

Title: Impact Assessment Consideration of revision before appeal Lead department or agency: Department for Work and Pensions Other departments or agencies: Her Majesty's Treasury Her Majesty's Revenue and Customs Northern Ireland Office	Impact Assessment (IA)	
	Date:	
	Stage: Final	
	Source of intervention: Domestic	
	Type of measure: Secondary legislation	
Contact for enquiries: devolution.commsandbriefing@dwp.gsi.gov.uk		
Summary: Intervention and Options		RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option					
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as	
N/A	N/A	N/A	No	N/A	

What is the problem under consideration? Why is government intervention necessary?

Reform of the appeals process is necessary to deliver timely, proportionate and efficient justice for claimants and to reduce unnecessary demands on the Tribunals Service.

As part of the recent Fresh Start Agreement we agreed with the Northern Ireland Assembly that the current position on welfare was financially unsustainable and parity across the UK on social security must be restored.

What are the policy objectives and the intended effects?

The objective of this policy is to help to ensure that there is a proportionate dispute resolution procedure for social security decisions between individuals and the relevant administering body. The individual will only be able to make an appeal after receiving the outcome of the reconsideration, an internal process. The appeal is therefore only made after there has been a chance to fully consider the case.

The intended effect is that this would lead to more disputes with claimants being resolved quickly through the internal reconsideration process, rather than resulting in an appeal to the First-tier Tribunal.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The preferred option is to make this legislative change, to complement the other changes taking place. The do nothing option was considered and rejected as this mitigates against the significant risk that forthcoming welfare reform will increase the volume of appeals and as a result:

- Significantly increase the workload pressure on tribunals service
- Increases the delay in decisions for claimants
- It also does not extend parity on social security across the UK.


Furthermore the Fresh Start Agreement set out that welfare reform would be implemented in Northern Ireland equivalent to those introduced in GB by the Welfare Reform Act 2012, as well as other measures these regulations would be passed through Westminster.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:**

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 11/04/2016

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised costs by 'main affected groups'

There will be costs associated with changing the processes for notifying claimants of decisions and resolving disputes for the affected benefits and payments. This will include costs of changing IT systems, developing new decision notices and developing business guidance across the organisations administering the benefits.

Other key non-monetised costs by 'main affected groups'

There will also be costs of time to individuals of having to apply separately for a revision and subsequently to make an appeal, if they wish to do so. However this is to be balanced with the cost saving from the appeals process not becoming significantly slower due to increased volumes. On balance it is likely that this change will reduce delays in the context of increased volumes.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

There will be a reduction in the costs of administering appeals, as fewer cases go to appeal, compared to the expected future volume.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks

Discount rate (%)

It is not possible to quantify the on-going costs and benefits of the policy to any degree of certainty at this stage. The changes would work in combination with a number of other process changes, such as improved reconsideration processes, so it may not be possible to isolate the effect of the changes even after they are implemented.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	No	N/A

Introduction

The suite of policy changes are designed to improve work incentives and enhance fairness, whilst ensuring support for the most vulnerable. These were implemented in Great Britain in 2012 and the package of reforms has proved to be successful in increasing moves into employment by those affected.

Welfare Reform and Social Security remain devolved in Northern Ireland; however the Northern Ireland (Welfare Reform) Act 2015 enables the UK Government to legislate for welfare reform in NI for a specified period of time. The subsequent Order in Council broadly mirrored the policies in the Welfare Reform Act 2012, with NI specific flexibilities agreed in the Fresh Start Agreement. Both the Northern Ireland (Welfare Reform) Bill and the Order in Council were consented to by the NI Assembly.

Alongside this, mitigations have been assessed and will be put in place by the NI Assembly following the Evason report, published in January 2016.

The current policy

Currently, for most benefits and payments if a person is unhappy with a decision they can request a written explanation or apply for a revision of the decision within one month, triggering a process internally referred to as reconsideration. The body that makes the decision reconsiders the decision and issues a decision notice that either revises the original decision or refuses to revise. If the decision is not revised in the claimant's favour, the claimant has a further month in which to appeal the original decision.

Alternatively, the claimant can simply appeal the decision within a month, without requesting a revision. Whilst there are two routes by which individuals can challenge the outcome, the majority of individuals avail of the latter and go straight to appeal via the tribunal.

Policy objective

The policy objective is to ensure that where an individual does not agree or accept a judgement of their eligibility for benefits there is a clear and workable way to challenge and seek resolution. In the context of changes to benefit entitlements there needs to be a system that is resilient to increases in numbers who ask for a review.

