

## Green Paper on Reform of Disability Payments in Ireland *A Submission by the Citizens Information Board*

### Introduction

The Citizens Information Board (CIB) welcomes the opportunity to make a submission on the reform of disability supports. CIB notes that while the proposals for payments reform, as outlined in the Green Paper on Disability Reform, will not go ahead, the work undertaken by organisations in preparing submissions will be included in the analysis and preparation of future proposals for reform of disability supports and services.

Issues relating to income support for people with disabilities are a regular feature of queries to Citizens Information Services (CISs). In 2023 over 57,000 queries<sup>1</sup> to CISs referred to disability payments. These included 27,000 Disability Allowance queries,<sup>2</sup> and over 11,000 on Invalidity Pension. In addition, there were 14,472 queries about Illness Benefit and 2,000 queries on Partial Capacity Benefit. Disability Allowance queries were the third highest payments/entitlements category, after the Medical Card and Fuel Allowance. CIB has regularly highlighted over the years a need for a more streamlined approach to disability-related payments to help address the difficulties and challenges faced by disabled people in living their lives on an equal basis to the rest of society. We fully recognise that a multi-faceted and integrated approach is required in order to: (a) enable more people with disabilities to participate in the labour force; and (b) mitigate the costs of living with a disability irrespective of whether or not the disabled person is in employment at any given time. The underlying basis for reforms should be empowering and enabling people with disabilities to achieve their potential and ensuring that they are not treated less favourably by society because of their disability.

CIB acknowledges that the Green Paper proposals are not to be interpreted as a cost-cutting measure and that the changes proposed, if introduced, would result in some disabled people getting an increase in their weekly income. While this is an important consideration, the potential implications for the whole cohort of disabled people and people with mental health difficulties needs more thorough appraisal.

This submission is set out in four parts. First, some general contextual observations are made which are deemed to be relevant to any approach to the restructuring of disability payments. Second, the submission draws on the experience of the Citizens Information Services (CISs), and the National Advocacy Service (NAS) for people with disabilities in order to elaborate on the needs of persons with disabilities in accessing financial and other interlinked supports and to draw lessons from this

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<sup>1</sup> [Data Hub - Citizens Information Board](#)

<sup>2</sup> A further almost 4,700+ disability payment related queries were raised with the Citizens Information Phone Service in 2023.

information. Thirdly, the submission outlines CIB's views on the Green paper proposals and on how a reformed disability payments scheme could be designed and structured. Finally, the submission addresses the main consultation questions set out in the Green Paper.

### General contextual factors relevant to disability payments

CIB wishes to highlight at the outset the need to move from the overall generic grouping *people with disabilities* in order to more fully comprehend the multi-faceted and heterogeneous nature of the population being referred to, the related costs of disability, and the supports that people will need in order to live meaningful lives whether fully employed or dependent (wholly or partly) on social welfare benefits for their income. Disability needs to be regarded as a secondary factor that does not define people. The label 'disability' almost certainly masks the individual attributes of each person. The reality that sometimes may be lost sight of in policy discourse is that, notwithstanding their disability, many people with a disability carry out their lives in a 'normal' manner.

Since the nature and level of additional costs associated with disability is likely to relate to some extent to the type of disability, the need to differentiate between categories of disability and the different costs associated with different types of disability is important, as was discussed in the Indecon report on the cost of disability and which informed the Green Paper tiered payment proposals.<sup>3</sup>

There is a need to look at issues relating to the evolving and sometimes episodic nature of and impact of disability or mental health challenges on some people. The personal situation of a person with a disability and the related costs of disability and support needs are highly likely to change and to change intermittently. Occasional flare-ups of a physical condition or a mental health condition can temporarily prevent people from working. Any new support system will need to recognise and try to accommodate the fact that people with disabilities are likely to enter, exit and possibly re-enter income support systems on multiple occasions. Concerns regarding the impact of changes in employment or household status, reassessments of eligibility, and disruptions of access to income and other supports is a relevant issue for many disabled people. These issues must be factored into any reconfiguration and reform of the disability payments framework in Ireland. Disability payments and other support mechanisms will, therefore, need to accommodate flexibility and be adaptable to changing situations as much as possible.

In Ireland, the employment rates for people with a disability are about half of those for people without a disability.<sup>4</sup> Government policy aims to increase the labour force participation of those with disabilities by providing opportunities for skills development, building pathways into employment, making work more attractive financially, improving job retention and by engaging with existing and prospective employers.<sup>5</sup>

While it is reasonable to assume that these various measures help to make the labour market more accessible and attractive to those affected by disability or a mental health difficulty, the reality is that barriers and disincentives to employment continue to contribute to a high percentage of persons with a disability remaining outside the labour market. For these people and for those who are unable to work at all due to their disability, social welfare payments will continue to represent a large if not

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<sup>3</sup> Indecon (2021). *The Cost of Disability in Ireland*, Department of Social Protection.

Available: <https://www.gov.ie/en/publication/1d84e-the-cost-of-disability-in-ireland-research-report/>

<sup>4</sup> Just 34% of people aged 15 and over experiencing a long-lasting condition or difficulty were at work, compared to 56% of all people aged 15 and over according to Census 2022.

<sup>5</sup> Comprehensive Employment Strategy for People with Disabilities 2015-2024; [gov - Make Work Pay Report \(www.gov.ie\)](#); Pathways to Work 2021-2025

only source of income. Consequently, for this reason and because they also have higher costs of living compared to those without disabilities, social welfare payment rates in relation to level and continuity are highly important.

