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To: Cabinet – 17 October 2011

Subject: **WELFARE REFORM BILL**

Classification: Unrestricted

Summary: This report provides a brief outline of the main Welfare Reform measures contained in the Welfare Reform Bill (currently going through Parliament) and a summary of the potential implications for Kent and KCC. The measures in the Bill considered by this report are:

1. The introduction of Universal Credit which brings together the main sources of means-tested support for people of working age. This is due to be phased in in stages starting in October 2013, with a number of pilots taking place from April 2013.
2. Further restrictions to Housing Benefit (to be carried over into Universal Credit) including from April 2013, for social housing tenants who are occupying accommodation larger than they need.
3. The proposal to make local authorities responsible for their own localised new Council Tax Benefit scheme from April 2013 (currently administered by district councils but governed by national rules). This is in the context of a 10% reduction in funding for the scheme (amounting to approximately £13 million per annum).
4. The proposal to localise elements of the Social Fund from April 2013 (currently administered nationally by the DWP). Funding (approximately £2 million per annum) will be transferred but it will not be ring-fenced and there will be no new duty to provide the service.
5. The proposal to replace Disability Living Allowance (DLA) with a new Personal Independence Payment from April 2013.
6. Limiting payment of Employment Support Allowance based on National Insurance contributions to one year except for the most severely disabled or ill.
7. Introducing a total benefit cap for claimants of working age, with some exceptions.
8. Enhanced powers to enable data sharing between local authorities (including upper tier authorities) and the DWP.

1. Introduction

1.1 The Welfare Reform Bill, published in February 2011, and currently progressing through Parliament, contains proposals for the most comprehensive reform of the welfare state in a generation. Underlying the reforms is the drive to reduce dependency on the state and make work pay whilst at the same time protecting those who cannot work. The expectation of government is that the overwhelming majority of benefit recipients will be able to find employment eventually with help.

1.2 At this stage the details of how the new Universal Credit and other changes will be delivered have yet to be finalised. This is therefore a crucial period in which to work with Government and district councils in an attempt to influence crucial design features and the eventual delivery model.

1.3 At the time of writing this report the Welfare Reform Bill had just entered the Committee Stage in the House of Lords (4 October 2011) during which the Bill will be subject to a line by line examination.

2. <u>Universal Credit</u>

2.1 The government plans to introduce the Universal Credit in a series of stages starting in April 2013. The plan is to have pilot schemes starting in April 2013, all new claims to be for Universal Credit from October 2013 (or April 2014 at the latest) and for a full transition of people on the old 'legacy' benefits/tax credits to be completed by October 2017.

2.2 Universal Credit will be a single, integrated, means-tested benefit payable to people of working age. It will be paid to people both in and out of work and can continue to be paid to an individual who changes their employment status whilst in receipt of the benefit.

2.3 Universal Credit will replace the main means-tested benefits and tax credits currently paid to people of working age that are out of work or on low wages. This includes Housing Benefit for help with rent, but significantly not Council Tax Benefit (for help with paying the Council Tax) – see section 4 below.

2.4 A system of earnings disregards and a single taper (proposed as 65%) on earnings above these are designed to ease the transition into work and offer greater incentives for most people. The reduced complexity in the system should aid this.

2.5 In order to receive Universal Credit certain 'work-related requirements' will have to be met. However, the level of requirement (or conditionality) will vary depending on individual circumstances. Some people will have no work related requirement (i.e. those with a severe illness or disability), some will have to undergo work preparation (but without the requirement to look for work straight away), whilst others will have to actively seek work. Benefit sanctions may be imposed for failure to meet a work-related requirement. Significantly, an individual will be able to move from one level of conditionality to another without having to claim a different benefit, as happens at the moment.

