



Pre Budget Submission on Social Welfare Measures to the Department of Social and Family Affairs and the Government of Ireland from Northside Community Law Centre (NCLC) – November 2009

Foreword

Northside Community Law Centre (NCLC) is an independent community based legal centre. We work to protect and develop the legal, social and economic rights of individuals and groups. NCLC provides free information, advice and representation to individuals and group's who otherwise would not be able to access legal services and we work to empower the community through education, research and campaigns. NCLC is providing its service for 35 years in Dublin North East and Dublin North Central. NCLC believes in the dignity of each individual member of society. We are committed to working with the community for the creation of a just and tolerant society. NCLC has experienced roughly a threefold increase in inquiries in 2009 relating to social welfare entitlements. While many of these inquiries have been dealt with through the provision of information, a substantial number of cases have been taken on by NCLC on behalf of clients. These cases have usually consisted of appeals against decisions of Social Welfare and HSE Deciding Officers disallowing clients a particular social welfare provision. Of the appeals taken by NCLC, a significant majority of these have resulted in a successful outcome for the client. These appeals have included, but are not confined to, Mortgage Interest Supplementary Allowance and Rent Supplementary Allowance, payments likely

to become increasingly relied upon by clients in more difficult economic conditions. Furthermore, the success rate of NCLC clearly demonstrates the benefits of a community based organisation which advocates for individuals in circumstances where such individuals might not otherwise be able to secure such representation. Notwithstanding the existing difficulties which clients face in securing their social welfare entitlements, NCLC is also concerned at the recent proposals to target certain established universal payments, particularly child benefit and vital non-universal payments, so called “double payments”. Clients of NCLC will be increasingly dependant upon these payments in the coming months and years, especially in light of the spiralling unemployment which will inevitably ravage vast sections of the communities which NCLC serves.

Introduction

This Pre-Budget 2009 submission on behalf of NCLC primarily responds to the fiscal measures proposed in the Report of the Special Group on Public Service Numbers and Expenditure Programmes (hereinafter referred to as “the Special Group”), the Report of the Commission on Taxation (hereinafter referred to as “the Commission”) and some recommendations contained in a recent report of the Economic and Social Research Institute (hereinafter referred to as “the ESRI”). Specifically, NCLC will address the proposed measures contained within these Reports in relation to child benefit and also on the subject of so called “double payments”. While it is acknowledged that Ireland faces unprecedented economic conditions in the short and medium term,¹ this submission warns against a slash and burn policy aimed at particular social welfare provisions, such as child benefit and double payments, which middle to low income families depend upon, increasingly so in more difficult economic circumstances. NCLC advocates that proposed reforms in the realm of child benefit and double payments should be aimed primarily at those who could most afford to bear them and that any reform should avoid the arena of social welfare provision, as far as practicable. Of particular concern to NCLC is that proposed cuts to specific social welfare entitlements may actually threaten the rights of

¹See, e.g, the ESRI assessment on the matter - [http://www.esri.ie/UserFiles/publications/20091013095737/BP10QEC.ppt#376,1,Quarterly Economic Commentary](http://www.esri.ie/UserFiles/publications/20091013095737/BP10QEC.ppt#376,1,Quarterly%20Economic%20Commentary) – Last accessed 19th October 2009.

some of the most vulnerable individuals, either directly or indirectly, with possible undesirable long term consequences for society, extending far beyond the timeline of the current economic readjustment.

The historical complexion of the Irish social welfare system

In a previous report commissioned by NCLC, the broad character of the Irish social welfare system was set out.² This Report concluded that the Irish social welfare system has traditionally operated as an “administrative entitlement” based system, whereby payment of most social welfare provisions would be dependant upon “contributory conditions”. NCLC argues that such an approach to provision generally precludes many claims for social welfare assistance grounded within a rights based analysis alone. Instead, many claims for social welfare may proceed on the basis of (usually strict) means testing which may be arbitrary in the way it operates. However, one of the few social welfare provisions which have, arguably, traditionally operated as a universal rights based entitlement, rather than a purely administrative one, is child benefit. Accordingly, any proposals for fundamental reform of these payments must be subject to substantial scrutiny.

The Longstanding Child Benefit Payment

Child benefit in Ireland has traditionally been paid to all parents of children up to 18 years of age, regardless of means, and the payment has been statutorily operative since the Income Tax Act 1967,³ though the payment was preceded by the “children’s allowance” beforehand. In a 2007 Report of the National Economic and Social Council (NESC) Research Paper, the payment was identified as serving the important functions of acting simultaneously as an anti poverty instrument, a means of support for working parents toward child daycare costs and a recognition of the positive role which mothers play in caring for their children in the home.⁴ These have been described as “allied but

² See, generally, Report on Social Welfare in Ireland-*From an Administrative Entitlement to a Rights Based Approach* (Northside Community Law Centre, Dublin 2007).