For those who can consider entry into the workforce, financial and non-financial factors may come into play. Barriers to work include accessibility in places of work, transport, lack of Personal Assistant services, additional costs of working and the real or perceived fear of a loss of welfare or of a review of eligibility for social welfare payments may create significant disincentives to work.<sup>6</sup>

The question of addressing income supports and employment supports for disabled people needs to be considered in the context of work options that may be available in different locations. To enter and stay in employment, a person with a disability needs to be able to travel outside of the home in the same ways that a person who does not have a disability can. The Mobility Allowance scheme, which was closed to new applicants ten years ago in 2013, assisted people who could not use public transport, who are unable to walk and who would benefit from leaving their home surroundings. One of the costs of disability is having to pay for expensive taxi journeys due to inadequate, infrequent, and inaccessible public transport. Providing a support similar to the Mobility Allowance scheme for people who need to travel to work, who cannot avail of public transport, or work remotely would contribute to improving the employment options of people who have a disability.

The eligibility criteria for Disability Allowance in the context of people engaging in employment provide an important employment incentive for many disabled people. At the end of April 2023, according to Department of Social Protection<sup>7</sup> statistics, there were 15,687 Disability Allowance recipients who were in insurable employment or self-employed and availing of the Disability Allowance income disregard, a 9% increase from April 2022. Budget 2023 included increased earnings disregards (€25 per week) for both the Disability Allowance and Blind Pension which was an important measure. Budget 2024 also provided for a reduction in the minimum hours' threshold for employers to avail of the Wage Subsidy Scheme from 21 hours per week to 15 hours per week.<sup>8</sup>

CIB is cognisant of the fact that poverty and disadvantage amongst people with disabilities is strongly linked to the challenges they face in gaining and retaining jobs. Securing and holding down employment is a major contributor to breaking the cycle and experience of deprivation. One in five people unable to work due to long-standing health problems are living in consistent poverty.<sup>9</sup> Once on disability payments, people are less likely to enter or return to the workforce. Over one third of Disability Allowance recipients had been on the scheme for 10 years or more.<sup>10</sup>

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<sup>6</sup> Kelly, E. and B. Maître (2021). Identification Of Skills Gaps Among Persons With Disabilities And Their Employment Prospects, ESRI Survey and Statistical Report Series 107, Dublin: ESRI, <https://doi.org/10.26504/sustat107>

Doorley, K. and M. Regan (2022). The impact of Irish budgetary policy by disability status, Budget Perspectives BP202301, Dublin: ESRI, <https://doi.org/10.26504/BP202301>

<sup>7</sup> Figures supplied by the DSP - since the Make Work Pay report was published in 2017, approximately 6,500 people have taken up employment and signed off Disability Allowance.

<sup>8</sup> Effective from 1 April 2024 - [Wage Subsidy Scheme for people with disabilities \(citizensinformation.ie\)](https://www.citizensinformation.ie/en/employment-and-work/employment-and-work/wage-subsidy-scheme-for-people-with-disabilities)

<sup>9</sup> Survey on Income and Living Conditions (SILC) 2022, CSO

<sup>10</sup> An Assessment of the Disability Allowance Scheme Trends and Characteristics', DPER – [Spending Review 2023](#)

CIB notes that Ireland performs poorly amongst OECD countries<sup>11</sup> in that the employment rates of people with disability in Ireland are particularly low. It is also worth noting that, according to the OECD,<sup>12</sup> a high share of recipients of disability payments say that they are able to work. A strong labour market should be a predictor of good employment rates for people with disabilities. However, unlike unemployed people without a disability, other factors of accessibility, availability, skills adequacy, and security can detract from the strength of employability for those with a disability.

People with disabilities or mental health difficulties often struggle to find a job or are sometimes forced to accept work that is poorly paid or precarious. Such jobs may also be more likely to be at risk due to the impact of automation. Disabled people are highly likely to have left the education and training system with lower and fewer skills and qualifications<sup>13</sup> than people who do not have a disability. CIB is of the view that current employment and adult training services in Ireland do not adequately reach and cater for people with disabilities. This is a matter that needs to be addressed in any re-configuration of the disability payments system.

It has also been observed that as it is difficult to get people who are on long-term disability payments (back) into the labour market,<sup>14</sup> there needs to be an emphasis on work-to-welfare, meaning limiting the movement of people from employment to welfare by facilitating their retention in employment.<sup>15</sup>

Induction of people with disabilities into the labour force and their retention within it will require ongoing effective incentives and supports for employers, as well as focused initiatives to encourage and equip employers for the challenges – real or perceived – that they may encounter in hiring disabled people. It would appear that employers are, at present, poorly informed in this regard.<sup>16</sup> Getting buy-in from employers will be an important consideration in changing the work context to facilitate disabled people who can work to take up employment, whether full-time, part-time, or intermittently. It is also the case that many disabled people may not be aware that there are a range of supports for employers who recruit a person with a disability which may be relevant to their situation and, even when they do know, may be hesitant to avail of these because of concerns about the reinstatement of their benefits if the work is only short-term.

Historically, people with disabilities were subject to much weaker job activation approaches than their counterparts without disabilities. A move to adjust that balance can only work effectively and respectfully if processes involved are fit for purpose. It is reasonable to suggest that this is an area where more work is required.