2.6 There are a number of issues concerning Universal Credit which have yet to be resolved/are subject to debate and which it is thought will be crucial to the success or failure of the new system. These include

2.6.1 **Computer systems interface between HMRC and DWP** – this is being developed to allow real-time earnings information to be obtained from HMRC's PAYE system. A recent

report by the Public Accounts Committee has expressed concerns about whether the system will be ready in time.[1]

2.6.2 **On-line application for the majority** – the Government's assumption is that 80% of claimants will access Universal Credit online. The Public Accounts Committee report

[1] Public Accounts Committee (47th report) Reducing costs in the DWP, 5 September 2011.

referred to above has described this as overly optimistic given that the figure for online access is currently only 17%. [2]

2.6.3 **Delivery model** - initial indications are that the new benefit will be administered at the national level by the DWP (via Jobcentre Plus) and that the majority of transactions will be automated. An alternative, localised delivery model is being actively examined by the District Councils' Network (a group within the LGA), the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Institute of Housing and the Institute of Revenues, Rating and Valuation (IRRV). The response by the Kent Forum to government on Universal Credit strongly advocates a significant element of local delivery to sit alongside the online system. The proposal is that this should be delivered by utilising the existing skills, experience and infrastructure of local authorities.

2.6.4 **Single payment to the individual** – current plans are to pay claimants one single payment on a monthly basis and for them to then arrange for their various commitments including housing costs to be paid. This is meant to help claimants get used to receiving and budgeting with one monthly payment and thus prepare them for the world of work. Many bodies have expressed concern about this approach and have lobbied for the facility for the housing costs element to be paid direct to landlords in the social housing sector and to private landlords for some tenants. This is seen as crucial for some claimants to prevent them getting into arrears with payments and also essential to provide financial security for housing providers, particularly in the social housing sector who have a very high proportion of tenants on Housing Benefit. The Government announced during the second reading in the House of Lords that they are prepared to explore options that would provide some protection for the housing industry. The Kent Forum response argues strongly for the facility to pay landlords direct for certain tenancies and in specific circumstances. It also argues for the facility to fast-track the transfer of Universal Credit payments between individuals in a household when appropriate.

2.6.5 **Childcare costs** - Since April 2011 the amount of support for childcare costs with Working Tax Credit has been reduced from 80% to 70% of the cost up to a maximum of £175/week for one child and £300 for two or more children. Current plans are for this level of support to be transferred to the new Universal Credit. Concerns exist that this is insufficient to make work pay for all parents and will undermine the work incentives in Universal Credit.

2.6.6 **Support for Council Tax liability** – current plans are for this not to be part of the Universal Credit, but instead to be devolved to local authorities to design their own schemes. There is a concern that this might undermine the work incentives in Universal Credit and therefore a strong argument exists for making this part of Universal Credit provided this element was paid direct to the billing authority (I.e. the district councils). See section 4 below for further details.

2.6.7 **Assessment of incapacity** – since the introduction of Employment Support Allowance in October 2008 there has been a tougher test (Work Capability Assessment) for people claiming benefit on the grounds of incapacity. This will be carried over into the new Universal Credit for those claiming on these grounds. In addition to all new claimants being subject to this test, all existing claimants of the old incapacity-based benefits are being reassessed using the new test (to be completed by April 2014). In early trials of the reassessment about a third of those assessed were found fit to work and not eligible for the new Employment Support Allowance. Once Universal Credit is up and running those people who fail the Work Capability Test will be subject to the maximum work conditionality (see paragraph 2.4).

2.7 A response on Universal Credit has been sent to the DWP by the Kent Forum. This welcomes the introduction of the Universal Credit but highlights some of the issues outlined

[2] Ibid.

above and argues strongly for a delivery model including an element of face to face support provided by the local authorities, via Gateways where appropriate.

3. Restrictions to Housing Benefit/housing costs paid with Universal Credit

3.1 Restrictions to the amount of support given towards rent and mortgage interest has already begun:

- Since October 2010 the standard interest rate used to calculate support for mortgage interest payments (paid with some means-tested benefits) has been set at a level equal to the Bank of England's published monthly Average Mortgage Rate. (approximately 3.5%). This change was applied immediately to existing as well as new claimants. Previously the rate used was much higher at 6.08% since late 2008.
- Since April 2011 Housing Benefit for private sector tenants has been limited to the appropriate rent for a 4 bed property regardless of the size of the property or family.
- Since April 2011 each size category has an absolute cap and rates are based on the 30th percentile of rents in an area (rather than the 50th as it used to be). This will be phased in for existing tenants between January and December 2012.

