



# ***Welfare Reform Bill: Committee Stage*** **Report**

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This is an account of the House of Commons Committee Stage of the Welfare Reform Bill. It complements Research Papers 11/23 and 11/24, prepared for the Commons Second Reading debate.

The Welfare Reform Bill was introduced in the House of Commons on 16 February 2011 and had its Second Reading on 9 March. It was considered in Public Bill Committee in 26 sittings between 22 March and 24 May. The most significant change to the Bill was the insertion of a Government New Clause and Schedule to establish a Social Mobility and Child Poverty Commission. A Government New Clause was also agreed on information-sharing in relation to tax credit fraud, to support the introduction of the new Single Fraud Investigation Service. No Opposition amendments to the Bill were agreed.

The Bill, as amended in Public Bill Committee, was published as Bill 197.

The Report Stage and Third Reading of the Bill are scheduled to take place on 13 and 15 June 2011.

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## Research Paper 11/48

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## Summary

The *Welfare Reform Bill* was introduced in the House of Commons on 16 February 2011 and had its Second Reading on 9 March. The Bill was committed to a Public Bill Committee, with proceedings to be concluded not later than 24 May. There were 26 sittings of the Committee between 22 March and 24 May, with oral evidence being taken at the first four sittings.

The most significant change to the Bill has been the insertion of a Government New Clause and Schedule (now clause 136 and Schedule 13 of the Bill as amended in Committee) amending the *Child Poverty Act 2010* to establish a Social Mobility and Child Poverty Commission.

A Government New Clause (now clause 119) was also agreed on information-sharing in relation to tax credit fraud, to support the introduction of the new Single Fraud Investigation Service. The only other amendments agreed were Government technical or drafting amendments.

**Part 1** of the Bill introduces Universal Credit which will be payable to people both in and out of work, and will replace Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Housing Benefit, Child Tax Credit and Working Tax Credit. A key feature of Universal Credit is a single "taper" for the withdrawal of the Credit for those in work. As earnings rise, Universal Credit is to be withdrawn at a constant rate of 65 pence for each pound of net earnings, although for some groups an initial amount of earnings will be disregarded before the taper applies. For employees paid through PAYE, Universal Credit payments are to be calculated and adjusted automatically using a new system giving "real time" information on earnings from employers.

The financial support provided by Universal Credit is underpinned by a new "conditionality" framework setting out the responsibilities claimants may be required to meet. The level of requirements will depend on the claimant's circumstances. The conditionality framework is backed up by a new "strong and clear" sanctions regime for non-compliance which provides for a reduction in Universal Credit payments for periods of up to three years.

**Part 2** provides for amendments to Employment and Support Allowance (ESA), including time limiting the payment of contributory ESA to 12 months. Part 2 will also restrict access to Income Support for lone parents; to be eligible they will have to have a child under 5 years of age, compared to under 7 years at present.

**Part 3** provides for the transfer of responsibility for Social Fund Crisis Loans and Community Care Grants to local authorities in England and to the devolved administrations in Scotland and Wales. The intention is that local authorities in England will provide new locally-administered assistance to vulnerable groups, under existing powers, from April 2013. Funding is to be made available to local authorities in England, and to the devolved administrations, which will decide the most appropriate arrangements for giving assistance. The Bill provides for the abolition for the discretionary Social Fund in its current form.

Part 3 also provides for the implementation of two of the Housing Benefit measures announced in the June 2010 Budget; namely, the restriction of Housing Benefit for social housing tenants living in properties deemed too large for their needs, and the up-rating of Local Housing Allowance rates by the Consumer Price Index (CPI), rather than by reference to rent officer determinations.

**Part 4** replaces Disability Living Allowance (DLA) with the Personal Independence Payment (PIP). The Government has stated that it is seeking savings in DLA of 20% of expenditure

on those of working age (16–64 years), and said that the new PIP will “maintain the key principles of DLA, but will be delivered in a fairer, more consistent and sustainable manner”.

**Part 5** provides for the amount of benefit a person or couple are entitled to claim to be capped and introduces new provisions to combat error and fraud, including penalties for those who attempt to commit benefit fraud.

**Part 6** will make a number of changes affecting the new statutory scheme for child support maintenance which is due to be introduced in 2012. They include the introduction of:

- a new gateway which all parents would be required to go through before they could access the new statutory system;
- an indicative maintenance calculation service to assist parents with negotiating their own arrangements.

In addition, changes would be made to the *Insolvency Act 1986* in relation to the treatment of child maintenance debt in an individual voluntary arrangement.

Much of the detail of the proposed changes will be set out in secondary legislation.

## 1 Introduction

The *Welfare Reform Bill* was introduced in the House of Commons on 16 February 2011 and had its Second Reading on 9 March.<sup>1</sup> The Bill was committed to a Public Bill Committee, with proceedings to be concluded not later than 24 May. There were 26 sittings of the Committee between 22 March and 24 May, with oral evidence being taken at the first four sittings.

Detailed information on the provisions in the Bill and the background to them can be found in the following Library briefings prepared for Second Reading:

- Research Paper 11/24, *Welfare Reform Bill: Universal Credit provisions*
- Research Paper 11/23, *Welfare Reform Bill: reform of disability benefits, Housing Benefit, and other measures*

Further material and links to the proceedings on the Bill can be found on the Library's Bill Gateway pages.

Information on the Bill can also be found at the Department for Work and Pensions website. This includes Impact Assessments, Equality Impact Assessments, and policy briefing notes produced by the Department as the Bill progresses through Parliament giving further information on key elements of the Government's proposals.

The following Universal Credit briefing notes were released on 24 March:

- *Universal Credit policy briefing notes – an introduction*
- *1 Additions for longer durations on Universal Credit*
- *2 The payment proposal*
- *3 Treatment of Capital*

This was followed by a second set of briefing notes on 13 May:

- *4 Contributory benefits*
- *5 Second earners*
- *6 Transitional protection*

Further policy briefings are being considered and will be published on the DWP website once complete.

The DWP also published a series of Personal Independence Payment briefing notes on 9 May:

- *Introduction*
- *Delivery – the operational approach*
- *Required period condition*

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<sup>1</sup> HC Deb 9 March 2011 cc919-1029

- *Award durations and exceptions to fixed-term awards*
- *Children*
- *People aged over 65*
- *Passporting from Personal Independence Payment*

The Department has also produced an initial draft of the regulations setting out the new assessment for the Personal Independence Payment along with a technical note, and has asked for comments.

## **2 Second Reading debate**

The Bill received its Second Reading on 9 March 2011. The Secretary of State for Work and Pensions, **Iain Duncan Smith**, said that he hoped that the Bill set “a new course for the welfare state” and believed that it would “enable us to reach out to some of the groups of people who have become detached from the rest of society - trapped, too often, in a permanent state of worklessness and dependency.”<sup>2</sup> He added:

The key is that I hope the Bill in general... represents a whole new concept: a contract with people who are in need of support. For those who are able to work, work should pay, and for the most vulnerable in society we will continue to provide the support that that they need.<sup>3</sup>

On the Universal Credit, which “sits at the heart of this welfare reform”, Mr Duncan Smith said:

I believe it is a commitment to the public that work will always and must always be made to pay, particularly critically for that group of people who are probably the most affected-the bottom two deciles of society-who have too often found it really difficult to establish that work does pay.<sup>4</sup>

Mr Duncan Smith confirmed that support for childcare costs would be provided by an additional element paid as part of the Universal Credit award:

We will invest at least the same amount of money in child care as in the current system, and we will aim to provide some support for those making their first moves into work, so that the support available is not restricted to those working more than 16 hours.

This is an important point. Although there is a debate about it, we must remember that working tax credit gives that child care support to those in the relevant band. Universal credit will allow claimants to adjust their hours of work to suit their child care responsibilities. It will allow people to set their hours of work more in line with their caring responsibilities. It will cover all the hours that people are planning to work. We will be much more flexible, and we intend to work closely with relevant groups to take further advice about the rates that we will set. By the time the Bill reaches its Committee stage, we will be able to be more specific.<sup>5</sup>

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<sup>2</sup> HC Deb 9 March 2011 c919

<sup>3</sup> HC Deb 9 March 2011 c920

<sup>4</sup> HC Deb 9 March 2011 c921

<sup>5</sup> HC Deb 9 March 2011 cc922-923



With regard to conditionality and sanctions, Mr Duncan Smith said that the toughest sanctions would apply to those expected to seek work but failing to meet important conditions, and that they should understand that the sanctions regime would be invoked if they kept on “crossing a series of lines.” The existing sanctions regime, he argued, was confusing for claimants:

By letting claimants know much earlier and by introducing a regime that is easy to understand, with a simple tripwire process, they will know from the word go. That should disincentivise people from taking the wrong turns. Benefits will be taken away for three months after a first failure, six months after a second, and three years after a third. That will apply to those at the top level—in other words, those who are fully able to search actively for work and to take it.<sup>6</sup>

In relation to the controversial proposal to withdraw the Disability Living Allowance mobility component from people in care homes, the Secretary of State said that he and the Minister for Disabled People (Maria Miller) had-

...realised that there was a lot of chaos out there about what should be given to people in care homes, what care homes themselves provide, and what local authorities believe it is their statutory responsibility to provide. Some of them say that they do not have any such responsibility to provide mobility services, but others say that they do, and provide access to such services.

We have therefore changed the provisions in the Bill, as the hon. Member for Huddersfield (Mr Sheerman) has probably noticed. That will be incorporated in the review of disability living allowance. Our objective is to get rid of the overlaps, genuinely to find out what can be provided at local level, and to figure out what the amount should be to support someone in a care home, bearing in mind that mobility needs in a care home are likely to be variable, and different from the needs of someone living in the community completely independently. Adjustments will be necessary, but my hon. Friend and I give the hon. Gentleman and the House an undertaking that we are going to try to figure out what the right answer is. We will work out a set of figures, and how they can be applied. That is the purpose of the review; I guarantee that.<sup>7</sup>

On the Housing Benefit provisions, the Secretary of State focused on the need to “get to grips” with expenditure in this area:

Over the past 10 years, overall spending on housing benefit has almost doubled from £11 billion to £21 billion, which is a huge increase. I accept some of the arguments about the reasons for that—the fact, for example, that house building fell to a record low, and more and more people had to be moved into the social rented sector—but the reality under the local housing allowance regime was that we lost control of spending. We have therefore introduced a number of changes to the local housing allowance, including a move to annual uprating in line with CPI. Restricting uprating should enable us to keep downward pressure on rents. Only if an increase in local market rents exceeds the annual rate of CPI will the restriction apply. That will also be an important step towards the integration of housing support with the universal credit.<sup>8</sup>

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<sup>6</sup> HC Deb 9 March 2011 c923

<sup>7</sup> HC Deb 9 March 2011 c924

<sup>8</sup> HC Deb 9 March 2011 c927

Mr Duncan Smith said that reform of the Social Fund was justified on the grounds that the existing scheme was “poorly targeted and open to abuse”.<sup>9</sup> He went on:

The key thing that we are trying to do is to give local authorities an element of control over some of the process, including in particular what I call the crisis loans short-term element-the hiatus moment in the payments,-and some of the community care grants. The point is that, when the fund became only distantly linked to the Department, the telephone concept behind it allowed people to push up the number of claims, because they were not seen or understood, so their cases were not properly known and it was very difficult to decide whether they were true or false. Local areas will be far better able to recognise who such people are, what conditions they are in and what circumstances apply to them. Therefore, localising the process will be very important. Of course, huge swathes of it will remain centralised, but we feel that those two elements in particular will most respond to localisation.<sup>10</sup>

On changes to child maintenance, Mr Duncan Smith said that the reforms would “take the heat out” of the current system which was designed to drive people into acrimonious disputes during family breakdown.<sup>11</sup>

In conclusion, the Secretary of State said that the Bill was-

...not just about balancing budgets, although that is part of the process. It is also about transforming lives and moving people-hopefully-from the entrapment and tyranny of doubt and dependency, to some kind of opportunity, enterprise and change to their lives that they can make themselves, through assistance and support.<sup>12</sup>

The Opposition tabled a reasoned amendment:

That this House, whilst affirming its belief in the principle of simplifying the benefits system and good work incentives, declines to give a Second Reading to the Welfare Reform Bill because the proposal of the Universal Credit as it stands creates uncertainty for thousands of people in the United Kingdom; because the Bill fails to clarify what level of childcare support will be available for parents following the abolition of the tax credit system; because the Bill penalises savers who will be barred from the Universal Credit; because the Bill disadvantages people suffering from cancer or mental illness due to the withdrawal of contributory Employment Support Allowance; because the Bill contains no safeguards to mothers in receipt of childcare support; because it proposes to withdraw the mobility component of Disability Living Allowance from people in residential care and fails to provide sufficient safeguards for future and necessary reform; because it provides no safeguards for those losing Housing Benefit or appropriate checks on the Secretary of State’s powers; because it fails to clarify how Council Tax Benefit will be incorporated in the Universal Credit system; because it fails to determine how recipients of free school meals and beneficiaries of Social Fund loans will be treated; and because the proposals act as a disincentive for the self-employed who wish to start up a business; and is strongly of the opinion that the publication of such a Bill should have been preceded by both fuller consultation and pre-legislative scrutiny of a draft Bill.

