

## **Submission to NPHE 03 June 2020**

### **The Social Protection Needs of People with Disabilities who are High-Risk to COVID-19**

#### **Disability Federation of Ireland, Cystic Fibrosis Ireland, Muscular Dystrophy Ireland**

This submission seeks to highlight the social protection policy anomalies which are emerging during the COVID-19 crisis, in the context of people in Ireland who are designated High-Risk. A number of these individuals and their families have been caught between public health advice to Cocoon and the economic need to earn money to support their family. Now a number of high risk individuals in employment face very significant problems and dilemmas as they are about to lose their enhanced COVID-19 payments.

This submission has been prepared by Disability Federation of Ireland, Muscular Dystrophy Ireland and Cystic Fibrosis Ireland. However we are aware that this is also an issue of concern for a number of other groups, organisations and networks we work with, but have not been able to consult them for this submission due to shortage of time, thus we believe many other organisations would support our position.

#### **Summary of Key Concerns and Recommendations**

People who are high risk or very high risk from COVID-19 have been advised to cocoon and stay at home to protect their health since the onset of the COVID-19 crisis. This advice remains in place, and it is anticipated that those who are high risk may need to stay at home for months, or even longer, into the future.

Although a number (but not all) of these people have been in receipt of the PUP while their workplace was closed due to the lockdown, as the country begins to reopen their workplaces may also reopen. Current advice from DEASP, that high risk individuals will no longer receive the PUP once their workplace reopens, seems at odds with public health advice. The dots thus need to be joined between public health advice and social protection provision in this regard. Many high risk individuals, and their family members, cannot currently return to their workplace due to the severity of the risk. Economic supports must be put in place to support high risk individuals to continue to follow public health advice and Cocoon/stay at home until that official advice changes.

We are asking NPHE to join the dots between these two policy areas. NPHE should:

- Consider the significant economic and health risks to high risk individuals in the context of the ongoing move towards reopening the country and the return to work.
- Issue advice and guidance to the government that it must economically support high risk individuals and family members who live with them, to enable them to protect their health and lives by continuing to stay home.
- Recommend that the PUP/enhanced illness benefit continue to be paid, and/or be extended to all high-risk people with disabilities and the family members who share a household with them, who cannot return to work due to their health status and the need to follow public health guidance.

It is essential that NPHET issue advice and guidance to the government to ensure that the necessary measures are put in place to economically support high risk individuals to continue to self isolate and stay at home.

### **People who are High Risk and Very High Risk from COVID-19**

The HSE have developed two key categories, defining those individuals who are very high risk and those that are high risk from COVID-19.

Individuals who are very high risk include (for example) those who have had a transplant; those undergoing active cancer treatments; those with severe respiratory conditions such as cystic Fibrosis, severe asthma, pulmonary fibrosis, lung fibrosis, interstitial lung disease and severe COPD; those with a serious heart condition who are pregnant. Individuals who are at high risk include (for example) those with a learning disability; heart disease; high blood pressure; chronic kidney disease; liver disease; living with cancer; cerebrovascular disease; conditions such as Parkinson's Disease; and residents in long term nursing homes. Many people with Muscular Dystrophy and Neuromuscular Conditions fall under the very high and high risk categories, depending on the nature of the specific condition and its state of progression.

Many of these high-risk individuals cannot work because of their disease or condition. However, many continue to work in spite of their disease/condition or because it can be managed. For example, a survey of adults with cystic fibrosis published in March 2018 showed that 54% were in full or part-time employment<sup>1</sup>.

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<sup>1</sup> Cystic Fibrosis Ireland (2018). Independent Living and Cystic Fibrosis.

[https://www.cfireland.ie/images/uploads/resources/Independent\\_Living\\_Report\\_2018.pdf](https://www.cfireland.ie/images/uploads/resources/Independent_Living_Report_2018.pdf) P28-35

There is thus a cohort of employed individuals that have and live with a very high risk or a high risk disease/condition who were entitled to apply for and receive enhanced COVID-19 payments when they were introduced and who continue to receive such payments. Many of these people, and the family members who reside with and care for them, have been following medical advice to cocoon and self-isolate for the past months, and a number have left work to do this. Those employees who are high or very high risk whose workplaces are closed due to COVID-19 have been receiving the Pandemic Unemployment Payment (PUP) based on their workplace status, not their high-risk health status. Others have not been receiving any financial support from the state as they self-isolate/cocoon.

Some people in the high and very high risk group, and their family members, are continuing to work because they cannot afford not to, in spite of their fear of contracting the virus and/or bringing it back into the homestead. Others are now faced with having their income cut off or drastically reduced if they do not return to work once their workplace reopens.

