response to Measuring Child Poverty' (Feb 2013)

⁴ Children's Society, 'Measuring Child Poverty: A new Approach' accessible here:

https://www.childrenssociety.org.uk/sites/default/files/tcs/measuring_child_poverty_final.pdf

⁵ PfG Delivery Plan Indicator 5, paragraph 9

⁶ PfG Delivery Plan: indicators 19 and 28, paragraph 6.13

security, which is described as ‘comprising both an increase in the percentage of jobs in priority sectors and an aspiration to reduce the risk of unemployment’.⁷

15. We strongly support the government’s aspiration of increased ‘better jobs’. However, we suggest that a two-pronged approach would be helpful here and that, in addition to promoting high quality jobs, it is essential to also tackle the difficulties caused by low quality jobs. Specifically, we suggest that PfG commits to seeking a reduction in the prevalence of zero hour contracts in Northern Ireland. As we have previously stated, we do believe that there is a legitimate place in the labour market for casual work. However, based on our experience garnered in our advice and casework we know that zero hour contracts can be used as a means to bypass employment rights. If used in that way zero hour contracts become the antithesis of job security’ and significant social consequences can arise from their misuse. We reiterate our view that Executive interest in this issue is warranted.⁸
16. Evidence indicates that certain groups – namely young people, women and migrant workers – are most negatively impacted by zero hour contracts. Thus, any action taken to reduce the prevalence of zero hour contracts would help address these inequalities. In summary, we feel that it is inadequate to simply promote high quality work – there is also a need to tackle the consequences of poor quality work .
17. Furthermore, PfG notes that ‘decent conditions’ are a component of ‘better work’ (para.83). It is equally important that workers have access to reliable information about employment rights and that workers have access to independent advice in order that poor working practices can be challenged appropriately. It is empowering for workers to know that they can challenge and how to challenge poor conditions in order to rectify breaches of the law. . Thus, we suggest that access to advice is incorporated into the ‘better job’ index.
18. It is regrettable that **Outcome 6** ‘we have more people working in better jobs’ does not include any reference to improving childcare infrastructure. The PfG does make reference to childcare elsewhere in Outcome 8 (‘we care for others and we help those in need’). This suggests that the Executive views childcare primarily as a ‘helping’ means. We would suggest that, while quality childcare does improve child development and support greater gender equality, it should also be regarded as an integral part of employment strategy. Accordingly, we reiterate the need to expedite work on the Childcare Strategy (this is referred to only in the context of supporting people with disabilities)⁹ and suggest that this is included as a key measure/indicator in relation to increased employment.

7 PfG Delivery Plan: indicators 16,18, 32, paragraph 18.

8 For Law Centre’s thinking on zero hour contracts see response to DEL’s 2014 consultation on zero hour contracts http://www.lawcentreni.org/Publications/Policy-Responses/DEL_Zero%20hours%20contracts.pdf

9 See Law Centre’s paper to the Social Development Committee on the Welfare Reform Mitigations Working Group Report accessible here:

<http://www.lawcentreni.org/news/recent-news/1-news/1305-welfare-reform-mitigations-next-steps.html>

19. In relation to the actions proposed under Outcome 6, we believe that an ESOL strategy should be developed. This will facilitate a more seamless progression through English language study and into work for those who do not have English language skills, including some migrants and refugees.
20. **Outcome 7** is ‘we have a safe community where we respect the law and each other’ We endorse that one of the proposed actions is to strengthen racial equality and disability discrimination legislation (p.100).
21. Another action is to ‘review the civil and family justice effectiveness’ (p.102). We support this and have engaged closely with the ongoing review of Civil and Family Justice.¹⁰ The review has proposed a number of welcome innovations including more robust case management and voluntary online dispute resolution. We hope that the Lord Justice Gillen review recommendations will be implemented promptly. However, we note that the Lord Justice Gillen review applies to the civil court system alone: it does not extend to tribunals. The greater part of LCNI representation occurs in tribunals including the Social Security Appeals and Commissioner Office, Mental Health Review Tribunal, Industrial Tribunal and Immigration & Asylum Chamber. We firmly believe that many of the Lord Justice Gillen review recommendations could also be applied effectively to tribunals such as introducing more early neutral evaluation. In addition, we would like the Department of Justice to: conduct a cost benefit analysis of investment in advice and representation that takes into account the budgetary and resource implications of unrepresented litigants; acknowledge the essential role of early and expert legal advice in the uptake of Alternative Dispute resolution; acknowledge the importance of the Legal Assistance Green Form scheme and the equality dimensions and consider recommendations made by Professor McKeever in relation to supporting tribunal users.¹¹ We would therefore urge the PfG to commit to reviewing the efficiency of the tribunals.
22. We note the proposed action of introducing Domestic Violence Protection Notices and Domestic Violence Protection Orders. As a related issue, we recommend that PfG commits to ensuring that immigration status is not an obstacle to women obtaining support and assistance in situations involving domestic violence.
23. **Outcome 8** is ‘We care for others and we help those in need’. We agree with the consultees who submit that it is necessary that the PfG highlights the needs of specific groups including refugees and asylum seekers (p.104). Unfortunately, immigration legislation has the potential to undermine this outcome because it restricts the powers of our Assembly and Departments to assist some categories of destitute migrants. We suggest that the PfG acknowledges this difficulty and commits to maximising Northern Ireland’s devolved powers – especially health and