Opening for the Opposition, the Shadow Secretary of State for Work and Pensions, **Liam Byrne**, said:

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<sup>9</sup> HC Deb 9 March 2011 c928

<sup>10</sup> HC Deb 9 March 2011 c929

<sup>11</sup> HC Deb 9 March 2011 c933

<sup>12</sup> HC Deb 9 March 2011 c934

...we genuinely want to approach the vital question of welfare reform in a spirit of national consensus. We believe that if we can forge such a consensus it will be good for our country, it will reduce the deficit and, crucially, as he said before he sat down, it will be good for the fight against poverty in this country. We have been forced to table the amendment to oppose the Bill because it fails such fundamental tests that we believe the Government should go away and bring back a better Bill that will deliver genuine and lasting welfare reform.<sup>13</sup>

He said that the Bill was “ramshackle” and represented a “leap in the dark” for millions of people, adding:

I hope that we can begin to sort out, as is appropriate on Second Reading, where the Government have got their principles right-some of their principles are right-and where they have got them wrong. The Secretary of State says he wants to set a new course. The problem is that we are not quite sure where it will lead.<sup>14</sup>

Mr Byrne said that if the Government was serious about getting people back to work, it would have to do more to create jobs.<sup>15</sup> He said that the Bill-

...fails the basic tests of whether it fosters ambition and whether it reinforces and consolidates our obligations to each other. Fostering ambition and nurturing compassion are the basic tests of welfare reform, and I am afraid the Bill fails both.<sup>16</sup>

Mr Byrne said that there were some principles in the Bill that the Opposition supported, including the principle underpinning Universal Credit that work should pay, and some of the proposed reforms to the claimant commitment. However, he went on to outline his party's particular concerns, including:

- the possibility that some families would see a reduction in the help they receive with childcare costs, and lack of detail about how support for childcare would be provided;
- poorer work incentives for many second earners under Universal Credit;
- Lack of detail about how entitlement to passported benefits would be determined under Universal Credit, and about how certain forms of income would be treated;
- confusion about how the new localised Council Tax Benefit would operate;
- the effect of the £16,000 capital limit on the incentive to save; and
- how the Universal Credit income rules would affect the self-employed starting up a business.<sup>17</sup>

On DLA reform, Mr Byrne welcomed the Secretary of State's announcement about the mobility component for people in care homes, but sought assurances that the target of £135 million savings no longer applied. With regard to the Personal Independence Payment, Mr Byrne said

There is a strong case for reform of DLA. The lobby groups agree with that, as do we, but we do not agree with the way the Government have approached the issue. First,

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<sup>13</sup> HC Deb 9 March 2011 c934

<sup>14</sup> HC Deb 9 March 2011 c936

<sup>15</sup> HC Deb 9 March 2011 c936

<sup>16</sup> HC Deb 9 March 2011 c937

<sup>17</sup> HC Deb 9 March 2011 cc938-943

we had an announcement by the Chancellor of the Exchequer that DLA would be cut £1 billion, then we got a consultation, which has only just finished, and while all that was happening a Bill was published with no detail or safeguards dealing with how that reform would be conducted. The Secretary of State must realise that that is a serious concern for millions of people up and down this country.<sup>18</sup>

Regarding the proposal to time-limit contributory ESA for claimants in the work-related activity group to one year, Mr Byrne said “I, too, think that there is a case for time limits-there is a good case for considering two years, for example”, but also noted the concerns voiced by cancer charities about the impact on people with cancer, and said that the proposal needed to be looked at again.<sup>19</sup>

Mr Byrne questioned whether the Housing Benefit measures in the Bill would achieve the aim of reducing expenditure. He referred to a potential increase in homelessness and associated costs as a result of the Housing Benefit cap. **Alison Seabeck**, Labour’s Shadow Minister for Housing, cited the Government’s affordable rent model, under which rents of up to 80% of market levels will be charged in social housing and measures in the *Localism Bill* to encourage the placement of homeless households in the private rented sector, as evidence of pressures that will increase Housing Benefit expenditure.<sup>20</sup>

In conclusion, Mr Byrne said that the Bill needed “urgent reform”:

If the Government persist with the illusion that the Bill is immaculate, perfect and beyond improvement, and if they decline to hear the voices of those millions of members of charities and campaign groups that have worked with us, we will have no alternative but to vote against it on Third Reading.<sup>21</sup>

The Chair of the Work and Pensions Committee, **Dame Anne Begg**, said that while the idea of a Universal Credit had been accepted in principle, there was insufficient detail in the Bill to gauge whether it would achieve its key objectives, including making work pay. She hoped that the detailed issues would be addressed in Committee, but there were “still too many unknowns about the Bill” and it was impossible to support it at Second Reading. With regard to Disability Living Allowance reform, Dame Anne said there were “...reasons for suspicion, particularly among disabled people, about the Bill’s intentions”, noting that the Bill had appeared two days before the end of the Government’s consultation, and widespread concern about the proposed new assessment and 20% budget saving. Dame Anne also urged the Government to reconsider its plans to time-limit contributory ESA for claimants in the Work-Related Activity Group, arguing that after 12 months people with many conditions would still not be in a position to start looking for work.<sup>22</sup>

Responding to the Government’s announcement that it would review mobility provision for people in care homes, **Tom Clarke** said:

...organisations representing disabled people throughout the country are simply not prepared to accept what appear to be assurances at the 13th hour, given what is written in the Bill and given the opposition to my colleagues’ [Mr Byrne’s] amendment.<sup>23</sup>

Mr Clarke said that the planned 20% reduction in DLA expenditure was “cutting a lifeline on the basis not of a necessity, but of a statistic plucked out of thin air.”<sup>24</sup>

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<sup>18</sup> HC Deb 9 March 2011 c945

<sup>19</sup> HC Deb 9 March 2011 c945

<sup>20</sup> HC Deb 9 March 2011 c946

<sup>21</sup> HC Deb 9 March 2011 c947

<sup>22</sup> HC Deb 9 March 2011 cc953-954

<sup>23</sup> HC Deb 9 March 2011 c955

**David Blunkett** also criticised the DLA proposals, including the new assessment which, he said, was “perverse” and would trap people in dependence by focusing on what people cannot do.<sup>25</sup>

A number of members criticised the lack of detail in the Bill. **Ann McGuire** called the Bill “skeletal in the extreme”. She concluded:

We should not give the Bill its Second Reading today. If the Minister can tell us in her summing up that all those issues will be dealt with in Committee, we might be able to give the Government the benefit of the doubt later in the process. I welcome, however, the view of my right hon. Friend the Member for Birmingham, Hodge Hill, the shadow Secretary of State, that if the Bill is not radically changed and if its contents are not confirmed, we should not support it even on Third Reading.<sup>26</sup>

For the Alliance Party, **Naomi Long** said:

...extensive reliance on unpublished regulations will make it incredibly difficult for people to make a detailed assessment of the cumulative impact of these broad and sweeping changes. The Secretary of State was clearly frustrated, too, because he felt that at times people had misunderstood the thrust of his proposals. Were there more substance to the Bill, that would be less likely.<sup>27</sup>

**Sheila Gilmore** questioned why the child maintenance provisions in the Bill had been introduced before a concurrent Government consultation<sup>28</sup> encompassing the same issues had concluded.<sup>29</sup> The point was also raised by Naomi Long who said that the inclusion of the child maintenance clauses, when there was also a public consultation on the matter, created uncertainty in the area.<sup>30</sup>

Winding up for the Opposition, **Stephen Timms** said that the Bill “contains one good idea and presents us with two serious problems.”<sup>31</sup> The merger of out-of-work with in-work benefits was a good idea, but the Bill was “a mess”. Fundamental points were missing, including crucial details about support for childcare. The decision to devolve Council Tax Benefit to local councils was, he said, bizarre at a time when benefits were being merged into the Universal Credit. Mr Timms added:

That appears to be the messy outcome of a dispute between the Secretary of State for Work and Pensions and the Secretary of State for Communities and Local Government, which unfortunately this Secretary of State has lost. Local authorities will apparently be free to design council tax benefit as they wish, except that it will have to cost 10% less than before. Again, that could completely scupper the advantages that the universal credit is supposed to deliver. Will the Department for Work and Pensions be able to step in if that happens? We simply do not know.<sup>32</sup>

Mr Timms mentioned other omissions, including how eligibility for free school meals and free prescriptions would be determined, how self-employed people would be treated under

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<sup>24</sup> HC Deb 9 March 2011 c956

<sup>25</sup> HC Deb 9 March 2011 c996

<sup>26</sup> HC Deb 9 March 2011 c981

<sup>27</sup> HC Deb 9 March 2011 c993

<sup>28</sup> The Government consultation, *Strengthening families, promoting parental responsibility: the future of child maintenance* ran from 13 January to 7 April 2011

<sup>29</sup> HC Deb 9 March 2011, c933-4

<sup>30</sup> HC Deb 9 March 2011 c993

<sup>31</sup> HC Deb 9 March 2011 c1016

<sup>32</sup> HC Deb 9 March 2011 c1017

Universal Credit, who would be exempt from the benefit cap, and whether DLA would be available indefinitely for children. He continued:

Those are enormous gaps in the Bill on crucial details, not minor matters. The whole purpose of reform, and the point that has been repeated over and over again in the debate, is that everybody wants a system that ensures that people are better off in work. Achieving that goal stands or falls by whether those questions are given the right answers, and at the moment we simply do not know.<sup>33</sup>

The Opposition's main concern was however about areas where the Government had set out its intentions clearly, including the proposed capital rule for Universal Credit and the time limit on contributory ESA for claimants in the Work-Related Activity Group. On the proposed Personal Independence Payment, Mr Timms said:

A lot of disabled people are frightened, and the Bill to abolish DLA was published before the consultation even finished. We should reform DLA not abolish it, and it is wrong for the Bill to proceed in that way.<sup>34</sup>

Mr Timms concluded that the Bill would need "radical improvement before it reaches the statute book."

Replying for the Government, the Minister for Employment, **Chris Grayling**, said that the Secretary of State had been right to say that the reforms would benefit from consensus:

It is therefore unhelpful to hear Opposition Front Benchers spend so much time seeking dividing lines rather than working with the Government to deliver reforms that will transform this country.<sup>35</sup>

In response to criticisms about gaps in the Bill, Mr Grayling said that some of the Bills the Labour Government had introduced had had "virtually no substance at all to them". He continued:

What I would say to the House is this. As we work through the Bill in Committee, we will deliver detail to the Opposition at each stage on how we plan to put the measures into practice. We will answer questions and be as open as we possibly can, including in saying where work still needs to be done.<sup>36</sup>

Responding to the concerns voiced by Dame Anne Begg about time-limiting contributory ESA, Mr Grayling said:

I want to make two points to her. The first is that all those who move off incapacity benefit who fit into the contributory bracket will be given access to the Work programme regardless of their status. That is important in ensuring that they receive back-to-work support. However, I would also remind her that the changes to ESA simply bring it into line with JSA. It is a simple principle that, if someone has financial means in their household, the state will not support them. The state will be there to provide a safety net for those who do not have the means to support themselves. That is a sensible principle. We have extended the period beyond six months, so that we can deliver support to people with health problems, but it is sensible to have an aligned

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<sup>33</sup> HC Deb 9 March 2011 c1018

<sup>34</sup> HC Deb 9 March 2011 c1019

<sup>35</sup> HC Deb 9 March 2011 c1020

<sup>36</sup> HC Deb 9 March 2011 cc1020-1021

system. I will be happy to talk further with the hon. Lady in Committee or in the Select Committee.<sup>37</sup>

The Opposition's reasoned amendment was defeated by 317 votes to 244. The Bill received Second Reading by 308 votes to 20.