This is causing extreme anxiety, stress, negative mental health impacts and financial strain for these families. They are faced with a very difficult dilemma – do they stay at home and stay safe, but have no economic security and try to survive on an income which will shortly be reduced by more than €140 per week, or go out and work, but with the constant worry and stress that they may expose themselves and their family to COVID-19. It seems likely that many of these people will need to self-isolate and cocoon for many months to come in order to protect their own life or those of their family member.

### **Cocooning Advice for People Who are High Risk of COVID**

The current advice to people who are high risk in the context of COVID-19 is that they should continue to “Cocoon”. For example those who are very high risk are advised to stay at home at all times and avoid any face-to-face contact. They are also advised to ask neighbours, family or friends to get any shopping or medicine they need and not go out shopping and to arrange for food or medicine deliveries to be left outside their door. Those who are high risk of COVID-19 are advised to stay at home and that they should work from home.

### **DEASP Position on Social Protection for High Risk Individuals**

DEASP have responded to a number of queries from CFI and DFI on the issue of social protection for high-risk groups. DEASP has advised that people are only entitled to the PUP if their workplace is not operating due to the COVID-19 lockdown. They also advise that the enhanced illness benefit is only for those who have COVID-19, or those who have been a

close contact of someone who contracted it, to enable them to self-isolate for the required 2 weeks.

DEASP's response states that "there is no provision in the legislation for people cocooning or self-isolating with underlying conditions to get the payment as the payment is primarily a public health measure". It further states that "where employees with underlying health conditions do not wish to return to the workplace, they may approach their employer in relation to taking annual or other paid leave - this is at the discretion of the employer. The government has encouraged employers to support workers with leave requests at this difficult time and clearly those with underlying conditions should be facilitated where possible".

However in the Dáil on 20<sup>th</sup> May 2020, Regina Doherty, Minister of Employment and Social Protection, said "if those people are self-isolating and have certs from their GPs stating they are self-isolating because they are vulnerable, they can apply for the two two-week periods. However, *somebody who is vulnerable obviously does not stop being vulnerable after the two weeks* [emphasis added], so then such people are entitled to apply for the Covid PUP as long as they make a declaration that their income has fallen away. They can be maintained as employees, but as long as the company is no longer paying them they can apply for the Covid payment and stay on it for as long as it is in place." This response seems to be contrary to that received from DEASP.

DEASP have recently suggested that these high-risk individuals apply for standard illness benefit instead of the COVID PUP. As per the government's own information "illness Benefit is a scheme to support you if you cannot work in the short term because you're sick or ill." To apply for it you must have a doctor complete a "Certificate of incapacity to work". However many high-risk individuals have the capacity to work - the issue is not that they physically cannot work. They are advised, under public health grounds, not to leave their homes, or to do so under very specific circumstances. These individuals want to return to work and to be supported to do so safely. However we are currently at the very early stages of reopening the country, and the government itself has consistently highlighted the need for a careful and controlled reopening of society. In each phase of the roadmap to recovery, the restrictions recommended for those cocooning are removed more slowly than for the general population. The same should be true for their return to work, and while they follow public health advice to remain at home, and are thus unable to attend work due to following this advice, they should be entitled to the pandemic unemployment payment.

**Protecting the Rights of People with Disabilities: The Problem and Proposals to Resolve this issue**

We recognise the extremely complex and difficult context in which we presently find ourselves. The country needs to fully return to work as soon as it is safe to do so and there has been considerable drain on national financial resources. However consideration should also be given to the potential negative social, financial and health consequences arising from not extending enhanced COVID-19 payments to high risk individuals, such as:

- People feeling pressurised to prematurely return work through drastic income reductions.
- Employers faced with the dilemma of employing high risk employees and potential claims against them should they contract COVID-19.
- Some employers discriminating against employees who are more at risk from COVID-19.
- The added immediate and long-term health costs of treating at risk employees that contract COVID-19.
- The moral and ethical questions that will be asked about this policy. It is discriminatory against people with disabilities as it will require them to assume a greater health risk when returning to work after the COVID-19 lockdown compared to the general population.
- The potential scenario where some of these individuals continue to draw down COVID-19 payments, with subsequent action being taken against them to recover the 'debt' they owe and the likely negative public perception which will arise from such action.

We are concerned that DEASP's policy approach relies too heavily on the discretion and understanding of employers, and cases have already been reported to us where employers are not being understanding. Moreover, it is not the case that high risk people and their families "do not wish to return to the workplace" – this could hardly be considered a choice being made by individuals, when returning to the workplace would put their lives in danger!