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<sup>11</sup> MacDonald, D., C. Prinz and H. Immervoll (2020), "*Can disability benefits promote (re)employment?: Considerations for effective disability benefit design*", OECD Social, Employment and Migration Working Papers, No. 253, OECD Publishing, Paris, <https://doi.org/10.1787/227e7990-en>

<sup>12</sup> OECD (2021) Disability, Work and Inclusion in Ireland: Engaging and Supporting Employers, OECD Publishing, Paris, <https://doi.org/10.1787/74b45baa-en>

<sup>13</sup> *Ibid.*

<sup>14</sup> OECD (2010)

<sup>15</sup> Cousins, M. (2024) The Green Paper on Disability Reform: a flawed effort to reform payments for people with disabilities. [https://publicpolicy.ie/health/the-green-paper-on-disability-reform-a-flawed-effort-to-reform-payments-for-people-with-disabilities/#\\_edn15](https://publicpolicy.ie/health/the-green-paper-on-disability-reform-a-flawed-effort-to-reform-payments-for-people-with-disabilities/#_edn15)

<sup>16</sup> CIB 2022 Submission on the Reasonable Accommodation Fund, [https://www.citizensinformationboard.ie/downloads/social\\_policy/submissions2022/reasonable-accommodation-fund-submission-2022.pdf](https://www.citizensinformationboard.ie/downloads/social_policy/submissions2022/reasonable-accommodation-fund-submission-2022.pdf)

CIB concurs with the OECD recommendation<sup>17</sup> that there is a need as follows -

*The Irish Government should make mainstream services by the (Public Employment Service) PES more accessible for persons with disabilities, including by earmarking resources and caseworkers to non-unemployment benefit recipients to ensure consistent outreach and guidance, and targeted profiling and registration of persons with disabilities in the Irish Live Register. In parallel, effective supported employment programmes such as Individual Placement & Support for persons with mental health conditions should be scaled up and rolled out throughout the country and the sustainability of such programmes ensured through long-term planning and funding.*

The OECD report also calls for a strengthening of the employer engagement structure, for better incentives for both employers and employees, a stronger focus on early engagement and intervention and reform of Partial Capacity Benefit (PCB) to make it mandatory for those fulfilling the entitlement criteria and making it available to more persons with sickness or disability.

In a more proactive and capacity-oriented process for people with disabilities, Intreo could play a facilitating role by advising on what tasks a worker can still reasonably perform and what additional supports may be needed at different stages where a person is in receipt of a disability payment or Illness Benefit. Intreo could also support employers and employees if gradual or partial return-to-work options become more normalised.

While disabled people face a labour force participation gap across all regions in Ireland, this gap varies significantly within the country.<sup>18</sup> For example, in Dún Laoghaire-Rathdown, the labour force participation gap is 6.9 percentage points lower than the gap in the country as a whole, suggesting that some local factors facilitate the participation of persons with disabilities in the local labour force. At the other extreme, in Roscommon, the gap is 6.2 percentage points higher than the national average, indicating an even larger labour force participation gap than at national level. This factor needs to be acknowledged in assessing and determining the prospects of employability for a person with a disability and the manner in which they are required to engage in activation measures.

#### Evidence from CIS queries

In formulating this submission, CIB is informed by the experience of CIB-funded services, in particular, CISs.<sup>19</sup> As providers of information, advice, and advocacy, CISs encounter the multi-faceted difficulties faced by people generally where inadequate incomes and rising costs, combined with problems in accessing public services push people into more precarious living situations. Difficulties are frequently exacerbated for people with disabilities and people experiencing mental health difficulties. Concerns raised by the National Advocacy Service for people with disabilities are also factored in.

CIS query data provides a comprehensive and rich insight into the nature of challenges faced by disabled people in accessing income supports. While CIS data is recorded into discrete categories including social welfare, housing, health, education, individuals present to services with queries across multiple domains.

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<sup>17</sup> OECD (2022) Disability, Work and Inclusion: Mainstreaming in All Policies and Practices, <https://www.oecd-ilibrary.org/sites/74b45baa-en/index.html?itemId=/content/publication/74b45baa-en>

<sup>18</sup> *Ibid*

<sup>19</sup> CISs dealt with a total of **795,278** queries from members of the public on all aspects of rights and entitlements in 2023. Of these, 372,085 related to Social Welfare queries, and of these, 57,116 were Disability and Illness queries. <https://www.citizensinformationboard.ie/en/data-hub/>

In 2023, the over 57,000 queries to CISs on Disability and Illness payments, were made up of 27,261 queries on Disability Allowance, 14,472 on Illness Benefit, and 11,391 on Invalidity Pension. Queries relating to Partial Capacity Benefit were comparatively lower at just 2,000.

Also, of 5,443 queries dealing with Social Welfare Appeals in 2023, 1,800 concerned Disability Allowance, and 1,002 Invalidity Pension.

Extra costs for those who have a disability relating to mobility, transport, communications, care and assistance services, equipment, aids and appliances, and medicine were identified in the 2021 Indecon research<sup>20</sup> on the cost of disability. While some of these costs are met through existing and evolving social protection schemes, including, for example, recent additional once-off social welfare payments and increases to the Fuel Allowance, feedback from CISs refers to eligibility barriers associated with household composition, for example, where a person with a disability is a tenant sharing with others. Issues also arise for callers to CISs due to the differential treatment of income from employment and income from an occupational pension in the means assessment for Disability Allowance.

CISs report considerable concerns and anxiety on the part of callers with a disability where ‘*cliff edge*’ eligibility criteria apply or are likely to apply. Research has noted this as a general issue across the social welfare benefits system.<sup>21</sup>

Fear of **losing secondary benefits**<sup>22</sup> or a perception that they may lose benefits is reported by CISs as influencing decisions by some disabled people about taking up work. The importance of keeping the Disability Allowance is critical given the current costs of living, the costs of disability, and where average weekly earnings were €909.77 in Q2 2023 (an increase of 4.3% from €871.93 in Q2 2022). Currently, a person can earn a maximum of €495.10 a week from work and keep their entitlement to a minimum rate of Disability Allowance or Blind Pension.