### 3 Committee Stage

The most significant change to the Bill was the insertion of a New Clause and Schedule (now clause 136 and Schedule 13 of the Bill as amended in Committee) amending the *Child Poverty Act 2010* to establish a Social Mobility and Child Poverty Commission (see below).

A Government New Clause (now clause 119) was also agreed on information-sharing in relation to tax credit fraud, to support the introduction of the new Single Fraud Investigation Service.<sup>38</sup>

The only other amendments agreed were Government technical or drafting amendments to the following parts of the Bill (clause and schedule numbers in the Bill as originally introduced):

Clause 33 (PBC Deb 28 April 2011 cc554-555)

Schedule 3 (PBC Deb 28 April 2011 cc557-558)

Clause 43 (PBC Deb 28 April 2011 cc608-610)

Clause 45 (PBC Deb 28 April 2011 c617)

Clause 91 (PBC Deb 12 May 2011 c902)

Clause 115 (PBC Deb 19 May 2011 c1048)

Schedule 13 (PBC Deb 24 May 2011 cc1128-1129)

Clause 136 (PBC Deb 24 May 2011 c1129)

New Clause 14 (now clause 105)

No Opposition or backbench amendments were agreed, although Ministers gave undertakings to consider further some issues raised by Members in Committee.

Key debates during the Committee stage are summarised below. Clause and schedule numbers are those in the Bill as introduced.

#### 3.1 Universal Credit

##### *Treatment of savings*

The Government has indicated that under Universal Credit, savings and other capital will be treated in broadly the same way as is currently the case for means-tested benefits such as Income Support. Entitlement to means-tested benefits is reduced if a claimant has capital in excess of £6,000 and no benefit is payable if capital exceeds £16,000. Capital does not

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<sup>37</sup> HC Deb 9 March 2011 c1022

<sup>38</sup> PBC Deb 24 May 2011 cc1151-1152

however directly affect entitlement to tax credits. It has been argued that extending the capital rules to in-work families would penalise those with savings.<sup>39</sup>

The Government confirmed its intentions regarding capital rules in *Universal Credit Policy Briefing Note 3* issued on 24 March. The proposed capital rules have been criticised by, among others, the Centre for Social Justice.<sup>40</sup>

In Committee, Stephen Timms moved an Opposition amendment to clause 5 to disregard amounts in Individual Savings Accounts (ISAs) and other “prescribed savings accounts” for Universal Credit claimants who are in work. Speaking to the amendment, Mr Timms said:

If that provision is not changed, in the future a large number of people will find it not only difficult but impossible to save. That runs contrary to everything that the Conservatives told us they believed about saving before the election; it is a ferocious and extraordinary attack on saving.<sup>41</sup>

The Minister for Employment, Chris Grayling, said that the capital limits the Government had decided upon were the “most balanced and affordable option” given the economic circumstances. He also said that the Government’s intention was to have the same rules for those both in and out of work, and that the limits struck a “fair balance between those two groups.”<sup>42</sup> The Bill would however give a future administration the flexibility to alter the capital rules, including provision to apply different rules in different cases.<sup>43</sup> The Minister challenged Mr Timms to say how a Labour Government would pay for the proposed disregard.

Mr Timms said that, on the basis of figures provided in a recent written answer, that the disregard would cost no more than £70 million a year. He pressed the amendment to a division, and it was defeated by 13 votes to 10.

### ***Frequency of payment***

The Government has proposed that Universal Credit should be paid on a monthly basis. Pressure groups have argued that this could cause budgeting problems for some households and that claimants should have the option of receiving more frequent payments.<sup>44</sup>

Stephen Timms moved an Opposition amendment to clause 7 to allow payments of Universal Credit to be made more frequently than once a month. He acknowledged that a government might want to specify circumstances where the option would be available. He also accepted that regulations could make provision for more frequent payment intervals without the amendment, but wanted assurance from the Government that more frequent payments would be possible.<sup>45</sup>

For the Government, Chris Grayling said:

...we said in the White Paper published last year that we can see the advantages in paying and assessing universal credit monthly. If we are looking to move people into work, there is clearly a logic in helping them to align their family budgeting and financial planning to the world that they will be in if they are receiving monthly payments from

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<sup>39</sup> See Library Research Paper 11/24 pp24-25

<sup>40</sup> See its memorandum to the Public Bill Committee (WR 17), and oral evidence from Deven Ghelani of the CSJ at PBC Deb 22 March 2011 c18

<sup>41</sup> PBC Deb 29 March 2011 cc197-198

<sup>42</sup> PBC Deb 29 March 2011 cc213, 224

<sup>43</sup> PBC Deb 29 March 2011 cc222-223

<sup>44</sup> See Library Research Paper 11/24, p27

<sup>45</sup> PBC Deb 29 March 2011 cc235-236



their employers. However, we are equally well aware that many on low incomes are used to managing fortnightly payments of benefits, so we are determined to ensure that, however we finally resolve to approach this issue, there is appropriate budgeting support to meet the needs of claimants.

We want families to manage their financial affairs in a manner that best reflects the demands of modern life, whether they are in work or out of work. We will work with stakeholders and external experts to work out the best way of doing that. We are genuinely attracted by the monthly approach, but we are sufficiently open-minded to recognise the issues that it generates. We are certainly not ruling any option in or out at the moment. We have not excluded the possibility of fortnightly assessment payments, but we are attracted to the possibility of paying universal credit on a monthly basis.<sup>46</sup>

Mr Grayling said that the Government would look at the issue “from the perspective of what is most likely to help claimants make progress into work, as well as addressing some of the issues around vulnerable people.” It was not intended to specify the payment frequency in primary legislation, but the Government would “take views and look carefully at the issues before regulations are prepared.” Mr Grayling acknowledged that there were “pros and cons on both sides of the argument” and said that it made sense to give time for further consideration in order to “get the legislation right.” He gave an assurance that the Government was thinking carefully about the matter and had not taken a final decision, and on that basis hoped Mr Timms would withdraw the amendment.<sup>47</sup>

Mr Timms thanked the Minister for his response, adding:

This is a very important matter for some people, as he has acknowledged. It is important that the Department consults carefully on the issue and listens to the responses that it gets. I am grateful for those reassurances.<sup>48</sup>

The amendment was withdrawn.

### ***Taper rate***

Some organisations have questioned whether a taper rate of 65% as proposed by the Government would have a significant impact on work incentives.<sup>49</sup> Stephen Timms moved an Opposition amendment to clause 8 to provide that the taper rate should not exceed 60%. Speaking to the amendment, he said:

The Centre for Social Justice argues for 55%. Mike Brewer of the Institute for Fiscal Studies told us last week in his evidence that a neutral taper rate would be 60% and that anything higher than that would damage work incentives. Indeed, the impact assessment shows us that the 65% figure adopted by the Government will damage work incentives.

Mr Timms added:

This is an important matter. The Government have rightly said that the taper rate is a key parameter of the new system and that future Governments can choose to set it at

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<sup>46</sup> PBC Deb 29 March 2011 cc237-238

<sup>47</sup> PBC Deb 29 March 2011 c238

<sup>48</sup> PBC Deb 29 March 2011 c239

<sup>49</sup> See Library Research Paper 11/24, pp22-23

different levels. As we debate the Bill, it is important that we have a debate about what the right level of the taper rate should be.<sup>50</sup>

Replying for the Government, Chris Grayling said that it was important to understand that “real choices have to be made about the level of support that the taxpayer can be asked to fund, and the level of the taper.”<sup>51</sup> Reducing the taper from 65% to 60%, as suggested by the amendment, would cost around £1.3 billion a year, “...an unfunded spending commitment that we cannot afford at present.” He added:

I would love to be able to stand in front of the Committee and say that we will deliver a 55% or 60% taper, and that we will maximise the existing incentives, but unfortunately we have a big mess to clear up. When we have cleared up that mess, the Bill will give us—I hope, as a re-elected Administration—the flexibility to take a decision about how to maximise work incentives in the future. It does not lock us in or tie us down; it simply creates the framework that I described earlier.<sup>52</sup>

Mr Timms did not press the amendment to a division, but said that it was important to debate the impact of the taper rate and alternative rates.<sup>53</sup>

### ***The self-employed***

The Opposition tabled probing amendments to elicit details from the Government on how self-employed people would be treated under Universal Credit.<sup>54</sup> The amendments were not called, but were discussed concurrently with the Opposition amendment to clause 8 on the taper rate (see above).

Stephen Timms asked how income data would be collected from self-employed people, given that they would be outside the planned real-time PAYE system.<sup>55</sup> He also noted the concerns voiced by, among others, the Low Incomes Tax Reform Group about the Government’s proposal to assume that people starting in self-employment earn an amount equivalent to the National Minimum Wage (NMW) for each hour worked.<sup>56</sup> Mr Timms argued that it was unrealistic to assume that people starting in self-employment would earn a minimum income, and was worried that it would discourage people from moving into self-employment.<sup>57</sup>

The Minister for Employment, Chris Grayling, said that the Government intended to adopt a measure of self-employment income similar to that currently used for means-tested benefits and tax credits, namely net profits. The Government intended to give individuals the opportunity to “self-declare” their income on a regular basis, and proposed to develop a system to enable this. Mr Grayling said no decision had been taken on the frequency of reporting, but added:

We are open to the idea of a quarterly point for people to declare their incomes. Effectively, the treatment of the self-employed is likely to be similar to the current

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<sup>50</sup> PBC Deb 29 March 2011 c243

<sup>51</sup> PBC Deb 29 March 2011 c249

<sup>52</sup> PBC Deb 29 March 2011 c250

<sup>53</sup> PBC Deb 29 March 2011 c254

<sup>54</sup> PBC Deb 29 March 2011 cc239-240

<sup>55</sup> PBC Deb 29 March 2011 c244

<sup>56</sup> See Library Research Paper 11/24 pp34-25, the LITRG memorandum submitted to the Public Bill Committee (WR 14), and oral evidence at PBC Deb 22 March 2011 cc68-69, 74, and 76

<sup>57</sup> PBC Deb 29 March 2011 cc244-246

means of assessment under the tax credits, but with that more regular reporting, to avoid the kind of substantial overpayment that we have seen under tax credits.<sup>58</sup>

Mr Grayling said that the Government had “not definitely decided how best to address the minimum level of earnings issue”, but added:

We cannot be in the position of a jobseeker being able to say that they are self-employed and so not required to look for a job. At the same time, we want actively to support and encourage people into self-employment, and we will need an approach that enables us to do that.<sup>59</sup>

Stephen Timms said that organisations that had voiced concerns would be “heartened by the fact that the Minister has told us that the Government are not necessarily wedded to assuming that people earn at least the national minimum wage.” He welcomed the indication of a shift in the Government’s position.

Later in the Committee proceedings, Mr Timms moved an amendment to Schedule 1 deleting the paragraph which allows regulations to specify a “minimum income floor” for particular people. Speaking to the amendment, Mr Timms outlined the concerns about the treatment of self-employed people voiced by the Low Incomes Tax Reform Group.<sup>60</sup> For the Government, Chris Grayling said that, in deciding an appropriate income floor for the self-employed, “common sense must apply” and suggested it an upper threshold might be set at a normal working week’s work at the National Minimum Wage. He continued:

The problem the other way round is that, if we applied no floor at all and if we simply provided full payment of universal credit, including the standard amount that would normally be equivalent to what someone was paid if they were out of work and on benefits, we would be effectively saying that the taxpayer would provide financial support if someone said they were self-employed, regardless of how well they were doing and irrespective of whether the business was viable or whether there was any chance of achieving profitability. That would not be sensible, and it is where we have to draw a line.<sup>61</sup>

Mr Grayling said however that the Government wanted to ensure that it got things right, and that he was happy to accept further input from Members with expertise in the field of self-employment:

I am happy to accept the right hon. Gentleman’s input on this. The issues are complicated and there are not simple, straightforward answers. We must do the best we can to get the dividing line right, so that we encourage enterprise and protect the taxpayer. That is where our focus lies. We will continue discussions with external groups, such as the Low Incomes Tax Reform Group, and work closely with HMRC to use its experience in shaping this. The DWP and HMRC are working closely to develop universal credit in its entirety.<sup>62</sup>

Mr Timms welcomed the Minister’s response. The amendment was withdrawn.