3.2 Further restrictions to come into force include:

- From January 2012 the single room rate currently applicable to Housing Benefit for young people between the ages of 16 – 24, will be extended to people under age 35 (lone parents and disabled people excepted).
- From April 2013 increases in Housing Benefit will be based on rises in the Consumer Price Index (CPI) rather than rent. The CPI tends to rise more slowly than rent levels.
- From April 2013 size related caps will apply to working age tenants in the social rented sector. Currently people with disabilities or health problems are not being exempted from this change. The National Housing Federation has stated that there are approximately 108,000 working age social housing tenants in receipt of Housing Benefit and under-occupying adapted homes. There will obviously be a much higher number of people with disabilities/chronic ill-health under-occupying non-adapted properties.

4. Council Tax Benefit localisation

4.1 Council Tax Benefit is currently an income related social security benefit administered by local authorities (district councils in Kent) on behalf of the Department for Work and Pensions (DWP). Benefit is awarded on a means-tested basis after other Council Tax discounts have been applied.

4.2 Council Tax Benefit is currently demand led and the DWP will reimburse local authorities for all benefit awards that are correctly made. Thus there is no incentive to reduce benefit awarded as the local authority suffers no financial penalty. The Government believes localising Council Tax Benefit will give greater incentives to local authorities to develop employment in their area, thereby reducing the benefit spend. This is in line with other developments in local government finance including the proposals for the retention of Business Rates.

4.3 It is proposed that from April 2013 the national scheme of Council Tax Benefit will end and funding (less 10%) will be devolved to local authorities to design their own schemes. Current indications are that this will be based on the previous year's budget for Council Tax

Benefit. It is not clear at this stage whether any facility will exist for increases in times of increased demand for benefit.

4.4 Whilst freedom will be given to local authorities over the detail of local schemes, the government has stated that pensioners must be protected and any scheme must support the work incentives proposed in the new Universal Credit. The effect of protecting pensioners means that the 10% cut in funding will in reality be closer to 20% for the rest of the claimant population. If other vulnerable groups are also protected the increase for those affected is likely to be greater. If, as some have suggested, those currently on 100% benefit are also protected, this will place the full burden on working claimants, thereby undermining the work incentives in Universal Credit. Alternatively, expecting people on Jobseekers Allowance/subject to full work conditionality in Universal Credit to pay some Council Tax will increase work incentives but may create hardship for those unable/unwilling to respond to these.

4.5 On 2 August 2011 a consultation document was issued by the Department of Communities and Local Government entitled 'Localising Support for Council Tax in England', the deadline for responses being 14 October 2011. A response has been sent by the Kent Forum on this. In summary this suggests the Government delay implementation for at least one year so that proper preparations can be made. It also, in line with localism, suggests greater freedom be given on all aspects of Council Tax including the discount schemes and that further information be provided on how Council Tax Benefit will be funded if demand increases in the future.

4.6 An alternative to localisation of Council Tax Benefit could be to include the benefit in the new Universal Credit. This would be much simpler and avoid the potential for a local scheme to undermine the work incentives in Universal Credit. This is mentioned as an option the Government may wish to consider in the Kent Forum response. It is important to stress that this approach would only be acceptable if the element for Council Tax support was paid direct to the billing authorities (the district councils in Kent).

4.7 As discussed above, it has been suggested that if Council Tax Benefit is to be devolved then local authorities should also be given the discretion to modify the Council Tax discount scheme. The Single Person's Discount has in particular been mooted by some experts as a way to increase income from Council Tax, thereby reducing the need to cut Council Tax Benefit. This would, however, require changes to legislation over and above that localising Council Tax Benefit. It is important to point out that were such discretion given to local authorities, it would be possible to exercise this in a considered manner and retain, for example, the Single Persons' Discount for certain sections of the population, in particular pensioners.