The Green Paper proposals would help to address the shortcomings of the **Partial Capacity Benefit** approach which are identified on an ongoing basis by CISs. Under current provisions, a person can transfer to PCB from Illness Benefit or Invalidity Pension after 6 months where they can receive a portion of their payment depending on the degree of their assessed capacity for work. At the end of January 2024, there were 2,846 people in receipt of Partial Capacity Benefit, compared to 3,050 at the end of February 2023.

Feedback from CISs has consistently noted that the Partial Capacity Benefit does not have enough flexibility as a payment to support people in work. The scheme has eligibility shortcomings and is proving bureaucratic in its administration. For example, eligibility criteria require a person to be on Illness Benefit for 6 months to be eligible. It is seen as creating ‘cliff-edge’ situations for claimants, e.g., loss of income that occurs when a Partial Capacity Benefit claimant transitions from one employment to another. It does not facilitate claimants in making the transition to new employment.

Other problems identified with the Partial Capacity Benefit include insufficient information on how capacity is measured and people’s reluctance to risk losing their existing payment if assessed as fully

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<sup>20</sup> Indecon International Research Economists (2021), The Cost of Disability in Ireland, November, <https://www.gov.ie/en/publication/1d84e-the-costof-disability-in-ireland-research-report/>

<sup>21</sup> Doolan, M. and C. Keane (2023). Cliff edges in the Irish tax-benefit system, Budget Perspectives BP202401, Dublin: ESRI, <https://doi.org/10.26504/BP202401>

<sup>2222</sup> These and related issues were addressed in the Make Work Pay strand of the Comprehensive Employment Strategy for people with disabilities.

capable of working; loss or reduction of secondary benefits such as Fuel Allowance, or Household Benefits Package (means-tested after the first two years, and annually after that).

The relatively low level of Partial Capacity Benefit uptake is, perhaps, a good indication of its shortcomings.

#### Access and administration of social welfare benefits

Irrespective of what income support system is in place, timely and easy access is crucial for people on low income. CIS Social Policy Returns<sup>23</sup> provide CIB with valuable insights into the operation of various programmes and schemes, with particular emphasis on the difficulties and barriers being experienced by welfare recipients who sought advice and assistance. Social Policy Returns data provides, for example, an insight into the challenges faced by some clients when trying to navigate services that have moved exclusively online or have become more remote. They provide an insight into clients' frustrations, feelings of exclusion and how on occasion clients are tempted to give up and suffer financial loss rather than pursuing their rights and entitlements.

Social Policy Returns relating to disability and illness payments and entitlements continue to be the highest category of feedback. These returns most frequently point to problems and difficulties that involve issues of access and administration. The reality is that some disabled people do not have the same access to public services as other members of the public because of a number of factors. These include, for example, the fact that they may find it difficult to access information and to negotiate existing pathways, along with other groups such as older people, and people whose first language is not English, particularly, as the latter become more digitally based with a reduction in local face-to-face services. Some disabled people lack the skills (literacy, digital literacy, and language) required to deal with remote or complex administrative systems and require help and support to 'navigate' their way through the system (frequently provided by CISs). Other disabled people, of course, welcome the move to digitalisation, particularly those who have mobility difficulties.

Social Policy Returns in recent years have identified a range of benefit access issues relating to people with disabilities, including:

- Delays in processing of payments, reviews, and appeals
- Problems relating to interconnectivity of schemes and eligibility, especially Carer's Allowance and Supplementary Welfare Allowance
- Inconsistencies regarding eligibility criteria across schemes and supports
- Difficulties in moving from one scheme to another
- Difficulties in re-entering a scheme after a period on another scheme
- Disincentives (real and perceived), e.g., disabled people on Training Allowance not eligible for certain additional payments (e.g., Disability Support Grant provided for in Budget 2024).

While these issues are primarily administrative, their impact can be significant for disabled people on low income and, unless resolved, will continue to be so irrespective of what disability payment schemes are put in place. These are important ancillary points which are not adequately addressed in the Green Paper.

Many recipients of disability-related payments are dependent on a combination of the disability payment itself, secondary benefits, income from low-pay and precarious employment, housing benefits and supports, and miscellaneous other social welfare payments. Small reductions,

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<sup>23</sup> Social Policy Returns (SPRs) are cases submitted by CIS services relating to issues impacting on their callers and which are indicative of wider policy or public service administrative barriers.

temporary disruptions, administrative delays, reassessments of eligibility, real and perceived threats to welfare receipts, changes in household composition, status of dependent adults and/or children, all contribute to an increased risk of poverty traps. Equally, the prospect of even small supplements to income (whether once-off or ongoing) can be a welcome and anticipated prospect.

### General observations on Green Paper proposals

It is evident that a significant proportion of people with disabilities have a low capacity to work. The social welfare system would be expected to guarantee a reasonable standard of living for this group and should, at a minimum ensure that people do not experience deprivation. In addition, it is widely recognised that employment, while important from a social inclusion perspective, on its own, is insufficient to keep some people with disabilities out of poverty and many require ongoing social welfare support.