### ***Unearned income***

Organisations have expressed concern that certain forms of income which are currently disregarded for tax credits, or subject to the 41% taper under tax credits, might be treated as

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<sup>58</sup> PBC Deb 29 March 2011 c252

<sup>59</sup> PBC Deb 29 March 2011 c252

<sup>60</sup> PBC Deb 26 April 2011 c518

<sup>61</sup> PBC Deb 26 April 2011 c524

<sup>62</sup> PBC Deb 26 April 2011 c525

unearned income for Universal Credit purposes and tapered at 100%, leaving some groups worse off.<sup>63</sup> Citizens Advice has highlighted the treatment of employer-provided benefits such as Statutory Sick Pay (SSP) and Statutory Maternity Pay (SMP).<sup>64</sup>

Stephen Timms moved an Opposition amendment to clause 8 to enable certain income sources to be treated as earnings, in order to prevent them being subject to the 100% taper. He cited widows' pensions as one source of income where this would be appropriate.<sup>65</sup>

Replying for the Government, Chris Grayling said that the Bill already included powers for regulations to specify different treatments for different types of unearned income. He went on:

We have said that there may be some logic in treating payments such as [SSP and SMP], which are paid by employers, in the same way as we do earnings with the universal credit, which would mean that they would be subject to the taper rate. That would be a step in the direction that hon. Members would like to take.

Different considerations apply to other forms of unearned income. The fact that an income is a replacement for earnings should not automatically result in its being treated in the same way as earnings. The best example of that is contribution-based jobseeker's allowance, which is a replacement for earnings. It will continue, in future, alongside the universal credit; it would make no sense to partially ignore it in assessing the universal credit.

People receive unearned income in many ways at present. We seek to put together a logical approach to avoid anomalies and over-generous treatment of particular types of income that would encourage benefit dependency.<sup>66</sup>

In response to specific points, Mr Grayling said that the Government had not yet decided how maintenance payments would be treated, nor had any decision been taken with regard to widows' pensions. He sought to reassure the Committee however that the Government had no intention of "suddenly transforming the situation for widows so that they are massively worse off" and that, more generally, there was "no great hidden agenda ...to disadvantage groups that have specialist requirements within our benefits system."<sup>67</sup>

Mr Timms said that Mr Grayling's response had been helpful. He understood why the Minister had been unable to give any firm commitments, but said it would be useful to see the regulations when they were available and that there might be a case for them to be subject to the affirmative rather than the negative procedure.<sup>68</sup>

The amendment was withdrawn.

### ***Universal Credit levels and Minimum Income standards***

The Labour backbencher Kate Green moved an amendment to clause 9 requiring regulations setting out Universal Credit rates to "make reference to an independently determined Minimum Income Standard." Speaking to the amendment, Ms Green said that it was "important that we understand how much a person needs to live on if we are to construct a

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<sup>63</sup> PBC Deb 29 March 2011 c254

<sup>64</sup> See Library Research Paper 11/24, pp25-26

<sup>65</sup> PBC Deb 29 March 2011 c254

<sup>66</sup> PBC Deb 29 March 2011 cc256-257

<sup>67</sup> PBC Deb 29 March 2011 c258

<sup>68</sup> This means that regulations must be issued in draft form and approved by both Houses of Parliament before becoming law. For further detail on this procedure, see House of Commons Information Office Factsheet L7, *Statutory Instruments* (May 2008), p5

social security system that delivers a minimum safety net, through which we would not want anyone to fall.”<sup>69</sup> She referred to ongoing independent research seeking to define levels of income needed to allow a minimum acceptable standard of living in the UK today.<sup>70</sup> Ms Green was not proposing that benefits be set precisely at the Minimum Income Standard, but noted:

Members will be interested to know that some in other countries are exploring such a thing, including the mayor of New York, who has been doing some interesting work on it. Inevitably the Nordic countries are looking at it, as are a number of other European countries, New Zealand and Australia.<sup>71</sup>

Chris Grayling said that the Government “simply did not agree” with Ms Green on this matter. The intention behind Universal Credit was to “deal with poverty by moving more people out of the benefit trap” in which many lived and into the workplace, addressing the “cycle of generational worklessness.” Setting benefit rates at the levels suggested would, he said, “have a significant adverse effect on the likelihood of people moving from benefits to work.”<sup>72</sup>

Ms Green said that she endorsed entirely the argument that people should be better off in work, “...but not at the expense of forcing people who are not able to be in paid employment into a position of poverty.” She also argued that “far from increasing the likelihood that people will move off benefits and into work, inadequate benefits reduce the likelihood of that happening.”<sup>73</sup>

The amendment was withdrawn.

### ***Uprating***

Stephen Timms tabled Opposition amendments to clause 9 to make explicit the mechanism for uprating Universal Credit elements. He said that his party supported uprating benefits by the less generous Consumer Price Index (CPI), but only as a temporary measure for three years. He asked the Minister to confirm that the Government intended to use the CPI permanently to uprate Universal Credit. Mr Timms said that permanently linking benefits to the CPI, rather than to an index based on the Retail Price Index (RPI), was a “great matter of concern” and would be a “serious mistake.”<sup>74</sup>

For the Government, Chris Grayling confirmed that the Universal Credit would be uprated using the CPI, but added that existing legislation would allow a future government to choose another basis for uprating, should it want to do so. He added, “For the time being, however, and certainly for the foreseeable future, we have formed the view that the CPI will be the basis on which we uprate benefits.”<sup>75</sup>

The amendment was withdrawn.

### ***Additions for disabled children***

The Government intends to replace the current system of multiple, overlapping disability premiums for benefit and tax credit claimants with a simpler system under Universal Credit, where additions for disabled people are payable at two rates only: £74.50 a week for those

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<sup>69</sup> PBC 31 March 2011 c262

<sup>70</sup> For details see <http://www.minimumincomestandard.org/>

<sup>71</sup> PBC 31 March 2011 c273

<sup>72</sup> PBC 31 March 2011 cc273-274

<sup>73</sup> PBC 31 March 2011 cc278-279

<sup>74</sup> PBC 31 March 2011 cc281-282

<sup>75</sup> PBC 31 March 2011 cc282-283

with more severe disabilities; and £25.95 a week for others (both 2010-11 equivalent rates). The Government also wants to align rates for adults and children.<sup>76</sup>

As a result of the changes, children who would currently qualify for the severely disabled child element of Child Tax Credit will get slightly more, but support for children who currently only qualify for the CTC disabled child element will be substantially less (around £26 a week less at 2010-11 rates). The Government points out that help for disabled people overall is not being reduced as a result of the changes, but disability organisations say that the net effect is a transfer of funding away from disabled children to disabled adults.<sup>77</sup> 146,000 families currently receive a disabled child element, of whom 58,000 also receive the severely disabled child element.<sup>78</sup>

The Labour Work and Pensions Spokesperson Margaret Curran raised concerns about the impact of the changes when speaking to an Opposition amendment relating to additions for severely disabled children. For the Government, Chris Grayling emphasised that the proposals were “not a savings exercise”, but the current situation where support for disabled young people reduced when they reach 18 was “not right.” He emphasised that, for those families affected by the change, transitional protection would prevent a cash reduction in support at the point of change. The key point was that the savings generated would be recycled to give greater support to the most severely disabled people. The Government, he said, had decided upon a “life-course approach to supporting disabled people.”<sup>79</sup>

For the Opposition, Ms Curran suggested that the regulations setting out the new structure of support should perhaps be subject to the affirmative procedure. It was important, she said, to have a debate about the move towards a lifetime approach to supporting disabled people, particularly in the context of wider changes to benefits for disabled adults.<sup>80</sup>

The amendment was withdrawn.

### **Housing costs**

Karen Buck, Labour Spokesperson for Work and Pensions, moved an amendment to clause 11 to test the way in which assistance with mortgage interest payments will be addressed within Universal Credit.<sup>81</sup> The Minister, Chris Grayling, said:

Clause 11 provides for the continuing payment of mortgage interest. As should be the case, universal credit treats mortgage interest in the same way as support for mortgage interest – SMI – does at the moment. The introduction of universal credit also provides us with a unique opportunity to simplify some of the current housing support provisions. We will consult shortly on reforms to supported accommodation and simplify the rules, while ensuring that support is properly targeted.<sup>82</sup>

He went on to argue that including a requirement in the Bill to pay support for mortgage interest payments through Universal Credit could “tie a future government’s hands and cause unintended consequences.” He confirmed that the Government intended to provide support for owner-occupiers but advised that Universal Credit may not always be the best way to provide that support.<sup>83</sup>

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<sup>76</sup> See *Universal Credit Policy Briefing Note 1: Additions for longer durations on Universal Credit*, 24 March 2011

<sup>77</sup> See Every Disabled Child Matters briefing note, *Disabled children and benefit premiums*

<sup>78</sup> PBC Deb 31 March 2011 c293

<sup>79</sup> PBC Deb 31 March 2011 cc293-295

<sup>80</sup> PBC Deb 31 March 2011 c296

<sup>81</sup> PBC Deb 31 March 2011 c299

<sup>82</sup> PBC Deb 31 March 2011 cc334-5

<sup>83</sup> PBC Deb 31 March 2011 cc334-5

Alongside this amendment the Committee discussed an amendment that would have placed a duty on the Secretary of State, before implementing regulations, to publish a report on the uprating of housing costs “covering the effect of differences between actual rent and the amount on which the award is based.”<sup>84</sup>

Considerable concerns have been raised within the housing industry around the possibility that housing costs within Universal Credit will not be based on the actual rent charged. Several references were made in the wide-ranging debate on clause 11 to the long-term consequences of uprating the Local Housing Allowance (paid to private sector tenants) by the Consumer Price Index (CPI), rather than basing increases on actual rents charged within specified Broad Market Rental Areas.

In regard to the social rented sector, the Minister said “although we will limit payments to tenants who under-occupy their properties, we will base the money spent on actual rents.”<sup>85</sup> On the private rented sector, the Minister confirmed an intention to build on the reforms already announced to the Local Housing Allowance:

We have seen rental levels rise and rise in recent years. There comes a point when we have to say that we cannot go on with landlords setting their rents according to the money that is available from the Government. We believe that a combination of the limitations that we are placing on the marketplace through the levels of rent that we are willing to pay, and an appropriate formula for increasing rents year by year, adopting CPI, will ensure that we continue to exert downward pressure on rents, while we continue to look at rent levels in the local market. The restriction will apply only in areas where local market rent increases exceed the annual rate of CPI. We are committed to making savings from the CPI measure up to 2014-15. I emphasise that we cannot automatically ascribe a one-size-fits-all policy indefinitely without reviewing it. We have said that if it becomes apparent that the LHA rates and rents have become seriously out of step, we are free and able to reconsider them. As ever, the Bill gives us the flexibility to do so.

We intend to commission independent external research to evaluate the impact of the reforms to housing benefit. Again, that is the right thing to do. We want to get it right. The review will be comprehensive and thorough. It will be presented to both Houses, together with a ministerial statement. We intend to make final findings available in early 2013, with the initial findings available during 2012. When laying regulations before Parliament, we will make clear the method by which housing support rates will be uprated. I hope that I have provided some additional clarity. The principle remains the same. We have to bring what has been a fast-growing cost burden on the Government under control in a variety of ways. We must restore credibility to the system for a number of reasons.<sup>86</sup>

Ms Buck did not press her amendment on SMI to a vote. She moved a further amendment to provide for the Universal Credit to include “taxation paid” in relation to accommodation occupied as a home.<sup>87</sup> This prompted discussion around the Government’s intentions for Council Tax Benefit (CTB) – clause 34 of the Bill provides for the abolition of CTB. Karen Buck probed the Minister on the lack of information available on what will replace CTB:

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<sup>84</sup> PBC Deb 31 March 2011 c299

<sup>85</sup> PBC Deb 31 March 2011 c333

<sup>86</sup> PBC Deb 31 March 2011 c334

<sup>87</sup> PBC Deb 31 March 2011 c338

We have no real insight into what this is all going to mean. Neither do we know when this is actually going to happen or what the overlaps are. The Minister may be able to clarify that. According to the White Paper, the 10% cut in the cost of council tax benefit is due to take effect in April 2013, which is six months before the first new claimant is due to enter universal credit and 12 months before even the first person receiving existing benefits is moved to universal credit. Now that council tax benefit is effectively going to be abolished, rather than simply cut, will the Minister confirm that the timetable is still the same and that the existing system will cease to be in April 2013, which is in just 24 months' time? That is not consistent with the introduction of universal credit. Why is that decision being taken? Why will there be different starting points for universal credit and the important sub-component that will run alongside it, overlap it and, in many important ways, undermine it?