5. Social Fund Localisation

5.1 Currently there is a system of discretionary payments administered by the Department for Work and Pensions (DWP) known as the discretionary Social Fund. This is made up of three separate funds:

Community Care Grants – non repayable. These are available to people getting certain means-tested benefits like Income Support and Pension Credit or who are likely to start getting one of these benefits within the next six weeks because they are moving out of an institutional setting. They are payable mainly to help people remain living in the community, to help them re-establish themselves in the community or to ease exceptional pressures on a person and their family.

Crisis Loans – repayable. These are interest free loans available to meet a person's immediate short term needs in an emergency or as the result of a disaster. There must

be a risk of serious damage or risk to the person's (or their family's) health or safety.

Budgeting Loans – repayable. These are interest free loans for people who have been on certain means-tested benefits, for at least 26 weeks. They are intended to help spread the cost of certain one-off expenses like furniture, rent in advance and removal expenses over a longer period.

5.2 The DWP proposes that from April 2013 the above system will be abolished and replaced with a new system of:

- locally-based provision to replace Community Care Grants and Crisis Loans for living expenses AND
- a new nationally administered advance of benefit facility (i.e. advance payments of the new Universal Credit) that will replace Crisis Loans specifically to cover delays in benefit payments and Budgeting Loans.

5.3 The locally-based service will be devolved to local authorities (county councils and/or district councils) in England and to the devolved administrations in Scotland and Wales. There will be no new statutory duty requiring local authorities to deliver the service and the funding will not be ring-fenced. It is believed approximately £2 million per annum is the allocation for Kent. However information is not yet available on how annual increases will be calculated.

5.4 The government anticipates that local authorities will want to develop a local system that will reflect the needs of their community and build upon programmes and services that are already in place, for example, the Supporting People programme. They believe local authorities may also wish to utilise and further develop existing partnership arrangements or develop new ones with, for example, furniture reuse services and food banks, to provide services for those in particular need.

5.6 It may be possible to link this reform with developments in Community Budgets (for families with complex needs) and also with discussions on the possible localisation of the delivery of the Universal Credit.

6. Replacement of DLA with a new Personal Independence Payment

6.1 From April 2013 the new Personal Independence Payment (PIP) is due to replace Disability Living Allowance (the main disability benefit for people under 65). PIP will have two components: a daily living component and a mobility component. There are some similarities to DLA but the tests will be stricter and the intention is to save money from the changes (£1.1 billion by 2014-15 according to Treasury forecasts). The new benefit will remain one that can be paid in or out of work.

6.2 In 2013 the Government plans to begin reassessing all existing recipients of DLA aged between 16 and 64 to determine if they qualify for the new PIP. This may in future be extended to those over 65 (who may be on DLA if they claimed before the age of 65) and those under 16.

NB: present indications are that Attendance Allowance (the main disability benefit for people over 65) will remain as it is for the moment.

6.3 The qualifying period in the new benefit will be raised from 3 to 6 months except for those terminally ill. In addition a person must be likely to satisfy the tests for 6 months into the future (as per the current rules).

6.4 Current plans are for both the care and mobility components to be withdrawn after 4 weeks

in state funded residential care. At present only the care component is withdrawn. The Government's rationale in removing the mobility component in such circumstances is that currently there is double funding for mobility needs when local authorities fund a residential placement. The Low Review (set up by several leading charities) is currently gathering evidence on the likely impact of withdrawing the mobility component. KCC will be responding to the review and highlighting the detrimental effects on individuals and the local authority who will be under pressure to increase their contribution for these needs as homes struggle to provide the same level of support for outings etc.

NB: self-funders will be allowed to keep both the care and mobility components in residential care.

7. Limiting payment of Employment Support Allowance based on National Insurance contributions to one year except for the most severely disabled or ill.

7.1 Once Universal Credit comes into effect the income based Employment Support Allowance (ESA) will cease to exist. However the ESA based on a person's National Insurance contributions will continue.

7.2 Currently there is no time limit to a person receiving the NI contribution-based ESA provided they continue to be assessed as unable to work. The Government is proposing to limit this to one year except for those in the Support Group (i.e the most severely disabled or ill). The DWP's own assessment is that, without time-limiting, about 77% of NI contribution based ESA claimants (excluding those in the Support Group) will be in receipt of the benefit for12 months or more. The change is likely, therefore, to affect a significant number of people. Those affected, will, however, be able to claim the means-tested equivalent provided they qualify.