³ S. 354 *Income Tax Act 1967*.

⁴ See, generally, *NESC Consultation on Child Income Supports* (2007, Dublin).

<http://www.nesc.ie/dynamic/docs/Child%20Income%20Report%20with%20cover.pdf> – Last Accessed 19th November 2009.

distinct objectives”.⁵ The child benefit payment regime was amended in certain respects in Budget 2009 whereby child benefit for children aged 18 was halved and is to be discontinued altogether as of 2010. More recently, however, there have been proposals for even deeper reforms to the child benefit provisioning regime which has caused particular concern to NCLC.

The Recommendations

In the Report of the Special Group, it is suggested that €513m could be slashed from the budget of the Department of Social and Family Affairs if child benefit payments are reduced by 20% for all families, regardless of means.⁶ In the Report of the Commission, it is suggested that child benefit should be subject to means testing and/or taxation, meaning higher income earners would pay the bulk of tax while lower income families would pay little or no tax on child benefit at all. The Commission apparently prefers the tax option but flags a number of potential legal and administrative difficulties in the establishment of such a scheme.⁷ The ESRI has thus suggested a hybrid approach to the issue, due to the administrative difficulties in establishing a viable taxation regime within a short time period. Accordingly, the ESRI has suggested that a short term cut to the payment should be made in lieu of the establishment of a taxation regime which would then be restored once a system has been successfully created.⁸ In analyzing these proposals, it should be highlighted that NCLC accepts that the recommendations contained within the Reports of the Special Group, the Commission and the ESRI are speculative or advisory and, as such, have not been adopted as official government policy at time of writing. Nevertheless, there may be implications for parents and children if flat taxation and/or a stringent means test of child benefit were introduced, on foot of these recommendations, in the December Budget.

Restricting single mother’s participation in the workforce

⁵ NESG (n 4) 3.

⁶ *Report of the Special Group on Public Service Numbers and Expenditure Programmes* (2009, Dublin) 69.

⁷ See, *Review of Tax Expenditures* (Commission on Taxation)

<http://www.commissionontaxation.ie/downloads/Part%208.pdf> – Last Accessed 19th October 2009.

⁸ See, *Tax Reform: Selected Issues* (ESRI)

http://www.esri.ie/UserFiles/publications/20091009114855/RS012_Callan.pdf - Last Accessed 19th October 2009.

A key concern for the NCLC is the effect that any alteration in child benefit might trigger in terms of access to employment for single mothers, specifically single mothers at the lower level of the income scale. It has been positively identified, especially within economic writings that child benefit payments, of one sort or another, positively aid the participation of single mothers in the workforce and ensures that they can exercise their rights to work while also enabling them to source quality child day care on foot of child benefit payments/subsidies. For example, one study found that, “child care subsidies are highly progressive and make a substantial contribution to vertical equity by offsetting child care costs related to employment.”⁹ Furthermore, it has been identified that child benefit payments/ subsidies exert a disproportionate benefit in favour of single mothers on lower incomes in terms of allowing them access the workforce.¹⁰ Additionally, revising child benefit payments downwards could have serious repercussions for society, not just in economic terms, but also in terms of the mental health and wellbeing of mothers who would like to participate in the workforce but find their right do so heavily restricted.¹¹ This conclusion has been echoed in a number of studies which have utilised empirical data measuring the effect of child care costs on the ability of mothers, especially single mothers on the lower levels of the income ladder, to access employment.¹²

Conversely, there is also evidence to suggest that, even in relation to those mothers who manage to remain in employment, there may still be negative side effects in the employment arena for such women where child benefit payments have been reduced. It has been found that some women may opt to work longer hours than their male counterparts or perhaps take on a second job in order to fund childcare (or general costs of raising children) which obviously could mean that some women may be willing to

⁹ D. Schofield & J Polette, ‘Measuring the Impact of Child Care Subsidies on the Incomes of Mothers Returning to Work’, (1998) 31 (1) *The Australian Economic Review* 47.

¹⁰ Schofield & Polette (n 9) 47, 59.

¹¹ National Women’s Council of Ireland, ‘All Our Children’, *Briefing Paper on Child Benefit* (August 2009).