The other problem with all of this is that—the Minister will correct me if I am wrong—we do not have an impact assessment. The Minister of State, Department for Work and Pensions, the hon. Member for Thornbury and Yate (Steve Webb) said in November that an impact assessment of council tax benefit localisation would be published “when legislation is introduced”. I recently received a reply from a Minister in the Department for Communities and Local Government saying that a consultation would be launched in due course. So we do not know very much about this at all. We are invited to consider important and sound aspects of the universal credit and its impact on work incentives and tapers without having either an impact assessment or a consultation paper, which would give some indication of how it will be implemented by local authorities.<sup>88</sup>

She raised the impact of not including CTB in Universal Credit on the aim of achieving “a smooth transition between being in work and out of work” and referred to submissions received from the Institute of Fiscal Studies, Policy Exchange, Social Market Foundation and the New Policy Institute concerning the complexity of having a number of different local CTB systems with associated implications for marginal deduction rates.<sup>89</sup>

Anas Sawar raised the impact on Scotland of omitting CTB from the Universal Credit. He asked how the proposed 10% cut in the CTB budget would be applied and whether, if demand for CTB increases, the budget would be increased.<sup>90</sup>

The Minister defended the devolution of decisions on support for Council Tax payments to local authorities:

On balance, we think that decisions about the support to be provided should be made at a local level and, combined with other incentives, such as the local retention of business rates, the changes will give councils a greater stake in the economic development of their area. Currently, council tax benefit is also costly to administer and difficult for people to understand. Localising support gives us the opportunity to remove some of the complexities.<sup>91</sup>

He acknowledged that Scotland may adopt a different approach, for example by operating the scheme at devolved Administration level, and confirmed that discussions with the devolved Administrations are ongoing. He promised the Committee that further information on the plans for CTB would be brought forward “as soon as practical” and confirmed that the detail would have to be brought to Parliament “before any measure can be taken.”<sup>92</sup>

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<sup>88</sup> PBC 31 March 2011 c341

<sup>89</sup> PBC 31 March 2011 cc343-5

<sup>90</sup> PBC 31 March 2011 c346-50

<sup>91</sup> PBC 31 March 2011 c351

<sup>92</sup> PBC 31 March 2011 c352



Karen Buck pressed her amendment to a vote, arguing that CTB should be within Universal Credit to ensure a “single and integrated system” – the amendment was defeated by 14 votes to 10.

Ms Buck moved an amendment to allow for the housing costs element of Universal Credit to be paid direct to landlords.<sup>93</sup> She referred to the concerns of social landlords (who currently receive direct payments of Housing Benefit) around the possibility of increased rent arrears and the impact this may have on their ability to secure private finance.<sup>94</sup>

Chris Grayling said the importance of a stable income for social landlords was recognised and that there was an intention “to develop Universal Credit in a way that protects their financial position.”<sup>95</sup> He emphasised that there are advantages in paying the housing component to individuals but said the Bill makes provision for direct payments to landlords where this is necessary.<sup>96</sup>

The amendment was withdrawn.

### **Childcare costs**

Welfare rights organisations and pressure groups have expressed concern about the lack of detail on how help with childcare costs will be provided under Universal Credit, and about the proposal that the overall level of support should be within the existing “funding envelope” for childcare. Following an announcement in the October 2010 Spending Review, from April 2011 the maximum percentage of eligible childcare costs covered by tax credits was reduced from 80% to 70%.<sup>97</sup>

For the Opposition, Karen Buck moved an amendment to clause 12 to provide that Universal Credit awards include an amount in respect of childcare costs in prescribed circumstances, up to a maximum of not less than 80% of allowable amounts. Speaking to the amendment, Ms Buck said that while the Government had said it would come forward with proposals on childcare before the end of the Bill’s proceedings, the Opposition would like a firm undertaking that it would get clear responses about what would be brought forward. As things stood, the whole principle of Universal Credit and understanding of its effectiveness were “fundamentally weakened by the omission of such important areas of expenditure.”<sup>98</sup>

Ms Buck noted the serious concerns voiced by the Child Poverty Action Group, the Daycare Trust and others that, given the limited funding being made available for childcare, some parents would face marginal deduction rates of more than 100%, “which contradicts everything the universal credit is about.” The Opposition intended to table a New Clause relating to childcare, but Ms Buck said it would be useful to have further details of the Government’s intentions and their likely impacts.<sup>99</sup>

Chris Grayling said that the Budget changes and the Government’s desire to extend childcare support to parents in “mini-jobs” meant that there were some “hard challenges” to be faced. The Secretary of State had said that the Government would hold a consultation on childcare support, and he welcomed cross-party engagement. The intention was to hold a number of seminars over the following weeks. Mr Grayling continued:

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<sup>93</sup> PCD Deb 5 April 2011 c358

<sup>94</sup> PCB Deb 5 April 2011 c359

<sup>95</sup> PCB Deb 5 April 2011 c362

<sup>96</sup> PCB Deb 5 April 2011 c363

<sup>97</sup> See Library Research Paper 11/24, pp20-21

<sup>98</sup> PBC Deb 5 April 2011 cc363-364

<sup>99</sup> PBC Deb 5 April 2011 cc364-368

On timing, we intend to complete the work as quickly as possible. I am expecting hon. Members to table a new clause before our consideration of the Bill ends in late May. It is my aspiration that we should be able to complete at least a goodly part of that discussion with them before we get to that point, so that we can have a much more informed debate.

I will not give an absolute commitment today that every detail will be in place by the time that we get to that point. For the purposes of primary legislation, there is no need for that to happen, but for the purpose of doing the right thing by the Committee and informing its debates and discussions, we will do as much as we possibly can to ensure that the nature of the debate is open, that the issues are open and that the details of the different impacts are as clear as possible.<sup>100</sup>

The amendment was withdrawn.

### ***Free school meals and other passported benefits***

For the Opposition, Karen Buck moved a probing amendment to elicit further information on how the Government intended to determine entitlement to free school meals and other passported benefits following the introduction of the Universal Credit.<sup>101</sup> She highlighted the danger of “cliff edges” if assistance is withdrawn at particular income thresholds, and the potential impact on work incentives. The Government had suggested a phased withdrawal of passported benefits as income increases, and Ms Buck asked how thinking on this was proceeding.<sup>102</sup>

Mr Grayling said that the Government was looking at the issue of passported benefits carefully, and would ask the Social Security Advisory Committee (SSAC) to consider it and make recommendations. Discussions with other departments were progressing well, he said. The approach taken would have to be “simple and affordable”. The solution was not necessarily to bring passported benefits into Universal Credit, although the Bill contained the flexibility to do so. Mr Grayling said however that for the moment the Government’s goal was “simply to align what other Departments are doing with what we are trying to do, so that we do not create the cliff edge to which the hon. Member for Westminster North rightly drew attention.”<sup>103</sup>

Ms Buck said that assurance was needed on whether the models under consideration were compatible with work incentives. She did not intend to press the amendment to a vote, but added “I am very uncomfortable indeed with what is a third critical area of policy within universal credit on which we do not have satisfactory answers even as we approach the Committee’s halfway point.”<sup>104</sup>

On 23 May the Minister for Welfare Reform, Lord Freud, issued a Written Ministerial Statement announcing the SSAC had been asked to produce an independent review of passported benefits, “taking account of the UK Government’s view that changes should not involve a net increase in public expenditure and the benefit system should be as simple as possible.”<sup>105</sup> The full terms of reference for the review are in a Deposited Paper.<sup>106</sup> An interim report is to be produced in September; the SSAC will then take further evidence and publish a final report recommending options no later than January 2012.

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<sup>100</sup> PBC Deb 5 April 2011 cc370-371

<sup>101</sup> See Library Research Paper 11/24, pp35-37

<sup>102</sup> PBC Deb 5 April 2011 cc373-375

<sup>103</sup> PBC Deb 5 April 2011 cc377-379

<sup>104</sup> PBC Deb 5 April 2011 c380

<sup>105</sup> HL Deb 23 May 2011 c108WMS

<sup>106</sup> DEP 2011-0854

**Additions for disabled adults**

As outlined in *Universal Credit Policy Briefing Note 1: Additions for longer durations on Universal Credit*, the Government proposed to streamline support for disabled people by providing additions in Universal Credit at two rates only, in line with the Support Group/Work-Related Activity Group split in Employment and Support Allowance. The addition for those in the Work-Related Activity Group would remain the same, but for those in the Support Group the Government proposes to increase the addition in stages, “as resources become available”, to £74.50 a week (2010-11 equivalent rates). Disability and welfare rights organisations have pointed out that some groups could lose out as a result of this, in particular people currently in the Work-Related Activity Group who are also in receipt of the Severe Disability Premium (SDP). SDP was introduced as a higher and additional premium for people living on their own (or treated as such) with high care needs not met by someone receiving Carers Allowance. One group that could be affected is families with young carers ineligible for Carer’s Allowance because of their age.

The Opposition Work and Pensions Spokesperson Margaret Curran moved a probing amendment to clause 12 regarding support for severely disabled persons. Speaking to the amendment, Ms Curran noted that the Government’s proposed structure for disability additions would result in winners and losers, and highlighted the issue of those in the Work-Related Activity Group who also receive SDP, and young carers. For the Government, Chris Grayling said that the Government had taken a conscious decision to concentrate resources on people in the Support Group, and pointed out that those who would otherwise experience a drop in the amount they receive would be covered by transitional protection. He gave an undertaking however to have further discussions with the Minister for Disabled People about the implications of the changes for young carers.<sup>107</sup>

The amendment was withdrawn.

**Conditionality for people undergoing oral chemotherapy**

Stephen Timms moved Opposition amendments to clauses 19 and 56 to add to the list of persons not subject to any form of “conditionality” people undergoing, recovering from or about to receive chemotherapy or radiotherapy. The amendments followed lobbying by Macmillan Cancer Support on behalf of 30 cancer charities. Similar amendments were tabled by the Conservative backbencher George Hollingbery.<sup>108</sup>

Mr Timms explained that the amendment was prompted by the increased use of oral chemotherapy to treat cancer patients, and from evidence that such treatment is not necessarily any less debilitating than other forms of treatment.

For the Government, Chris Grayling said there was a “uniformity of view from all parties on that matter” and that Professor Malcolm Harrington was looking at the issue as part of his ongoing independent review of the Work Capability Assessment. The Minister had no doubt that some forms of oral chemotherapy were extremely debilitating, but noted that there was a wide variety of treatments. He went on:

We have asked Professor Harrington if he will consider the issue specifically and make recommendations. Money is genuinely not the issue here. If it is the right thing to do to put all chemotherapy patients into the support group, I am perfectly happy to do so.

At the same time, I am instinctively reluctant, on any matter of health problems or disability, to use a one-size-fits-all approach that says that anybody in a particular group automatically ends up in a particular place. My reluctance has more to do with

<sup>107</sup> PBC Deb 5 April 2011 cc383-385

<sup>108</sup> PBC Deb 5 April 2011 cc428-429

the fact that circumstances vary. I want the system to be responsive to those varying circumstances. My message to all those who have expressed concerns is that the Government have an open mind and are willing to make changes if we feel that it is appropriate to do so. We have taken steps to ask that question by asking Professor Harrington to work with Macmillan to identify the right approach.<sup>109</sup>

Mr Grayling said that Professor Harrington had been asked if he could make recommendations “in the relatively near future”, and that if changes needed to be made, the Government would implement them as soon as possible. Mr Timms thanked the Minister for his response, and said that he hoped Professor Harrington would submit his recommendations within the next couple of months rather than later. The Minister indicated assent.

The amendment was withdrawn.