CIB agrees that a reformed system of disability payments should not automatically exclude the 'low capacity to work' cohort from access to employment and employment supports. Even among the most severely disabled there is the possibility of social integration, de-stigmatisation and improvement of personal conditions through employment, albeit on a limited basis. There is evidently a continuum of disabilities/abilities/work capacity that needs to be acknowledged in any approach to reform. Employment is widely acknowledged as an effective pathway out of poverty, and even where the capacity to work is limited, employment can play a part in combatting poverty and social exclusion. This possibility should not, therefore, be excluded for anyone and this is an important component of the Green Paper proposals.

CIB believes that the level of social welfare support for people with disabilities, whether in employment or unemployed, must be adequate for a decent standard of living. In addition to basic income supports such as are available to people without disabilities, there is a need to ensure that provision is made for the particular costs and expenses that attach to being disabled (the cost of disability).<sup>24</sup> CIB is of the view that there is a need to introduce a recurring cost of disability payment. Social welfare rates should be benchmarked to a level above the poverty line and include incremental provision for both inflation and the additional cost of disability. This matter is not addressed in the Green Paper.

There will be a need to take into account that a proportion of people with disabilities may transition in both directions over time from a situation of moderate to high capacity to work (Level 3) to low and low capacity to work (Level 2 and Level 1). It would appear reasonable and effective to view such 'breaks in capacity' in the same manner as any break in employment would be, with an assumption that, unless otherwise indicated, people in such a situation would be supported in taking up employment, in tandem with retaining some social welfare income.

CIB is of the view that any reforms should aspire to respond to the particular individual circumstances of the person with a disability. Such an approach, while challenging in some respects, would seek to take into account the individual's capacity, family circumstances, environmental/geographical situation, level of education/training and previous work experience.

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<sup>24</sup> Indecon International Research Economists (2021) *The Cost of Disability in Ireland* <https://www.gov.ie/en/publication/1d84e-the-cost-of-disability-in-ireland-research-report/>  
Oireachtas Joint Committee on Disability Matters. Pre-Budget Submission. July 2023.  
[https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_disability\\_matters/reports/2023/2023-07-06\\_aligning-disability-funding-with-the-united-nations-convention-on-the-rights-of-persons-with-disabilities-budget-2024-pre-budget-submission\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_disability_matters/reports/2023/2023-07-06_aligning-disability-funding-with-the-united-nations-convention-on-the-rights-of-persons-with-disabilities-budget-2024-pre-budget-submission_en.pdf) (p.12)

### Age eligibility

CIB welcomes the proposal in the Green Paper for an extension in the age Domiciliary Care Allowance is paid to 18 years. Since the point at which young people with disabilities leave education and transition into the world of work is key in determining their future employability and social inclusion prospects, the extension of age eligibility needs to be accompanied by targeted interventions that enhance ongoing educational opportunities.

There is significant scope for work with individuals, employers and the education and training sector in order to further improve employment prospects for younger age cohorts of people with disabilities and those with mental health challenges aimed at both labour market engagement and inclusion in mainstream society.

### Assessment of capacity/disability

Central to the Green Paper proposals is the assessment of people's capacity to engage in employment. CIB believes that assessing who can work, who cannot work and/or the extent to which a person has a capacity to work, is challenging and difficult. This is a reality within the present system and will remain so in any new reformed system. There has and will continue to be difficulties and challenges involved in determining who has capacity to work and to what degree and under what conditions. As stated in the Green Paper, an effective emphasis on capacity and ability, rather than on disability or impairment, is crucial. While a move away from a situation in which disability is the primary deciding factor to one in which capacity features prominently would have many positive aspects, how capacity is assessed will be critical and CIB has some concerns in this regard.

There is a need to ensure consistency, that it is based on a social rather than medical model of disability, and that it is adequately resourced. Assessment of capacity to work must take into account factors wider than the physical, intellectual, or mental health challenges faced by individuals. Factors such as family, socio-economic circumstances, geographical location, access to transport, local employment opportunities and types must be considered in assessing an individual's capacity to work. It has also been observed that the International Classification of Functioning, Disability and Health (ICF), which includes a list of environmental factors is paramount for achieving an accurate assessment.<sup>25</sup> An obvious example is that of the differences that will most probably occur between the situation of a person in a rural environment and that of a person in an urban setting. Any assessment process that concentrates solely or mainly on a medical assessment relating to physical or cognitive functionality will be regressive and problematic and will run contrary to the underlying premise of the Green Paper.

An important question here is how people will be assigned to Tier 1, Tier 2, and Tier 3, i.e. how is high, moderate, low, and low capacity to work defined and assessed.<sup>26</sup> As an illustration of the potential for confusion and possible inequality contained within the tiered approach (unless provided for under an integrated medical/social assessment process), a person placed on Tier 2 from a largely medical perspective but living in a location where suitable job opportunities or access do not exist, could end up receiving a lower payment than a person who has been assessed as being in the Tier 1 category.

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<sup>25</sup> Prinz, C (2023) 'Do's and Don'ts in Disability Policy. Key lessons from OECD's work – and how they are followed by member countries'. Presentation at Green Paper on Disability Reform Public Consultation Event, 9 November, 2023, Dublin Castle.

<sup>26</sup> *Ibid.*

## Education and training

The employment potential of many disabled people and people experiencing mental health difficulties is affected by inadequate educational opportunities in their earlier years. As noted above, the persistent disability employment gap across OECD countries is mirrored by an equally engrained disability gap in education and skills.<sup>27</sup> While the educational attainment of disabled people has improved considerably in recent decades, it is not catching up with that of people without a disability and disabled people continue to lag behind in respect of educational attainment. This education gap is reflected in a substantial disability skills gap among disabled people generally - almost 50% of those with permanent disability have low literacy skills and 55% low numeracy skills, compared with just over 20% and 25%, respectively, for the total population. This trans-OECD pattern is fully reflected in Ireland.<sup>28</sup>

The current disability skills gap makes it difficult for people with disability to succeed in the labour market. A person with a disability can only fill a vacancy or keep a job if they have the required skills and maintain and upgrade those skills in a constantly changing labour market. Adult learning systems could help address the large skills gap but participation in adult learning programmes is lower for disabled people than for people without a disability.