¹² See, *generally*, J. Kimmel, ‘Child Care Costs as a Barrier to Employment for Single and Married Mothers’, (1998) *The Review of Economics and Statistics* 287-299; J. M Youngblut *et al*, ‘Factors Influencing Single Mothers Employment Status’, (2000) 21 *Health Care for Women International* 125, 132; K. Milligan & M Stabile, ‘Child Benefits, Maternal Employment, and Children’s Health: Evidence from Canadian Child Benefit Expansions’, (2009) 99 (2) *American Economic Review: Papers and Proceedings* 128.

accept inferior working conditions than their male counterparts.¹³ These contentions are clearly illustrative that alterations to child benefit payments, in terms of revising payment levels downwards across the board, may have the effect of indirectly discriminating against mothers wishing to participate in the workforce, especially single mothers, by frustrating the ability of mothers to utilise child benefit for child day care facilities while in work. This would be contrary to the spirit of the progressive employment environment which has been created for women in Ireland since the European Community inspired reforms initiated in the 1970s.

Consequently, reducing child benefit for all income groups, regardless of means, may ensure that childbearing would, once again, become a controlling factor and a burden for single mothers, perhaps not exclusively but in particular, in accessing employment. Accordingly, the reform of child benefit, specifically the proposal by the Special Group to cut child benefit for all income groups, would thus, in the opinion of NCLC, operate as an indirect discrimination in terms of access to employment, on the ground of gender, toward mothers and certainly those single mothers on the lower levels of the income ladder. This scenario could then, in some circumstances, result in single mothers withdrawing from the workforce altogether in order to care for their child full time due to an inability to afford child day-care which would ultimately put further pressure on the public finances in the long run.

Child benefit and child welfare

It is also submitted by NCLC that reforms of child benefit may affect general levels of child welfare in Irish society, exposing children perhaps to the increased risk of long term poverty, coupled with all of the undesirable side effects which such poverty might engender. This contention is supported in recent findings by the ESRI which suggest that a flat reduction in rates of child benefit, as currently proposed in the Report of the Special Group, would result in an increase of 1.2% of the proportion of Irish children “at risk of poverty”.¹⁴ In general, there is tangible evidence to suggest that child benefit payments do have a positive impact on levels of child welfare, both directly and

¹³ See, e.g, K. Lee, ‘Impact of the 1996 Welfare Reform on Child and Family Well Being’, (2009) 37 (5) *Journal of Community Psychology* 602, 613-614.

¹⁴ ESRI (n 8) 13.

indirectly,¹⁵ although the results can vary in magnitude when considering the exact levels of improvements between particular child age groups and between the genders.¹⁶ Nevertheless, the proposition that child benefit supports enhance or maintain general levels of child welfare in society is an intuitive presumption and has been well established; including the fact that universal child benefit payments, rather than means tested or flat taxed payments, may exert a greater overall impact on levels of child poverty reduction, increasing or maintaining the economic welfare of children¹⁷ Also, in circumstances where a single mother decides to work increased hours in order to bridge the gap between the amounts of child benefit forfeiture and the costs of raising the child, the child may also suffer reductions in other aspects of its overall welfare, measured in terms of a deterioration in the emotional supports available to the child from the mother and a possibly increasingly fraught home environment where the mother finds herself under increased financial pressure. This can cause particular issues for adolescent children in their crucial formative years. For example, it has been found that “when single mothers experience economic stress, they are more likely to respond to adolescents with harsh punishment, which contributes to problematic behaviours.”¹⁸ Such issues may then become costs for society as these children would be increasingly likely to engage in anti-social behaviours where they experience economic and emotional hardship in the home, resulting in a proliferation of petty crimes, occupying a substantial amount of resources in the criminal justice system, including calling on governmental resources to provide higher levels of legal aid.

Having considered the possible implications which a flat cut on child benefit may have upon the abilities of single mothers, in particular, to cater for their children and the resultant effects this might have upon general welfare and poverty levels of children in society, NCLC would support, in principle, the institution of a progressive taxation regime as suggested by the Commission which should not impact upon those on a lower income as far as possible. The suggestions for a hybrid approach advocated by the ESRI

¹⁵ Milligan & Stabile (n 12) 132.

¹⁶ See, e.g., M. Forster & I Gyorgy, ‘Child Poverty and Family Transfers in the Czech Republic, Hungary and Poland’ (2001) 11 *Journal of European Social Policy* 324-341.

¹⁷ G. Notten & F. Gassmann, ‘Size Matters: Targeting Efficiency and Poverty Reduction Effects of Means-Tested and Universal Child Benefits in Russia’, (2008) 18 *Journal of European Social Policy* 260, 273.