### ***Conditionality threshold for people in work***

In the debate on whether clause 19 should stand part of the Bill, Stephen Timms raised the question of how the threshold beyond which Universal Credit claimants in work would not be subject to any conditionality would be determined. He noted that notes on regulations circulated by the Department said that the threshold might be determined by reference to working hours, earnings, the amount of Universal Credit payable, or a combination of all three. This raised a whole range of questions, including how Jobcentre Plus would be able to determine working hours, and whether this would introduce a new level of intrusiveness. Given the issues still to be decided, Mr Timms said there was a case for the regulations setting out how the threshold would be determined to be subject to the affirmative rather than the negative procedure.<sup>110</sup>

Mr Grayling said that he was not yet in a position to give a definitive answer on how the conditionality threshold would be determined, but added:

What we must establish in the next few weeks and months is where that line should be drawn, and I am very happy to get the right hon. Gentleman’s input and suggestions on that. My suspicion is that, in the end, it will be a matter of some kind of combination of the elements rather than one individual threshold, but it is a question of identifying where the threshold should be.<sup>111</sup>

The Minister said that one option might be to set the threshold at the equivalent of a certain number of hours work at the National Minimum Wage, but that the Government had made no definitive decision. Mr Grayling was happy to give further consideration to whether the regulations should be subject to the affirmative procedure. Whatever the decision, the Government did not intend to introduce any additional mechanism to track the number of hours worked in real time, since this would be impractical. Information on current working hours could however be collected during Work-Focused Interviews.

### ***Sanctions***

At the 11<sup>th</sup> and 12<sup>th</sup> sittings of the Committee on 26 April, a number of issues arose during debates on amendments and clauses regarding conditionality and sanctions under Universal Credit.

In response to an Opposition amendment to clause 26, Chris Grayling said that the Government intended to table draft regulations on sanctionable amounts by the summer of

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<sup>109</sup> PBC Deb 5 April 2011 cc430-431

<sup>110</sup> PBC Deb 5 April 2011 cc432-433

<sup>111</sup> PBC Deb 5 April 2011 c433

2011, but confirmed that a benefit sanction would only affect the standard element of Universal Credit, not the housing or child elements. The level of the sanction would remain constant so that the penalty for those in work would be the same as for those not in work. For the Opposition, Stephen Timms said that this was “worrying”, and that it sounded as though people in work would be at more risk than those out of work.<sup>112</sup>

Mr Timms said that the problem was that “we do not really know what this in-work conditionality is going to look like” and asked the Minister when further details would be available on the circumstances where those already in work would be expected to work longer hours. Mr Grayling said that further details would be announced during the course of the summer, but that it was the Government’s intention to use in-work conditionality to encourage people to take further steps towards full-time employment and that part-time work and mini-jobs, while providing a “useful stepping stone”, could not be the “end point”. Asked by Karen Buck on whether someone might be pressed to take a second part-time job, Mr Grayling said that this was possible, but that it would depend on whether it was “reasonable” in the circumstances. For the Opposition, Stephen Timms said that while the Minister had provided reassurances on some important points, specifically on the position of those not in work,-

...he has opened up a whole new area of concern about those who are in work. It worries me that we have finished scrutinising that part of the Bill but we do not know what the position will be for people who are in work and find themselves subject to conditionality. Will they have to go down to the jobcentre every couple of weeks—presumably, they will—to report how many hours they are now working and to see whether the jobcentre adviser thinks that that is enough? Clearly there will have to be a requirement, and I understand why this is the case, on people who are in part-time work to seek longer hours. There seems to be a bit of a contradiction if the Government encourages mini-jobs, as we have discussed, but people with mini-jobs are told, “No, that isn’t enough; you should be working part time.”<sup>113</sup>

Mr Timms added that checking up on people who are in work and requiring them to work longer hours would be a new area of activity for Jobcentre Plus, and would have manpower implications.

The amendment was withdrawn.

In response to a separate Opposition amendment, Mr Grayling gave an undertaking to look again at the position of people subject to a sanction for leaving a job voluntarily or due to misconduct before a claim for Universal Credit is made, and whether this should be taken into account for a limited period only prior to the claim. In light of the Minister’s comments and undertaking to write to Mr Timms, the amendment was withdrawn.<sup>114</sup>

Clause 26 provides for “higher level sanctions” of up to three years.<sup>115</sup> Stephen Timms moved an Opposition amendment to change the maximum sanction period to one year. Speaking to the amendment, Mr Timms said he hoped the Minister could explain what many would consider a “pretty harsh proposal.” Ministers had said they expected that only a tiny number of people would suffer a loss of benefit for three full years but, Mr Timms noted, “...the system has a way of operating under its own impetus and, particularly on sanctions,

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<sup>112</sup> PBC Deb 26 April 2011 cc458-463

<sup>113</sup> PBC Deb 26 April 2011 cc466-467

<sup>114</sup> PBC Deb 26 April 2011 cc471-473

<sup>115</sup> See Library Research Paper 11/24, p50

has a bit of a record of going off and doing things that Ministers do not necessarily wish it to do.” The proposal had, he said, “many worrying implications.”<sup>116</sup>

Replying for the Government, Mr Grayling said that “clear guidance and training” would be given to Jobcentre Plus and decision makers, and said that those on whom a sanction was imposed would be able to appeal the decision. He said that the maximum sanction period would not apply to people failing to turn up for three Work-Focused Interviews or those committing “some minor misdemeanour”:

We are talking about people who have committed the most significant offence: those who refuse to apply for jobs that they are suited to do; those who wilfully turn down job offers and job opportunities, and those who are referred to an activity as part of their job search but systematically refuse to turn up—again and again and again. There must be a point at which we turn round and say, “No. That is not good enough.”<sup>117</sup>

Mr Grayling also said that the Government was “stepping up the support we give people who are out of work”, and was “...providing a situation where work will always pay.” Pressed on how many people would have been affected by the maximum sanction period had it applied this year, Mr Grayling answered:

If we take the current fault rate, it is a few hundred, but my hope is that the answer will be zero. There are two things that we must achieve. First, we need to ensure that the decision makers who run the reconsideration and appeals process identify whether we have made any mistakes about people with mental health problems, but secondly, I hope that, for the rest, it is a place where they will simply not go. This is not a sanction I ever want to be introduced formally. I do not want to see it used; I want a zero return on this one. It is meant to be a backstop that gives people a point beyond which they will not go, that is the intention.<sup>118</sup>

For the Opposition, Mr Timms said however that the Minister lacked an understanding of what really happened in Jobcentres, and he feared that significantly more people would be affected by three year sanctions than was suggested. He pressed the amendment to a vote, and it was defeated by 14 votes to 10.<sup>119</sup>

In a debate on an Opposition amendment to prevent any sanctioning targets from being imposed, Mr Timms drew attention to recent reports in *The Guardian* concerning allegations that some Jobcentre Plus staff had deliberately sought to “trick” vulnerable claimants in order to increase their offices’ measured sanctioning rates.<sup>120</sup> Chris Grayling said that as soon as the Government had become aware of the situation steps had been taken to stop it. He blamed the episode on the “target-driven culture” created by the Labour Government.<sup>121</sup> For the Opposition, Mr Timms said Mr Grayling’s response was “disappointing” and indicated a lack of understanding about how large organisations operated. He did not intend to press the amendment to a vote, but added:

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<sup>116</sup> PBC Deb 26 April 2011 cc473-474

<sup>117</sup> PBC Deb 26 April 2011 c477

<sup>118</sup> PBC Deb 26 April 2011 c479

<sup>119</sup> PBC Deb 26 April 2011 cc480-482

<sup>120</sup> See ‘Jobcentres ‘tricking’ people out of benefits to cut costs, says whistleblower’, *The Guardian*, 1 April 2011; ‘Government admits Jobcentres set targets to take away benefits’, *The Guardian*, 8 April 2011

<sup>121</sup> PBC Deb 26 April 2011 cc495-496

We will hear more disturbing stories about how some policies are implemented. The Minister needs to plan on that basis and to do what he can to avoid repeats of this particularly disreputable episode. I fear that similar ones might happen in the future.<sup>122</sup>

### ***Earnings disregards for second earners and disabled people***

Stephen Timms moved an Opposition amendment to Schedule 1 to provide for additional earnings disregards for certain groups, including second earners and disabled people.<sup>123</sup> Speaking to the amendment, Mr Timms said that it addressed the concerns voiced by the Women's Budget Group and others about weaker work incentives for second earners under Universal Credit than under the current benefit and tax credit system. In relation to disabled people, the Labour Work and Pensions Spokesperson Margaret Curran noted concerns voiced by the organisation Family Action that if the disregard structure did not take into account of the fact that people were in more than one category, some groups (e.g. disabled lone parents) might be disadvantaged. The Disability Benefits Consortium had also voiced concern that the proposed disregards would give less help to some groups of disabled people than currently under Working Tax Credit.<sup>124</sup>

In response to a question on whether the regulations setting out the disregards for Universal Credit should be subject to the affirmative procedure, Mr Grayling said:

I have given careful thought to the representations about the affirmative resolution procedure. I know that on several occasions, the introduction of a measure has been handled under an affirmative resolution and I am minded to pursue that same approach, but we will return to that later.<sup>125</sup>

With regard to disabled people, Mr Grayling said that a lone parent who was also disabled would receive only one disregard. The White Paper had however proposed a disregard of up to £7,000 for a disabled person, equivalent to more than £134 a week. Mr Grayling said that access to the disability disregard would be based on the Work Capability Assessment, but work was ongoing to determine how to identify individuals with health conditions limiting their ability to provide for themselves through paid work. This would involve work with external stakeholders.<sup>126</sup>

Mr Grayling said that the Government would not be providing an additional disregard for second earners (although he did confirm that the regulation-making powers in the Bill would allow a government to do so if it wished). He acknowledged that under Universal Credit the marginal deduction rates for some second earners would increase, but said that the Impact Assessment had shown that there was little overall effect on the participation tax rate for second earners. The key point about Universal Credit was however that it increased the options for families to "strike the right work-life balance for their own circumstances."<sup>127</sup>

Mr Timms said that while answers he had received to parliamentary questions indicated that the cost of a second earner disregard could be substantial, it "would be possible to introduce a modest but helpful disregard for a cost that would not be prohibitive, given the advantages of having such a disregard in the system."<sup>128</sup>

The amendment was withdrawn.

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<sup>122</sup> PBC Deb 26 April 2011 c499

<sup>123</sup> PBC Deb 26 April 2011 c528

<sup>124</sup> PBC Deb 26 April 2011 c530

<sup>125</sup> PBC Deb 26 April 2011 c536

<sup>126</sup> PBC Deb 28 April 2011 cc541-542

<sup>127</sup> PBC Deb 28 April 2011 c541

<sup>128</sup> PBC Deb 28 April 2011 c543

### ***Welfare advice and representation***

Karen Buck tabled an Opposition amendment to Schedule 6 requiring the Secretary of State to publish a report on access to welfare advice, and to ensure the provision of sufficient advice services to support migration to Universal Credit, including for those unable to use the internet.<sup>129</sup> Speaking to the amendment, Ms Buck said that the advice sector, in particular the element affected by proposed changes to legal aid, was under “unprecedented attack”. She also asked whether there would be targets for online claims for Universal Credit, and if claimants would have the right to access services by other means.<sup>130</sup>

For the Government, Chris Grayling said he appreciated the strong feelings about changes to legal aid budgets, and about what would happen to Citizens Advice and other advice providers. He added:

I have had discussions with Citizens Advice. Members will be aware that we have already extended a hand of welcome to the Prince’s Trust to put volunteer bureaux and desks in jobcentres. When it is appropriate and possible to do so and it helps local citizens advice bureaux to spread costs, I am very happy to see them either moving into or having a presence in jobcentres as well. The partnership between the two is extremely important.<sup>131</sup>

The Minister argued however that it would be “easier and quicker” for claimants to interact with the benefits system under Universal Credit, with automatic adjustments to awards as a result of the use of real-time data. He added:

The question that underlies the amendment is not about legal aid or the future of Citizens Advice, but about whether the Jobcentre Plus organisation has the ability to provide adequate interaction with individual claimants to ensure that their claims are processed and handled as accurately as possible.<sup>132</sup>

Mr Grayling said that the Government had no intention of removing the right of access to a face-to-face application; nor did it intend to remove the right to make telephone claims. He gave the Committee an “absolute assurance that we will put in place the appropriate support that is needed”, and that the amendment was “simply not necessary.”<sup>133</sup>

For the Opposition, Karen Buck said she was “disappointed” by the Minister’s response and added that, for a transitional period at least, there was likely to be an increased demand for advice and representation. She pressed the amendment to the vote, and the amendment was defeated by 12 votes to 10.<sup>134</sup>

### ***Piloting Universal Credit systems***

Stephen Timms moved an Opposition amendment to Schedule 6 to require to Secretary of State to pilot the Universal Credit system to ensure that it functioned satisfactorily before full introduction. Mr Timms was concerned about the IT system for Universal Credit and noted that a number of organisations were sceptical about the proposed timetable for its introduction. He argued:

Acceptance of the amendment will help Ministers to avoid the consequences of undue over-optimism. Ploughing on with an over-optimistic time scale is a recipe for disaster.

