



Memorandum from the Children's Commissioner for Wales to Legislative Committee 2 (Proposed Children and Families (Wales) Measure

Subject: Young People's Poverty

This memorandum has been prepared for the Committee in response to issues raised during the Commissioner's evidence giving session on Thursday April 30th.

During the session, the Commissioner stated:

"I realise that some of this is non-devolved, but the discrepancies in benefits and minimum wage for young people have a massive impact on what we are attempting to do here (in addressing child poverty)"

The Children's Commissioner believes that more work is needed to address particular issues in relation to young people's poverty (16+).

This poverty is compounded by age discrimination in relation to the National Minimum Wage and welfare system whereby regulations allow lower payments for young people.

Whilst many of the levers of change we would like to see are in non-devolved areas, we feel that the issues need to be given a higher profile, that the Welsh Assembly Government should lobby Westminster colleagues to act on issues such as benefit discrepancies and that WAG themselves, wherever they can, look to alleviate the symptoms of what is often severe poverty amongst this specific age group.

National Minimum Wage (NMW)

"I think that there is an issue about in-work poverty for young people. I realise that some of this is non-devolved, but the discrepancies in benefits and minimum wage for young people have a massive impact on what we are attempting to do here"

The Citizen's Advice Bureau summarise the system:

“Regulations exempt the National Minimum Wage (NMW) age bands from age discrimination. Employers are permitted to base their pay structures on the NMW by using the NMW age bands, provided that those in the lower age group are paid less than the adult minimum wage.

Provided that employers are paying at least the NMW, the regulations allow employers to pay:-

- *employees aged 22 and over more than those under 22 even when they are doing the same job, where those under 22 are paid less than the adult minimum wage rate*
- *employees aged between 18 and 21 more than those under 18 where they are doing the same job, where those under 18 are paid less than the adult minimum wage rate.*

However, the exemption contained in the regulations does not cover the case where employers pay different rates to those in the same minimum wage age band, for example, employers who pay an 18-year-old less than a 20-year-old doing the same job. If an employer wishes to do this, s/he must objectively justify it.

Employers who pay employees in the lower age groups at a different rate to employees in the adult age group but who pay all the groups at or above the adult rate of the NMW are also not covered by the exemption. Such differences will not be lawful unless objectively justified.¹

The argument of providing employers with an incentive to recruit young people does nothing to assuage the concerns relating to providing a basic living wage and the fact that living costs are the same for those below and above the age of 22.

Perhaps there is merit in examining if the Working Tax Credit could be used to 'top up' the wages for young people to the same levels as people over 22 in all cases so that there is equal pay whilst retaining the employer's incentive.

¹http://www.adviceguide.org.uk/index/life/employment/rights_to_pay.htm#NationalMinimumWageNMW

Working Tax Credit (WTC)

*In order to qualify for the Working Tax Credit you must be in qualifying remunerative work and work 30 hours or more a week and **be aged 25 or over**.*

The ability of people over the age of 16 to claim the WTC does not depend on whether they are responsible for a child or qualifying young person; or have a physical or mental disability that puts her/him at a disadvantage in getting a job and qualify for a disability element in her/his WTC calculation.²

Housing

Single Claimant under the age of 25

The Citizen's Advice Bureau explains:

- *“If the claimant is single and aged under 25, the category of property considered appropriate for her/his household is a bedroom in shared accommodation. This means a property in which s/he has the exclusive use of one bedroom, but shares one or more of a kitchen, a bathroom, a toilet or a room suitable for living in. Her/his maximum rent (in other words, the rent that her/his housing benefit can cover) will normally be the local housing allowance rate for this type of property.³”*

We would agree with calls such as those made by Citizen's Advice Bureau Wales to withdraw the single room rent restriction in housing benefit for individuals under the age of 25. This policy is discriminatory and disproportionately affects those living in rural Wales where there is scarcity of accommodation which would fit the definition of shared accommodation.⁴

²<http://www.adviceguide.org.uk>

³ Ibid

⁴ Welsh Assembly Government Consultation Paper – Sustainable Homes: A National Housing Strategy for Wales Evidence from Citizens Advice Cymru, April 2009

Income Support – Living away from parents

A client who lives away from her/his parents or a person acting in place of a parent, can claim income support in certain circumstances - but there are exceptions:

A client will be living away from her/his parents, or a person acting in place of a parent, if:-

- of necessity, s/he lives away because s/he is estranged from her/his parent(s) (see following two paragraphs)⁵*

There are issues relating to the difficulties in proving estrangement. Whilst we understand the need to avoid providing unnecessary incentives for young people to leave their home, there must be an acceptance that there are situations where living under the same roof is detrimental and places the young people in a vulnerable situation and in need of support.

Estrangement – the explanation from Citizen’s Advice Bureau:

“For a client to be estranged from her/his parent(s), there must be emotional discord between the client and the parent(s). However, these feelings do not have to be mutual. The question is whether, from the client's point of view, s/he is estranged from her/his parent(s). A client may be estranged from her/his parent(s) if s/he has no intention or desire to live with her/him or them or have any physical or emotional association with her/him or them. A client may also be estranged if her/his parent(s) feel this way about her/him. It is possible, in exceptional circumstances, to be estranged even if financial support is being provided by the parent(s) ([endnote 1](#)). It is also possible to be estranged even if a client's relationship with her/his parent(s) has subsequently improved.

For example, in one case ([endnote 2](#)) a claimant's partner was aged 16, lived with her mother and was pregnant. The mother asked her daughter to leave the family home because s/he did not approve of her pregnancy and did not get on with the claimant. The daughter moved in with the claimant and got on better with her mother when she and her mother were not living together. The claimant claimed income support for himself and his partner (the daughter), but was denied the couple rate because a tribunal decided that his partner was not estranged from her mother. It decided this because there was no evidence that the mother felt alienated from her daughter. However, the claimant appealed to a commissioner who decided that the daughter was estranged from her mother because of what had happened between her and her mother and the fact that she would not return to live with her mother. The lack of evidence about her

⁵ <http://www.adviceguide.org.uk>

mother's feelings and the subsequent improvement in her relationship with her mother did not stop the daughter from counting as estranged. The claimant and his partner (the daughter) were entitled to the couple rate of income support.”⁶

The Children's Commissioner stated in Committee:

“I am interested in those young people who are perceived to have become intentionally homeless and, as a result of that, the extent to which they cannot access services”

We are concerned at the ease at which young people are identified as 'intentionally homeless' within a context that does not consider the vulnerability of the young person. As a result the local authority will not always recognise their obligations to them as vulnerable children, leaving them without the support and services they need which exacerbates this continued spiral of deprivation. We have also been told that youth workers and other agencies find it difficult to place young people who have found themselves intentionally homeless.⁷

Our reference above to vulnerable “children” rather than “young people” is intentional as, although they may be over 16 they are still legally children if under 18. This entitles them to their rights under the United Nations Convention on the Rights of the Child and to the protection offered by the Children Acts 1989 and 2004.

Keith Towler

Children's Commissioner for Wales.

⁶ *ibid*

⁷ An unnatural disaster – Report of the Commission of Inquiry into homelessness and poor housing conditions in Wales, June 2007