8. Total Benefit Cap

8.1 From April 2013 there will be a total benefit cap of about £500 per week for workless couples (with some exceptions). The Welfare Reform Bill explicitly excludes Pension Credit and State Pension from the calculation. In addition a ministerial statement has confirmed the cap will not apply to those households with someone on DLA (or equivalent), working families entitled to Working Tax Credit or Universal Credit and will not include War Widows/Widowers Pension.

9. Proposals for enhanced data sharing between local authorities and the DWP

9.1 The Welfare Reform bill contains sections, which if implemented, will significantly improve data sharing between the DWP and local authorities (including county councils). If the Bill progresses according to plan these sections are due to be implemented in April 2012.

9.2 The ability to obtain financial data on our service users should reduce the time and effort required in financial assessment which will lead to the potential for significant savings to be made. This will be particularly important if KCC are required to financially assess increased numbers of people due to the reforms proposed in the 'Dilnot Report'. It should be noted, however, that obtaining data from the DWP will not be sufficient to assess all service users as some will have income over and above state pensions and benefits.

9.3 The areas where savings could be made include financial assessments for residential and non-residential care, disabled adaptations, College Travel awards, section 17 payments to the families of children in need, the means-tested Kinship, Special Guardianship and Adoption Payments and any local replacement to the Social Fund. In addition confirming initial and ongoing eligibility for Blue Badges may be made easier.

10. <u>POTENTIAL IMPLICATIONS OF THE REFORMS</u>

10.1 **Incentives to work and Kent's Family Poverty Strategy** – overall, it is felt the introduction of the Universal Credit is a major step forward in attempts to simplify the system and incentivise work. It has the potential to have a positive effect on Kent residents and contribute to two of the Kent Ambitions – to tackle disadvantage and grow the economy. The DWP's own Impact Assessment [3] has concluded that the Universal Credit will lift 950,000 people out of poverty without taking into account the impact of more people moving into work. The number it is estimated will be lifted out of poverty in Kent is approximately 18,000.

The Government has also estimated that nationally there will be a reduction in workless households by 300,000 within 2-3 years. It is expected that not all the jobs people enter will be full-time. Unlike the current system Universal Credit incentivises work at low hours as well as work over 16 hours per week. The Institute of Fiscal Studies has calculated that Universal Credit strengthens the incentive for single individuals to do low-paid work, particularly strengthens the incentive for couples to have one person in work rather than none, but weakens the incentive for both members of a couple to work, rather than just one. [4]

The extent to which Universal Credit will reduce unemployment is hard to predict precisely given that it is being introduced in a period of economic downturn. In addition, the success of the new benefit is felt to depend partly on the resolution of some of the issues identified in section 2.6. Unless issues such as child care support, payments direct to landlords/lenders and the support for Council Tax are satisfactorily resolved the impact may be less than expected. In addition the reduced assistance being given for rent and mortgage interest (which will continue when this support is subsumed into Universal Credit) and the proposed overall benefit cap may result in less affordable housing being available and increased financial pressures on low income families. An increase in debt is a real possibility.

The reforms have the potential to cause hardship to those who are unable to fulfil the tougher work-related requirements particularly in areas where employment is scarce. This will include some people with disabilities and health problems who are already feeling the impact of the tougher regime imposed by Employment and Support Allowance (ESA). The reforms to DLA may exacerbate this. However it should be noted that the support to prepare for work offered to people claiming ESA is significantly better than under the previous system. This level of support should be carried over to Universal Credit when it is introduced.

Local delivery of the Universal Credit is seen as an essential means to ensure the reforms are as effective as they can be. Poverty and worklessness are more likely to be tackled if the sources of means-tested and other support are located in one place and face to face contact is enabled. This is why the Kent Forum has argued for a strong element of local delivery of the new Universal Credit alongside the on-line system.