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<sup>129</sup> PBC Deb 28 April 2011 c560

<sup>130</sup> PBC Deb 28 April 2011 cc563-566

<sup>131</sup> PBC Deb 28 April 2011 c579

<sup>132</sup> PBC Deb 28 April 2011 c581

<sup>133</sup> PBC Deb 28 April 2011 cc582-583

<sup>134</sup> PBC Deb 28 April 2011 cc583-584



The consequences for the reputation of the Government would be bad, but the consequences for the well-being of those who depend on the benefit system could be catastrophic. The amendment provides an opportunity to reflect on this before pressing ahead with something that, in truth, will not be achievable.<sup>135</sup>

For the Government, Mr Grayling said he understood the concerns raised, but said that the Government's programme was based on the principle of "agile technology" which, he believed, "is much more likely to deliver us a robust system on time than would have been the case with previous programmes." The programme development programme involved a step-by-step process or "layered approach" and it was "not a question of needing to get to a point in October 2013 where everything happens in one go overnight, as happened with tax credits."<sup>136</sup> Mr Grayling added:

On the systems that are being developed within HMRC, the right hon. Gentleman is right that they are moving ahead, but I do not recognise some of the dates that he has mentioned. HMRC will go ahead with a pilot in less than a year's time, with volunteer employers and software developers. Remaining employers are expected to be on real-time information systems by April 2013. All employers are expected to be using that system by October 2013, to coincide with the start of universal credit.<sup>137</sup>

Mr Timms replied "The Minister says that this is not a big bang, but I think that it is", adding that his scepticism was "well grounded in my experience of such matters." He pressed the amendment to a vote, and it was defeated by 13 votes to 11.<sup>138</sup>

### ***Transitional protection***

The Opposition tabled a number of probing amendments to elicit further information on the Government's intentions regarding transitional protection for claimants who, at the point of migration to Universal Credit, would otherwise receive less than their existing entitlement. He noted that the Government has said there would be no losers as a result of the move to Universal Credit where their circumstances remain the same, adding:

That sounds good, and we are all pleased that that is the case. It does, however, leave a number of important questions unanswered. In particular, when the Government say that there will be no losers where the circumstances remain the same; what counts as a change of circumstance that invalidates the promise of no losers? That is what I hope to establish in discussing the amendments.<sup>139</sup>

For the Government, Chris Grayling said:

We are considering the precise details of the cash protection—for example, when it is appropriate for transitional protection to be reduced or to cease, and what circumstances might trigger that—and we will provide more information in due course.<sup>140</sup>

Mr Grayling confirmed that the Government would provide transitional protection even if it only amounted to a few pence, and that there would be no time limit. He continued:

The right hon. Gentleman asked what a change of circumstance is. We will provide a much more detailed list later, as that is intended to be a major change. Reaching the

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<sup>135</sup> PBC Deb 28 April 2011 c596

<sup>136</sup> PBC Deb 28 April 2011 c597

<sup>137</sup> PBC Deb 28 April 2011 c598

<sup>138</sup> PBC Deb 28 April 2011 cc600-601

<sup>139</sup> PBC Deb 28 April 2011 c603

<sup>140</sup> PBC Deb 28 April 2011 c605

upper threshold for the capital limit, for example, is a change of circumstance. Moving into a mini-job for two or three days is not a change of circumstance, because the basic principle of universal credit has to be the ability to operate reasonably flexibly. There will be a number of things that represent a major change of circumstance, but a tweak or an inflationary increase in annual child care costs is not the kind of thing that will mean that a person will lose a large chunk of their protection. We will take a common-sense approach. When there is a material and significant change in circumstance, the transitional protection will end. When there is a minor change that results from a natural part of the system—an inflationary increase or whatever—we will clearly use common sense.<sup>141</sup>

Mr Grayling said that he would provide a list of what constituted “material and significant” changes in circumstances “at the earliest opportunity”, adding “Certainly, I would expect us to be able to provide more information on that as the Bill progresses and before it leaves Parliament.” Mr Timms said that while the commitment was not quite as helpful as he had hoped for and that he was disappointed by the vagueness of the Minister’s response, he would not push the matter to a vote.<sup>142</sup>

### ***Regulations: procedure***

The Opposition tabled a number of amendments to clause 43 to require regulations covering various aspects of the Universal Credit to be subject to the affirmative rather than the negative procedure. Stephen Timms commented:

The Minister has previously given us some encouragement, so I hope he will agree that is a reasonable list of those sets of regulations that, at least on first appearance, should be subject to the affirmative rather than the negative procedure.<sup>143</sup>

Chris Grayling replied:

I have some sympathy with what he says, but I am not planning to accept his shopping list this afternoon. I want to go through it carefully to see what the right approach is. I am minded to do what the previous Government did with some of the major welfare reform changes they introduced: that is, to have some provisions initially subject to an affirmative resolution, so that when the measures are first brought before the House they are a matter of proactive debate. To have an ongoing requirement subsequently to use the affirmative procedure for what will become routine annual changes would not be appropriate.<sup>144</sup>

He added:

None the less, I do accept what the right hon. Gentleman has said. I will look carefully at the provisions he has highlighted and I will commit to table a Government amendment on Report, setting out provisions where the affirmative procedure will be used for the first round of regulations followed by subsequent regulations. I am happy to discuss with him in the meantime those matters he feels most strongly about. If he will bear with me until Report, I have given my commitment on that.<sup>145</sup>

The amendment was withdrawn.

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<sup>141</sup> PBC Deb 28 April 2011 c606

<sup>142</sup> PBC Deb 28 April 2011 c608

<sup>143</sup> PBC Deb 28 April 2011 c610

<sup>144</sup> PBC Deb 28 April 2011 c610

<sup>145</sup> PBC Deb 28 April 2011 c610

### **Payment to couples**

The Government proposes that, by default, Universal Credit will be paid as a single payment to a household, and it will be up to the family to decide who receives the benefit. A key aspect of Universal Credit is that it should mimic work and receipt of a salary. Further details of the Government's approach were set out in *Universal Credit Policy Briefing Note 2: The payment proposal*, published on 24 March. This stated:

There may, however, be exceptional cases that require alternative arrangements: the Government intends to retain power to arrange payments to couples to offer safeguards. We are considering the circumstances for and details of these alternative arrangements, and work is ongoing.

Some groups have voiced concern that the default position could result in a “purse to wallet” redistribution of income, since it has been a long-standing principle that benefits for children are paid to the main carer. Disability organisations are also concerned that the proposal could “disempower” some disabled people.<sup>146</sup>

Stephen Timms tabled an Opposition amendment to clause 97 which, together with an accompanying new clause, ensured that the Universal Credit payment could be split between two or more individuals in certain circumstances.<sup>147</sup> Speaking to the amendment and new clause, Mr Timms said that the merits of bringing together different benefits were very clear. He continued:

However, there is a risk that if we are not careful there could be unintended consequences that are entirely preventable. In particular, there is the potential to undermine the position of some women whose income will be dependent on universal credit, of which the main recipient is somebody else. Addressing those concerns does not require us to abandon the principle of a single payment or universal credit. It does not require big changes to the Government's proposals. It requires that the Minister and the Department can calculate the amount of any award that is paid in respect of certain circumstances—I suggest that those should be rent, disability or children—and then pay those components to an individual other than the main applicant for universal credit.<sup>148</sup>

For the Government, Chris Grayling said that while he understood Opposition members' views and that their arguments were perfectly reasonable, “routinely” dividing payments contradicted the Government's principles for Universal Credit.<sup>149</sup> He acknowledged however that there might be circumstances where it might be necessary to split payments between two parties. Pressed by Ian Swales on whether claimants could elect for payments to be separated, Mr Grayling said:

It is not our intention that that should be our approach, but we will not make it impossible in regulations for that to happen. We have left open flexibilities so that we can offer numerous different permutations. Although our default preference is to make a single household payment in most cases, we have sought to leave open flexibilities. We are aware that there are some people who might struggle to budget effectively and for whom a single payment to the household is not appropriate. We are carefully considering how to take into account those people's circumstances. Dividing payments between two or more parties by exception is certainly being considered as a part of that process. We are working it through and we will provide more information on the

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<sup>146</sup> See Library Research paper 11/24, pp27-28

<sup>147</sup> PBC Deb 17 May 2011 c989

<sup>148</sup> PBC Deb 17 May 2011 c992

<sup>149</sup> PBC Deb 17 May 2011 c995

conclusions that we reach in due course. I am very happy to receive input from members of the Committee about that.<sup>150</sup>

Mr Grayling was aware of the body of research suggesting that benefits paid to the main carer and explicitly labelled as being for children were more likely to be used for that purpose. He added:

We are considering how best we can display information about how a claim is made up, so that claimants are aware what they are receiving and for which needs, and labelling elements might be an important part of that.<sup>151</sup>

The Minister also pointed out that existing provisions in the *Social Security Contributions and Benefits Act 1992* would allow a future government to split Universal Credit payments, should it wish to do so. However, he continued:

Our policy position is that we expect to make single payments to single households, except in unusual or exceptional circumstances—where there are particular reasons such as hardship or relationship breakdown, or reasons that might be determined individually by an adviser on the ground dealing with an individual case—where we have left in place the provision either to make individual household payments on a different basis, or group payments on a different basis. We are working through the detail to establish how best to deploy those powers.

[...]

Although we might differ on the approach, it is not our intention to have large numbers of people electing to have split payments—our default preference is to have single payments—but we have left in place the flexibility to have split payments where there is a very good reason to have them.<sup>152</sup>

Mr Timms said he was disappointed by the Minister's response. He was encouraged by the Minister's comment that a future government could make provision for split payments, but felt that the current Government's policy was "retrograde." He did not want to press the amendment and new clause to the vote, but said that many people would want to reflect on what the Minister had said.<sup>153</sup>

The amendment was withdrawn.

### **3.2 Abolition of Council Tax Benefit**

The implications of the abolition of Council Tax Benefit (CTB) were raised during the debate on clause 11.<sup>154</sup> Further questions were asked during the stand part debate on clause 34. The matters covered included the timetable for the abolition of CTB and the introduction of local schemes of assistance.

The Minister confirmed that CTB would not be abolished until a replacement is established. The date the Government is working to is 2013, with the aim of having an alternative scheme in place to start with the introduction of Universal Credit. The Minister said there would be no gap in provision for people needing support with their Council Tax payments, but he could not provide an exact time frame for bringing replacement measures before the House.<sup>155</sup> He

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<sup>150</sup> PBC Deb 17 May 2011 c996

<sup>151</sup> PBC Deb 17 May 2011 c996

<sup>152</sup> PBC Deb 17 May 2011 c997

<sup>153</sup> PBC Deb 17 May 2011 c997

<sup>154</sup> See pages 18-21 of this paper.