¹⁸ N Gardner Neblett, ‘Patterns of Single Mothers’ Work and Welfare Use: What Matters for Children’s Well Being?’, (2007) 28 *Journal of Family Issues* 1083, 1106; Milligan & Stabile (n 12) 132

are viewed extremely apprehensively by NCLC because this would still cause hardship in the short term. Accordingly, NCLC recommends that any changes to child benefit provision should be delayed until a viable progressive taxation regime is established and that no cut should be implemented before this.

Ending “double payments”

The Special Group has also recommended, *inter alia*, that eligibility conditions for social welfare schemes should be altered in order to eliminate so called second welfare payments, such that if an individual is in receipt of primary social welfare payments, they should not qualify for payments under another scheme (e.g. Carers Allowance, Illness Benefit, Jobseekers Benefit, Family Income Supplement etc). NCLC insists that discontinuance of some or all of these payments, for example the Carers Allowance, would be disastrous in terms of the abilities of some of the most vulnerable persons within society to access the appropriate supports for them or their dependants particular needs. Basic social welfare payments should not be treated as an administrative privilege because in the final analysis, the level of these payments is barely sufficient to allow persons to maintain a basic standard of living. This is illustrated by the fact that Ireland, and the Dublin area in particular, remain among the most expensive locations to live anywhere in the world, notwithstanding the current economic difficulties. For example, in 2008 it was found that Ireland was the second most expensive country to live in the European Union after Denmark¹⁹ and a 2009 report has found that Dublin is currently ranked as the 13th most expensive city in the world ahead of New York and London which rank 23rd and 27th respectively.²⁰ Additionally, although the Irish Consumer Price Index (CPI)²¹ has fallen, on average, 6.5% in the year from September 2008 to September 2009, this belies increases in costs of health²² (+2.5%) and

¹⁹ ‘High Cost of Living in Ireland Highlighted’ - <http://www.irishtimes.com/newspaper/ireland/2009/08/12/1224252420949.html> – Last accessed 7th October 2009.

²⁰ ‘Economist Intelligence Unit Cost of Living Survey 2009: Dublin is World’s 13th Most Expensive City: New York Gets 23rd Ranking and London 27th’ - http://www.finfacts.ie/irishfinancenews/article_1016156.shtml – Last accessed 7th October 2009.

²¹ Central Statistics Office (CSO) - <http://www.cso.ie/releasespublications/documents/prices/current/cpi.pdf> - Last Accessed 9th November 2009.

²² Health costs in this context are broadly taken to mean medical products, hospital charges and outpatient services etc.

education²³ (+3.9%) in the same period. While there are now signs that the overall costs of electricity, housing and fuel are on the decrease measured year on year, when measured on a three monthly basis,²⁴ prices are on the increase again and are likely to further significantly increase as families and individuals face into the coming winter months.

Accordingly, NCLC contends that it is very difficult to ascertain as to how individuals relying on double payments will be expected to access and pay for the costs and necessary services associated with their role if they are forced to rely on their modest basic social welfare payments to fund this. The recommendations by the Special Group are clearly indicative that there is a perception that such double payments are an administrative matter and that they do not necessarily have grounding in a rights based analysis. In fact, NCLC would argue that these types of payments must *precisely* be seen as grounded in a rights based analysis because if individuals are unable to adequately fund the special supports required for themselves or for their dependant, then fundamental legal and rights based questions arise, particularly dignity and bodily integrity based rights.²⁵

Conclusions

In conclusion, NCLC would strongly advise against a flat cut to child benefit, regardless of income, advocated by the Special Group, or stringent means tests which could impact disproportionately on single parents, especially single mothers in employment on lower income. NCLC does not advocate for or support the proposed hybrid approach of the ESRI toward the issue either which suggests that a temporary flat cut to child benefit should be instituted in the short run in lieu of the establishment of a viable taxation regime. However, NCLC does support, in principle, the proposals of the Commission suggesting that a progressive tax on child benefit could be an option provided there are adequate safeguards in place to ensure that such a scheme will be administered in a fair way and which will impact as little as possible on lower

²³ Education costs in this context are broadly taken to indicate costs associated with examination fees, night courses, play schools and other types of educational supports.

²⁴ CSO (n 21) 1.

²⁵ A number of unenumerated rights issues could arise under Article 40.3, *Bunreacht Na hÉireann*, Constitution of Ireland 1937.

socioeconomic groups. In regard to the proposals on so called “double payments” NCLC would urge extreme caution in reforming this in line with the proposals emanating from the Special Group. Abolishing such payments, *en masse*, would preclude persons on basic social welfare payments to access the requisite supports that they may need and raises a host of potential rights based issues for the individuals who would be most affected.