In considering reform of the Irish disability payments system, it will be important to recognise that education and training policy and provision will form a crucial element in ensuring the success of any new scheme in facilitating entry into and retention of jobs in the Irish labour market by disabled people and people experiencing mental health difficulties.

### *People experiencing mental health challenges*

The potential difficulties faced by people with mental health issues is not given sufficient recognition in the Green Paper. This population cohort may have periods of well-being punctuated by periods of debilitating illness. They are likely to frequently enter, exit and re-enter employment. It will be important that the capacity assessment system is adequately equipped and re-focussed in order to effectively and efficiently assess and reassess the capacity of persons with mental health difficulties with regard to employment or their eligibility for a disability payment.

### Specific observations on the Green Paper proposals

- The additional costs of disability will not be adequately addressed within the context of the three proposed tiers. The Department does acknowledge that it is not their intention in the Green Paper to fully provide for the costs of disability as set out in the Indecon report and indicates that a whole of government response is required, to address services needs and other additional costs.
- The tiered approach proposed is likely to present multiple administrative and assessment challenges in that people will be required to show proof of both the extent of their disability and evidence that they are actively seeking work.
- People assessed as having capacity to work will need to have adequate support structures to get them 'employment ready' as well as ongoing supports to maintain employment in many

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<sup>27</sup> *Ibid.*

<sup>28</sup> Kelly, E. and B. Maître (2021). Identification of Skills Gaps Among Persons with Disabilities And Their Employment Prospects, ESRI Survey and Statistical Report Series 107, Dublin: ESRI, <https://doi.org/10.26504/sustat107>

cases. How such supports would interact with employability services as currently configured will require detailed consideration.

- The need for flexibility is paramount in that many people's ability to work fluctuates in terms of either their ability to work at all or the number of hours they can work. A provision similar to the current Working Family Payment where there is no provision for reassessment until after 12 months would likely be insufficient.
- The inclusion of Invalidity Pension in the overall proposal for change requires more detailed consideration since it is a social insurance-based payment. It is important that the insurance-based system is not undermined in any way.
- A disability payments mechanism, as proposed in the Green Paper, which includes an employment component cannot operate successfully without taking into account employer supports and grants, in particular, the Wage Subsidy Scheme and the Reasonable Accommodation Fund.
- It is noted that a coalition of disabled people's organisations have highlighted what they regard as a significant shortcoming in the Green Paper in that the approach proposed focuses entirely on personal capacity and fails to acknowledge the structural, accessibility and attitudinal barriers to disabled people entering the workplace in the first place.
- Also not referenced in the Green Paper is the need for decision supports during the capacity assessment process in accordance with the requirements of the Assisted Decision-making (Capacity) Act 2015 – this will be crucial in ensuring that the person's voice is heard.

It is noted that the in-work income supports part of the proposed scheme would be based on the Working Family Payment model whereby a person receives a payment based on a percentage of the difference between their income and a specified threshold for their family type. CIB is broadly in agreement with the proposal to develop a Working Age Payment with the aim of providing a minimum income guarantee and creating greater linkages between welfare payments and employment earnings in order to ensure that a person will always experience an increase in income where they take on additional work.

However, how the Working Age Payment will be administered will be of crucial importance given the difficulties regularly reported by CIS clients with the Working Family Payment. For example, a person who is self-employed is not eligible for the Working Family Payment. Neither does time spent on Community Employment, Tús, JobBridge or the Rural Social Scheme count in meeting the eligibility requirement for the latter of working 38 or more hours per fortnight.

## Answers to Consultation Questions

### *2.6 Context for change and the focus of this Green Paper*

*Q.1. Do you agree with the analysis of the situation and challenges set out in section 2.1? If not, why not? Are there other relevant factors to be considered?*

The analysis of the situation set out and the challenges identified in the Green Paper are broadly reflective of the situation affecting disabled people and the need to ensure that, as far as possible,

the income support system for people with disabilities is fair, equal, transparent, and supportive of people who are able and wish to take up employment, whether full-time, part-time or an intermittent basis.

Q.2. *Do you agree that the focus of reform for disability income supports should be to:*

- a. *Better insulate (protect) people with disabilities who have limited capacity to work, from poverty?*
- b. *Move away from a binary approach (that is, a person is either assessed as being capable of work or being incapable of work) and instead recognise the continuum of disabilities and different work capacities of disabled people?*
- c. *Encourage and support people with disabilities who have the capacity to work to take up employment?*
- d. *Achieve greater coherence in how people in similar circumstances are provided with income supports?*

*If not, why not? Are there any further aspects that need to be considered?*

While the intent of the proposed reforms is generally positive with the emphasis on moving away from a binary approach being particularly important – a singular focus on capacity assessment has the potential to create new barriers and inequities.

While there is a continuum of disability, there is also a continuum of situational and household factors that need to be taken into account, e.g., where people live, their household circumstances, their access to transport and whether, or not, they can work from home. These factors have not been given sufficient emphasis in the Green Paper.