10.2 **Risks to the Gateway model if Universal Credit is not delivered locally** – if the decision to deliver at a national level is maintained this could impact significantly on the Gateway model being actively developed within Kent. Much of the work in Gateways is predicated on the need for people to access financial support including Housing and Council Tax Benefit. If the current plans for Universal Credit go through (i.e.<u>non</u>-local delivery) this could impact on the footfall within the Gateways and the knock-on effect on other services provided through Gateways.

10.3 **Opportunities from increased localism** – the proposals for Council Tax Benefit and the Social Fund may provide KCC and the District Councils with the ability to target support to those areas and to those groups it considers most in need, for example via the Community Budgets scheme. This would be enhanced if the Government do respond to the call for an element of local delivery of Universal Credit.

[3] DWP Impact Assessment of Universal Credit, 16 February 2011.
[4] Universal Credit: a preliminary analysis by the Institute of Fiscal Studies (Brewer, Browne and Jin), March 2011

10.4 **Impact on housing providers** – restrictions to Housing Benefit (and its replacement within Universal Credit) and the preference to pay claimants rather than landlords direct will put pressure on housing providers (particularly Registered Social Landlords but also private landlords) with consequences for affordable housing provision. There are indications that the Government is listening to concerns expressed about this issue by a number of organisations. The Kent Forum response is very clear that payment direct to landlords (particularly Registered Social Landlords) is vital if their financial viability is to be maintained.

10.5 **Local Government finances -** Current indications are that the devolved Council Tax Benefit budget will be based on the previous year's budget. There are serious concerns that without a facility for increases in times of increasing demand, this will place significant pressures on local government finances.

10.6 **Reputational Risk** – if local authorities within Kent have to develop their own local "Social Fund" and "Council Tax Benefit" schemes this could impact on their relationship with the local population, particularly if the rules have to be tightened due to significant reductions in funding (both due to the amount transferred by government and the need to make further savings). Local delivery of Universal Credit has the potential to add to this pressure. However it may be considered that the advantages of local delivery outweigh any risks in this regard and in the case of Universal Credit, the actual rules of entitlement will be laid down by national not local government.

10.7 **Pressure on resources if significant migration from London** - the caps on Housing Benefit, some of which are already in place are likely to have a significant impact on recipients in the London area. This may impact on the future demand for housing and other public services within Kent if significant numbers of people were to relocate to the Kent area. The actual impact will depend very much on how the private sector housing market responds to the reforms.

10.8 **Financial Assessment Capacity** - depending on the delivery model chosen, Universal Credit could impact greatly on the district councils' financial assessment function. Possible future joint working with the districts means KCC needs to be mindful of this. If the financial assessment function is reduced this could have a detrimental effect if/when Social Care reforms (following the 'Dilnot Report') lead to the need for more financial assessment capacity. If the Dilnot proposals go through, the group of people requiring a financial assessment for social care purposes will not neatly correlate with the group potentially eligible for Universal Credit. Therefore enhanced data sharing on its own will not obviate the need for local assessment.

10.9 **Savings from enhanced data sharing** – the proposals to enable data sharing for specific purposes between local authorities and the DWP has the potential to make savings in a number of areas as outlined in section 9 above.

11. Current and planned work on the implications of the reforms

11.1 Detailed work on the implications of the various reforms has begun. This includes working with officers from the Customer and Communities, Families and Social Care and Business Strategy and Support directorates, the district councils within Kent and representatives of the Department for Work and Pensions who have visited Kent to discuss the implementation of the Universal Credit.

11.2 An Informal Members Group is being set up to explore the implications for Kent across all relevant directorates.

12. Conclusion

12.1 The introduction of the Universal Credit and wider welfare reforms have the potential for a significant impact in Kent. Many of the details of the new system have yet to be finalised and this is therefore a crucial period in which to work with government and district councils in an attempt to influence crucial design features and the eventual delivery model.

12.2 The majority of the reforms come into effect in April 2013 which leaves local authorities only 18 months to prepare for the changes. As outlined in section 11 above, further work is underway to further consider and prepare for the changes.

12. Decisions needed

12.1 Cabinet is asked to:

- Note the planned developments in Welfare Reform and the potential implications of these.
- Endorse the planned further work on the issues involved.

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