10 We have participated in the reference group and submitted a response to the review accessible here: <https://www.lawcentreni.org/Publications/Policy-Responses/Civil-Justice-review-response-Dec-2016.pdf>

11 Grainne McKeever, ‘Supporting Tribunal Users: access to pre-hearing information, advice and support in NI’ and Grainne McKeever & Brian Thompson, ‘Redressing Users’ Disadvantage: Proposals for Tribunal Reform in NI’ (2010)

social care powers - to assist those in need. The Executive Crisis Fund is an excellent example of an innovative approach taken by Stormont to assist migrants in need: we seek a commitment to making the Crisis Fund permanent.

24. One of the actions proposed under Outcome 8 is to 'set clear policy and strategic context for mental health' (p. 114). We think PfG should explicitly refer to a timeline for commencement of the Mental Capacity Act here.
25. We consider that developing a new homelessness strategy (p.117) is a welcome proposal and that it should include migrants subject to the No Recourse rule.
26. With regards to the Delivery Support for Indicator 9,¹² we are supportive of the principles of Self Directed Care i.e. promoting independent living and the right to self determination, whilst advocating that careful attention should be given to ensure that sufficient funds are available through this scheme to meet all service user care needs. We look forward to engaging on this issue as Self Directed Support is implemented.
27. Finally, as a discrete point relating to Indicator 10 (% of care leavers who, aged 19, were in education, training or employment),¹³ it would, in our opinion, be helpful if this indicator specifically includes care leavers who are separated children.
28. **Outcome 10** is 'We are a confident, welcoming and outward looking society'. We welcome that proposed actions under this outcome include: strengthening racial equality legislation, developing and reviewing implementation of legal and statutory duties for Section 75 groups and Section 28E of the NI Act 1998.
29. **Outcome 11** is 'We have high quality public services'. Informing people of their rights in respect of accessing public services is essential therefore we recommend that the list of indicators under this outcome should be expanded to include 'improve access to information and independent advice'. Equally critical is assisting people to voice concerns and raise complaints about services received: this is an important part of monitoring and accountability.
30. **Outcome 14** is 'We give our children and young people the best start in life'. One of the actions proposed is to establish a "core care pathway for ante-natal care" as part of the Healthier Pregnancy programme. This links to Indicator 7 i.e. % of babies born at low birth weight.¹⁴ It is essential that BME, and in particular asylum seeking women, are included given the higher likelihood of premature births, still births and low birthweights.¹⁵
31. In relation to proposed actions under Outcome 14, we recommend that the following are included: an evaluation of current educational provision for newcomer children;

12 PfG Delivery Plan: indicator 9

13 PfG Delivery Plan: indicator 10

14 PfG Delivery Plan: indicator 2,3,4,7

15 The Obstetrician & Gynecologist (TOG) reviews the obstetric care for asylum seekers and refugees in the UK (21 October 2015)

updated departmental guidance on newcomer children; and a review of the Inclusion and Diversity Service.¹⁶ In addition, we suggest that data collected on young people who are not in education, employment or training includes newcomer children. As a related point, Indicator 11 is the % of school leavers achieving at level 2 or above including English and maths.¹⁷ It would be helpful if this indicator captures school leavers who are newcomer children.

32. The PfG commits to 'increasing the confidence and capability of people and communities' (p 135). We note that DfC is in the process of developing this indicator through the Social Omnibus Survey. As previously expressed, we believe that access to quality information about rights and entitlements is a key component to improved self efficacy; with the right tools to hand, individuals can feel more confident about completing tasks and addressing difficulties. It would be useful if the measure could assess whether people are aware that independent advice is available and also are able to assess their experiences of accessing same.

For further information about this consultation response contact:

Policy Unit
Law Centre (NI)
124 Donegall Street
BELFAST
BT1 2GY

Tel: 028 90 24 44 01
Fax: 028 90 23 63 40
Text phone: 028 90 23 99 38

December 2016

¹⁶ See detailed reports on newcomer children by NI Strategic Migration Partnership , 'The integration of newcomer children with interrupted education into NI schools' (2014) and Barnardo's, 'Feels like home: exploring the experiences of newcomer pupils in Northern Ireland' (2015)
¹⁷ PfG Delivery Plan: indicator 11,12,13