Q.3. *Considering the description of existing schemes set out in section 2.3, do you agree with this analysis of the current system of disability supports? If not, why not?*

The description and analysis of the current situation is clear and comprehensive. However, it does not adequately reflect the complexities of the qualifying criteria for various benefits or their inter-linkages. Neither does it refer to the significant barriers experienced by disabled people in accessing benefits arising from administrative blockages, which while not directly relevant to the policy focus of the Green paper reforms, impact the securing of entitlements – these include the need to apply on-line, the centralisation of telephone access hubs (e.g., Intreo and the Supplementary Welfare Allowance system) and delays in processing applications and appeals in some instances.

Q.4. *Do you agree that it is important to try to eliminate or minimise the differences identified in section 2.3? If not, why not?*

The elimination of the differences identified would be important in terms of equality, transparency and ensuring that disabled people are enabled, to the greatest extent possible, to work and to combine work income and social welfare income in a seamless manner.

### Section 3: Consultation questions

*Q.1. Do you agree with replacing the Disability Allowance, Blind Pension and Invalidity pension with a single scheme as proposed? If not, why not?*

There is a substantive issue here in that Invalidity Pension is a social insurance-based payment and the other two are not. However, the Green Paper does state that there will be a Personal Support Payment, which will have a means tested part and a social insurance part, similar to the pension.

While there is much merit in a single payment scheme, there is potential for confusion and, indeed, possible inequity because of the different rationales for the payments and a danger of undermining the social insurance principle. This matter needs to be clarified and could possibly be done through a phased change over a number of years.

*Q.2. Do you agree, in principle, with a tiered approach to payment levels based on capacity to work? If not, why not?*

There is an argument that the categorisation of disabled people into tiers based solely on a somewhat narrowly-based assessment of capacity goes against the principles of the UN Convention on the Rights of Persons with Disabilities, in particular, the requirement for States parties to promote “recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market” (Article 8.2); and to provide a right to disabled people to “the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities” (Article 27.1).

*Q.3. Do you agree, in principle, with a tiered approach to the offer or obligation to avail of public employment services? If not, why not?*

The tiered approach to the obligation to avail of public employment services clearly has some merit. However, this may be inequitable if assessments do not factor in individual social circumstances and the fact that such circumstances can fluctuate, e.g., in the case of people with mental health difficulties.

*Q.4. Do you agree, in principle, with the proposal to link payment durations to the anticipated duration of a person’s restriction, but to allow for extension or re-application as set out above? If not, why not?*

Flexibility will be an essential component of assessing appropriate payment durations because restrictions in some instances are likely to fluctuate and be episodic with people moving in and out of conditions that impact on their ability to work. There will need to be easily accessible protocols for periodic reviews, extension of payment durations and re-application.

*Q.5. Do you agree, in principle, with the use of a Working Age Payment type model (similar to Working Family Payment) for in-work supports? If not, why not?*

The Working Age Payment (WPA) approach has much to commend it, however, CIB has some concerns about it. It will be essential to ensure that the new system will not leave people with disabilities who wish to take up or return to work worse off. There is insufficient detail/examples on the impact of the proposed changes in the Green Paper. The example below demonstrates that a person could be financially worse off under the proposed Working Age Payment model:

Example 2, Green Paper (page 40): Robert works part-time for 20 hours a week and earns €220. With the proposed Working Age Payment, his payment rate is €88.20, and his total income is €308.20.

If Robert had been on Invalidity Pension and transferred to the moderate rate of Partial Capacity Benefit, he would receive a weekly payment rate of €112.75 and would have a total weekly income of €332.75.

If Robert was in receipt of Disability Allowance, the first €165 of his wages would be disregarded and the balance would be assessed at 50%, he would have means of €27.50. His weekly Disability Allowance rate, if he has no other means, would be €200 and his overall income would be €420.

If Robert was on Jobseekers Allowance and earned the same income across three days, his JA rate would be €124 and his overall weekly income, with no other means, would be €344.

It will also be important that the administration of WPA takes account of the sometimes-fluctuating nature of disabilities. Flexibility around reassessment would ensure that any short-term reduction in working hours would not result in income loss.

*Q.6. Do you agree with the idea of transitioning people already in receipt of a disability payment to the new approach on a no-loss basis? If not, why not?*

The no-loss transition principle will be essential if the proposed payment system is to work. Since many disabled people and people with mental health difficulties are likely to be fearful that any change would result in a reduction in income, it will be essential that, as far as possible, the transitioning is fully transparent and the benefits to the individual of the new approach made easy to understand.

*Q.7. Are there any further comments that you would like to make on the general approach?*

CIB believes that assessing who can work, who cannot work and/or the extent to which a person has a capacity to work, is challenging and difficult. This is a reality within the present system and will undoubtedly remain so in any new reformed system.

#### *Section 4 - Tiered approach: defining, assessing, and assigning*

*Q.1. Do you agree with the definition of tiers set out in section 4.2? – If not, what would you propose?*

The tiered approach, as set out, is logical and clearly addresses the issue of a 'one-size-fits all' approach. However, an issue may arise in the once-off categorisation of people because of the multi-faceted nature of disability, fluctuations in capacity (both intellectual and physical/sensory) and the sometimes-episodic nature of mental health difficulties. (See also Answer to Q.2 above).

Secondly, there are financial barriers for some groups in demonstrating the level and extent of their disability, including those from lower income backgrounds, with language barriers, migrants, who have lower health outcomes, and who may struggle to demonstrate their eligibility for the existing payments. CIB funded services draw attention to the pressures that GPs are currently working under, and there are examples of medical reports that are not adequately completed, and which fail to detail the medical problems experienced by a client. Some GPs also charge for letters of support, which are not covered by the medical card.