In Ireland, people who are not at work due to illness or disability have amongst the highest consistent and at risk of poverty rates across the population. In 2018 5.1% of people at work were at risk of poverty, whilst a staggering 47.7% of those not at work due to illness or disability were at risk of poverty. Equally, the consistent poverty rate of employed people was 1.6%, while 21.3 % of those unable to work due to illness or disability live in consistent poverty. The disproportionate levels of poverty experienced by people with disabilities are starkly illustrated by these figures. The disability community has been raising this issue for many years, and the disparity between the COVID-19 welfare payments of €350 and the Disability Allowance rate of €203 only makes this issue more

striking. Many people with disabilities are expected to live on Disability Allowance for the duration of their lives, and struggle with poverty and social exclusion as a result. Given this already alarming scenario, adding another cohort to this category, as is currently being proposed, will only exacerbate poverty levels further in Ireland.

The state, under the UNCRPD, which it ratified in 2018, has a responsibility to prohibit discrimination and promote equality for people with disabilities. It also has responsibilities to protect people with disabilities in the areas of health, social protection and integrity of the person, all of which are threatened by this policy. We believe this policy will be discriminatory towards people with disabilities as it will require them to assume a greater health risk when returning to work after the lockdown compared to the general population.

Moreover we believe that there is a contradiction between the public health advice that high-risk individuals should continue cocooning/stay at home, and the current social protection policy which provides no income support to people who are doing so on medical advice, to protect their health and life, and that of their families. The cocooning guidance tells high risk people "do not go out for shopping and, when arranging food or medication deliveries, these should be left at the door to minimise contact". This means that under the current policy, some high risk individuals are expected, for example, to return to their work in a shop, but are at the same time advised by public health advice not to go to shops to get their own shopping!

We request NPHET to examine at this issue, in the light of the above and the numerous recommendations of international bodies which we have highlighted below, and issue public health advice and guidance to the government to change its policy in the light of public health interests and the rights of people with disabilities.

We believe that the PUP/enhanced illness benefit should continue to be paid, and/or be extended to all high-risk people with disabilities and the family members who share a household with them until the medical advice to cocoon formally ends.

### **International Recommendations: UN, WHO, ILO, EU**

Our position is backed up, and informed, by many international bodies' recommendations for COVID-19. Numerous international organisations, human rights bodies and the EU have all issued detailed recommendations on protecting the rights and health of people with disabilities in the context of COVID-19. The Secretary General of the UN noted that "The global crisis of COVID-19 is deepening pre-existing inequalities, exposing the extent of exclusion and highlighting that work

on disability inclusion is imperative. People with disabilities are one of the most excluded groups in our society and are among the hardest hit in this crisis in terms of fatalities.” He observed that the crisis was disproportionately impacting people with disabilities and that an integrated approach is required to ensure that people with disabilities are not left behind in COVID-19 response and recovery.

The UN, the WHO, the UN Special Rapporteur on the Rights of People with Disabilities, The UN High Commissioner on Human Rights, the ILO and the EU Equality and Health Commissioners have all highlighted the needs of people with disabilities, and made recommendations which highlight the crucial area of social protection in securing the rights and protecting the life of people with disabilities. These documents recommend that social protection systems adapt to the need of some people with disabilities to isolate longer than other groups to protect their health and support them to do this by ensuring they have adequate income throughout the duration of the COVID-19 crisis.

The following documents all include specific recommendations that social protection systems support people with disabilities and ensure they are protected from poverty and economic hardship during the lockdown and reopening COVID-19 period. They also recommend protecting and supporting those who need to isolate for longer and expanding and increasing social protection supports for people with disability for the duration of the COVID-19 crisis.

- UN: [\*Policy Brief: A Disability-Inclusive Response to COVID-19\*](#) May 2020 (ps 13-14)
- UNPRPD and UN Special Rapporteur on the Rights of People with Disabilities: [\*Disability Inclusive Social Protection Response to Covid-19 Crisis\*](#)
- UN Office of the High Commissioner of Human Rights: [\*Covid-19 And The Rights Of People With Disabilities: Guidance\*](#): 29 April 2020
- ILO: [\*Social protection responses to the COVID-19 crisis: Country responses and policy considerations\*](#): 23 April 2020
- Social Protection Inter-Agency Board of the ILO; [\*A Joint Statement on the Role of Social Protection in Responding to the COVID-19 Pandemic\*](#)