Currently many people make an appeal on receiving an adverse decision, without first requesting a revision. An informal reconsideration of the case is routinely carried out when an appeal is made, and the appeal lapses if the decision is revised to the claimant's advantage. If the decision is not revised or the revision is unfavourable the appeal continues to the independent Tribunal.

The policy change is so that individuals can be required to apply for a disputed decision to be revised before being able to appeal to the Appeal Tribunal. The regulations apply to all major social security benefits (working, pension age and benefits recovery); child support; and other payments administered by DSD, e.g., for mesothelioma.

All decisions will go through a robust reconsideration process before an appeal can be made. This ensures that the decision has been checked thoroughly and the reasons for the decision are explained to the claimant before the case goes to appeal. It also allows an opportunity to proactively seek further evidence from the claimant about the disputed decision before the claimant makes an appeal.

Behavioural change

There is no anticipated behavioural change through this procedural change, it is intended to support the efficient review process for claims when there is dispute.

Exchequer Impact

As a result of not mirroring the measures contained in the Welfare Reform Act 2012, in Northern Ireland the Executive has had to provide 'savings forgone' to HM Treasury. In 2015/16 and prior to the Fresh

Start Agreement, these welfare related deductions were estimated to be £114 million and to significantly increase on an annual basis. As a result the non-implementation of welfare reform was putting significant and growing pressure on the Executive's budget.

Impact on Households

The proposed changes would require the claimant to have requested a revision and to have received the outcome of this revision, before an appeal may be made. The majority of individuals awaiting the outcome of the reconsideration and, if necessary, the appeal, will receive the amount of benefit that they were deemed eligible for while waiting for the outcome of their case. This is in line with current policy and any change in decision that awards additional funds will be backdated if the appeal is found in favour of the claimant. Employment and Support Allowance claimants who challenge a limited capability for work decision, once they submit an appeal will continue to receive their previous rate of benefit until their appeal is determined by a Tribunal.

The change aims to ensure that where possible disputes are resolved via the internal resolution process. Were this to occur then there is potential hardship for those who are later found to be eligible for benefits. This change mitigates against the potential extended waiting time for many. It is anticipated that resolution will be provided at reconsideration stage and that there will be a reduction in the volume of appeals and that this would contribute to efforts to reduce waiting times at the appeal stage.

In Northern Ireland there were just over 13,000 appeals in 2014/15, of these around 30% were found in favour of the claimant. This percentage varied from benefits such as child benefit or state pension where no appeals overturned the decision, to child tax credits, ESA and DLA where around one third were overturned. Since Welfare reform will impact on these benefits that have higher overturn rates it is imperative that appeals are handled swiftly.

Evidence from GB has seen that the intended effect of reducing appeals has occurred, with 82% fewer appeals for ESA decisions in 2014/15 relative to the previous year and 92% fewer JSA appeals. The length of time waited by claimants who are appealing has also reduced since 2014, though the measure is not directly comparable over this time, indicatively this is a reduction of 4 weeks.

Methodology

Data for Northern Ireland is supplied by the Department for Social Development's Analytical Services Unit and the GB data from Tribunal and gender recognition statistics quarterly published statistics, Ministry of Justice.

Impact on Income for Protected Groups

Households that include someone with a protected characteristic (as defined by the Equality Act) will be affected by this policy if they consider the decision made in respect of their benefit to be incorrect. Overall, those groups who are more likely to apply to receive benefit are more likely to be affected by this policy change, though these groups will not see a change in benefit income in cash terms. The protected groups according to the Equality Act 2010 are:

- Age
- Disability
- Gender
- Ethnicity
- Gender reassignment
- Pregnancy and maternity
- Sexual orientation
- Religion or belief
- Marriage and civil partnership

There is no data available to assess the impact on those with protected characteristics. However the department does not believe this to have a disproportionate impact on any one group.

Life Chances

The new Life Chances legislation (incorporated into the Welfare Reform and Work Bill) proposes to remove a number of the legal duties and measures set out in the Child Poverty Act 2010 and to place a new duty on the Secretary of State to report annually on children in workless households and the educational attainment of children. This is because evidence shows these to be the two main factors leading to child poverty now and in the future (respectively).

This change is in line with life changes as it aims to reduce the time where those who have been deemed ineligible, but who are eligible spend getting to a resolution on their benefit claim. Those who are not eligible for the benefit should seek employment or submit a claim for the appropriate benefit for which they are entitled.