*Q.2. Do you agree with the indicative payment levels set out in section 4.2? – If not, what would you propose?*

The indicative payment levels set out appear to be fair and balanced.

*Q.3. Do you agree with the approach to engagement with the Public Employment Service set out in section 4.2? – If not, what would you propose?*

People's ability to engage with the Public Employment Service will clearly be contingent on their personal well-being at any given time. Also, relevant is people's situational and living context, e.g., geographical location, household composition and, whether or not, they have access to a Personal Assistant and transport.

*Q.4. Do you agree with the approach to assessment and assignment set out in section 4.3? – If not, what would you propose?*

The proposal to continue the current system of assessment for the new payments model is unsatisfactory for a number of reasons but primarily because it focuses on the individual *per se* and does not take into account the various socio-economic factors that impact negatively on a person's ability to work. These include, in particular, geographical location, access to transport and the availability of a Personal Assistant.

*Q.5. Do you agree with the approach to entitlement reviews set out in section 4.4? – If not, what would you propose?*

The proposal that capacity would be reviewed every two years in the context of Tiers 2 and 3 may not be adequate as capacity for many disabled people changes and fluctuates on a regular basis. In relation to Tier 1, the proposal that people with a chronic but moderate condition do not have to continuously 'prove their disability' and their inability to take up employment makes good sense. However, it would be important that people's initial classification to this category is sufficiently flexible to allow for some change in some people's condition over time.

*Q.6. Do you agree with the approach to the transition of existing claimants set out in section 4.5? If not, what would you propose?*

The approach to the transitioning of existing claimants to the new system as set out is clear. However, care must be taken that anomalies in the current system arising from complex eligibility criteria associated with the incremental development of the social welfare system over many years are not replicated in the new system. Also important will be the need for reassurance and clear information that people will be no less well-off and, in many instances, will be better off under the new system.

*Q.7. Do you agree with aligning short-term and long-term payments by setting a two-year impact test for long-term payments as introduced in section 4.6? If not, what would you propose?*

Generally, a two-year impact test for long-term payments would appear to be logical and reasonable. However, clearly, there will need to be provision for people whose circumstances, e.g., recovery from illness or improved mobility, results in them having greater capacity to take up or return to employment. Also, provision will need to be made for periodic fluctuations in people's capacity to work.

*Q.8. Are there any further comments that you would like to make on the details set out above?*

Because Invalidity Pension is an insurance-based payment, it should be dealt with separately from means-tested payments. Also, the term 'Invalidity' should be changed to indicate a more rights-based focus and an acknowledgement of individual personhood.

## Section 5- In-work income supports

*Q.1. Do you agree with the approach to align the in-work supports for the new contributory and non-contributory disability income supports? If not, why not?*

Making social welfare payments conditional on taking up employment may have the effect in some instances of undermining a person's basic right as citizens to have additional costs of disability covered by the State in the context of citizenship, equality, and social solidarity. It is the CIB view that there is a clear need to ask the question whether all employment conditionality should be removed for those assessed as requiring a disability payment and that the option of taking up employment should continue to an incentivised choice.

*Q.2. Do you agree with the proposed Working Age Payment model? If not, what alternative approach would you propose?*

The proposed move to a Personal Support Payment is broadly positive in that it removes any separate labelling of disabled people as a specific identity group. It is also likely to contribute to a dismantling of the term 'disability' in the social welfare system and a focus on people as unique individuals with their own challenges, albeit, in many instances, more complex than the general population.

*Q.3. Do you have any other comments on the proposals in this section?*

The focus on the concept of personal support is important. However, it may be undermined somewhat by an approach without due respect for a person's will and preference and in accordance with the principle of presumption of capacity enshrined in the Assisted Decision-making (Capacity) Act 2015. This will be particularly important in respect of people with an intellectual disability with reduced decision-making capacity.

There is potentially an enhanced role for GPs in social prescribing<sup>29</sup> to support disabled people and people with mental health difficulties to acquire the social and interpersonal skills that they may require to engage in long-term employment. This could usefully be built into an integrated capacity assessment process.

## Section 6 – Eligibility for long-term disability payments

*Q.1. Do you agree with the approach to maintaining the current means test and PRSI contributions eligibility conditions? If not, what approach would you propose?*

Means-testing is a necessary component in non-insurance-based payments and the current incremental means-testing approach to Disability Allowance appears fair. However, there is a strong case to be made for clearly separating social welfare payments made on the basis of a person's disability and financial supports to incentivise people to take up employment when they are able to do so. This is a matter that should be given further due consideration.

*Q.2. Do you agree with standardising the age requirement under the new tiered payment at age 18? If not, what approach would you propose?*

Moving Domiciliary Care Allowance from 16 to 18 years and Disability Allowance to 18 years would be a positive change. However, there is a need to consider further the implications of such a change on household income in some circumstances and how this could be ameliorated.

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<sup>29</sup> Social prescribing recognises that health is heavily determined by social factors such as poverty, isolation, and loneliness.

Q.3. Do you agree with the proposed transitional arrangements for people currently in receipt of the Domiciliary Care Allowance? If not, what approach would you propose?

See answer to Q.2

Q.4. Do you have any other comments on the proposals in this section?

The twin challenges that underpin the Green Paper proposals – insulating people who cannot work from experiencing poverty and promoting and supporting a higher rate of employment among disabled people – may have the unintended effect of conflating two separate issues which results in not only some lack of clarity as to how the proposed approach would work in practice but in effect may introduce unintended new barriers and inequalities.