<sup>155</sup> PBC 28 April 2011 c556

confirmed that it would be possible to have a different start date for the replacement CTB schemes should this be necessary:

**Chris Grayling:** The answer is that it is possible to have a different start date for the different elements in clause 34, and that is provided for in clause 136(3). Clearly, our goal is to introduce all the reforms at the same time, because that is logical, but we have given ourselves flexibility to get them right. That is important in the design of the localised scheme. We strongly believe in the localisation agenda, and we are taking the right approach, but we want to ensure that we have the flexibility to get it right, and we have allowed for that in the Bill.<sup>156</sup>

Stephen Timms described the omission of CTB from Universal Credit as a “serious blow to the prospects for effective welfare reform” - he expected to return to the matter during later stages of the Bill’s consideration.<sup>157</sup>

### 3.3 Implications for Pension Credit of Universal Credit

#### *Qualifying age*

The qualifying age for Pension Credit is linked to the State Pension age for women. Under current legislation, only one partner needs to have reached the qualifying age in order for a couple to claim.<sup>158</sup> Schedule 2 (paragraph 64) of the Bill provides that in future both will need to have done so.<sup>159</sup>

In Public Bill Committee Stephen Timms expressed surprise at the way the policy change had been introduced. In its Universal Credit White Paper, published in November 2010, the Government said it was “considering an option of allowing those pensioners who choose to extend their working lives to claim Universal Credit, rather than Pension Credit.”<sup>160</sup> In contrast, the Bill removes entitlement from those with working age partners. Mr Timms said:

That is very far from what the White Paper told us – that it would be an offer of which people might wish to take advantage. It is now a requirement and a severe restriction on the availability of pension credit.<sup>161</sup>

He asked what savings the Government expected to make, whether there would be transitional protection for existing claimants and how the Minister would justify discriminating against pensioners on the basis of their spouse’s age:

It seems curious to propose that, for people in otherwise identical circumstances, one will receive pension credit because their spouse is above pensionable age, but someone else, whose spouse happens to be below pensionable age, will not.<sup>162</sup>

In response, Chris Grayling explained that the rationale was to require people of working age to look or prepare for work in return for receiving support from the state:

The pension credit is a means-tested extra support payment for people on the lowest incomes to enable them to top up their income. If there is a couple in a household, one of whom is still of working age, and we are paying that means-tested payment, but the person of working age is not required to work, that does not stack up. Why should we

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<sup>156</sup> PBC 28 April 2011 c557

<sup>157</sup> PBC 28 April 2011 c557

<sup>158</sup> *State Pension Credit Act 2002*, s1

<sup>159</sup> Bill 197

<sup>160</sup> DWP, *Universal credit: welfare that works*, Cm 7957, November 2010, para 49-50

<sup>161</sup> PBC Deb 28 April 2011 c551

<sup>162</sup> PBC Deb 28 April 2011 c552

not say to the person of working age, 'Your household is on a low income, you need more money, get a job', rather than, 'Here is an extra means-tested payment from the state without the obligation to look for a job'? This is a sensible change that puts an appropriate balance into the system.<sup>163</sup>

He confirmed that the change would only apply to "new claims, not to couples who are already entitled to Pension Credit." Furthermore, the "work-related requirements" would only apply to the working age partner.<sup>164</sup>

The Government had not calculated the savings it expected to be made from this change:

This is not a saving measure as such. We have not calculated a saving out of it, so we have not produced a number that is now scored somewhere to say that it will be a consequence of this extra measure. This is simply a common-sense step. It does not seem right for the state to say, "We will provide you with some money to top up your household income, because you are on a very low income," while at the same time saying that that it is fine for somebody who is of working age not to be looking for a job in such a situation.<sup>165</sup>

Mr Timms did not think the Minister had given justification for discriminating against pensioners on the basis of the age of their spouse.<sup>166</sup> His proposed amendment (to remove the provision from the Bill) was defeated by 13 votes to 11.<sup>167</sup>

### ***Housing Credit: capital limit***

Clause 35 and Schedule 4 provide for a new "housing costs" credit in Pension Credit, to replace the support currently provided by Housing Benefit.<sup>168</sup>

Clause 74 of the Bill allows a capital limit to apply to Pension Credit. The intention is to enable "replication of the current position in respect of Housing Benefit, where a capital limit applies." However, as drafted, clause 74 would allow a capital limit to be applied to any of the elements of Pension Credit.<sup>169</sup>

Stephen Timms asked why the clause had not been drafted so as to allow a capital limit to be applied only to the housing credit element.<sup>170</sup> Chris Grayling explained that the Government's intention was "for the existing housing benefit rules to be broadly carried across to the housing credit element in pension credit". However, to enable operational simplicity, it wanted the power to introduce a capital limit in respect of one or all of its elements:

I have made it clear that our aim is for the existing housing benefit rules to be broadly carried across to the housing credit element in pension credit, but the picture is complicated, so it is not quite that straightforward. We recognise that it will be important for pension credit to continue to operate in a way that is clear to both customers and staff once housing credit has been incorporated. We want the power to introduce a capital limit that can be exercised in respect of one or all of the elements of pension credit, allowing for the possibility of simplification through the alignment of the

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<sup>163</sup> PBC Deb 28 April 2011 c553

<sup>164</sup> PBC Deb 28 April 2011 c553

<sup>165</sup> PBC Deb 28 April 2011 c553

<sup>166</sup> PBC Deb 28 April 2011 c554

<sup>167</sup> PBC Deb 28 April 2011 c554

<sup>168</sup> Housing Benefit is to be abolished under clause 34 and, for people of working age, rolled up into the Universal Credit

<sup>169</sup> Bill 154-EN, para 336

<sup>170</sup> PBC Deb 3 May 2011, c760

rules. I will be frank. There are ways of doing that. One could establish a much higher capital limit that applied across the board or apply a limit to the individual element of housing.

Let me put this on the record: it is not our intention to apply a capital limit of the kind that exists for housing benefit—the £16,000 equivalent and the group of people it affects—within pension credit. We might put in place a system that applies a flat rate to a much higher level of capital, or we might equally apply a capital limit to the housing element, but it is not our intention for the measures to disadvantage people who have a sensible level of savings. It is our intention to replicate the system that is already there in so far as we possibly can. Therefore, although I do not rule out an approach that might end up with an across-the-board limit for a much higher level of capital than the current level of £16,000 in order to achieve our objectives, it is not our intention to apply a capital limit of the kind that we know now to claimants.

The Minister said he could conceive of applying a single capital limit to all elements of Pension Credit. However, this would be substantially higher than the current limit applying to Housing Benefit (£16,000):

It is not our intention to disadvantage anybody who is currently in the pension credit mix by applying a capital limit of the kind that exists in housing benefit that would affect the vast majority of claimants. I can conceive of us applying a limit that would affect a small minority at the top end in order to achieve an overall flat rate across the whole pension credit audience, but no decision has yet been taken on whether it is appropriate to introduce a capital cut-off limit of that kind for the whole of pension credit.<sup>171</sup>

Mr Timms said this could be “quite a major, and potentially controversial change” and asked whether the regulations would be subject to the affirmative resolution procedure. Mr Grayling said he would address that question at Report Stage.<sup>172</sup>

In its Universal Credit White Paper, the Government had proposed introducing a further element in Pension Credit to provide income-related help for dependent children.<sup>173</sup> In debate, the Minister confirmed that he did not need to take powers in the Bill for this, but already had the necessary powers to make the required secondary legislation.<sup>174</sup>

### 3.4 Employment and Support Allowance

#### *Time-limiting contributory ESA*

Clause 51 of the Bill restricts entitlement to contributory Employment and Support Allowance (ESA) for claimants in the Work-Related Activity Group.<sup>175</sup> For the Opposition, Stephen Timms moved an amendment to clause 51 to provide that contributory ESA for those in the Work-Related Activity Group to be payable for “a prescribed number of days, which must be at least 730.”<sup>176</sup> Mr Timms said that the amendment was justified for three reasons:

First, as with jobseeker's allowance, to be justified, any time limit should be greater than most people need to get off the benefit. Secondly, only a small minority of those who enter the work-related activity group leave ESA within a year. The Government

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<sup>171</sup> PBC Deb 3 May 2011 c762

<sup>172</sup> PBC Deb 3 May 2011 c762

<sup>173</sup> DWP, *Universal credit: welfare that works*, Cm 7957, November 2011, para 48

<sup>174</sup> PBC Deb 28 April 2011 c559

<sup>175</sup> See Library Research Paper 11/23, pp4-6

<sup>176</sup> PBC Deb 3 May 2011 c628

have yet to tell us how many, but I suspect that the figure is probably less than 20%, so it is a small minority. Thirdly, as an absolute minimum, the Government should make the time limit amendable by regulations, rather than writing “365 days” in the Bill.<sup>177</sup>

Mr Timms said it was “perfectly reasonable”, by analogy with contributory JSA, to time limit receipt of contributory ESA, but that it was “very important to set it at a duration that is fair, drawing on the evidence about what is a reasonable period in which people with health impairments can be expected to get back to work.” He said that there was “no evidence to justify a one-year limit”, which had been chosen “simply as a cost-saving measure and is arbitrary.”<sup>178</sup>

For the Government, Chris Grayling mentioned the deficit and added “the reason why we have made the 12-month decision certainly has a strong financial dimension to it.” He said that there was an “enormous inconsistency” given that contributory JSA was time-limited while contributory ESA was not, creating a perverse incentive. Mr Grayling confirmed that the decision had not been made “on the basis of the amount of time that it takes an individual to recover from a particular condition.”<sup>179</sup> He explained:

We have decided to set a 12-month time limit rather than a six-month time limit in recognition of the fact that if people face a health challenge it may take longer to sort out their affairs and may even take longer than the two year period. This is one of the tough decisions we need to take in government. We form a view and try to achieve a sensible balance. It is not based on an estimate of a typical recovery time, but on the principle that these are people who have other means of financial support. In around 60% of cases we expect people to need additional financial support through the income-based system, which they will of course receive.<sup>180</sup>

Mr Grayling also mentioned that the Government would be providing a range of support to help people in the Work-Related Activity Group move towards work, including through the Work Programme.

Stephen Timms called the Minister’s response “desperately inadequate” and that it was “deeply depressing” that his only justification was that “saving money was a good thing.” Mr Timms said that the Minister had “no evidence at all that one year is an adequate period”; nor had he addressed specific concerns about the impact on people with cancer and those with mental health problems. Mr Timms pressed the amendment to a vote, and it was defeated by 14 votes to 9.

At the beginning of the 17<sup>th</sup> sitting of the Committee on 10 May, Mr Timms announced that he had received a response to a parliamentary question stating that the Department’s estimate was that in a steady state, without time-limiting, around 77% of contributory ESA claimants in the Work-Related Activity Group would be in receipt of benefit for 12 months or more.<sup>181</sup>

A number of other amendments were discussed along with the Opposition amendment to extend the contributory ESA time limit to a minimum of two years. These included Opposition amendments to provide that:

- the 12 month period could not include any period before the provision came into force;

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<sup>177</sup> PBC Deb 3 May 2011 c629

<sup>178</sup> PBC Deb 3 May 2011 c637

<sup>179</sup> PBC Deb 3 May 2011 cc649-650

<sup>180</sup> PBC Deb 3 May 2011 c652

<sup>181</sup> PBC Deb 10 May 2011 c765



- the time period would start again if someone moved into the Support Group (in order to protect people with fluctuating conditions); and
- the 12 month period could not include any days in the ESA assessment phase.

The Liberal Democrat backbencher Jenny Willott also tabled amendments to achieve the same result as the last two bullet points. Mr Grayling gave a commitment to look into the issues raised by Ms Willott's amendments and to get back to her.<sup>182</sup>

### ***Abolition of the ESA youth rules***

Clause 52 of the Bill abolishes the “youth rules” which enable people incapacitated early in life to gain entitlement to contributory ESA without having to satisfy the National Insurance contribution conditions.<sup>183</sup> An Opposition amendment to retain the youth rules was discussed along with the other amendments to clause 51. Stephen Timms said that he was “shocked and dismayed” by clause 52 which, he said, “greatly undermines a long-established arrangement that was entirely uncontroversial, as far as I was aware.” Mr Timms said that it was difficult to understand the Government's justification for abolishing the youth rules, which would be “unreasonably punitive.”<sup>184</sup>

For the Government, Chris Grayling said it seemed to be “an oddity” that a young person could automatically be able to receive contributory ESA without ever having worked:

This may not have been debated hotly in the past, but it is strange if somebody who reaches the age of 18 can simply enter the contributory system without ever having contributed. Such young people have access to income-based ESA, which provides them with the same level of support as contributory ESA, so we are not telling them that there is no support for them.<sup>185</sup>

The Government estimated that around 90% of young people currently gaining entitlement to ESA under the youth rules would be eligible for means-tested support.

### **3.5 Housing Benefit**

Clause 68 will amend section 130A of the *Social Security Contributions and Benefits Act 1992*. This section provides for the determination of a claimant's “appropriate maximum housing benefit” (AMHB) in accordance with regulations and with reference to rent officer determinations. Assessing a claimant's AMHB involves a determination of whether they are entitled to receive Housing Benefit and how much they should receive.

The Explanatory Notes to the Bill make it clear that the Secretary of State may use the regulation making powers contained in this clause to:

- restrict Housing Benefit for working age social tenants who occupy a larger property than their family size warrants; and
- re-set Local Housing Allowance rates without reference to rent officer determinations.<sup>186</sup>

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<sup>182</sup> PBC Deb 3 May 2011 c654

<sup>183</sup> See Library Research Paper 11/23, pp7-8

<sup>184</sup> PBC Deb 3 May 2011 cc645-646

<sup>185</sup> PBC Deb 3 May 2011 cc654-55

<sup>186</sup> Bill 154–EN, para 323

The first set of amendments considered by the Committee concerned the restriction of Housing Benefit for under-occupying social tenants.

### ***Under-occupation***

Karen Buck moved an amendment to clause 68 to ensure that regulations made under it would be subject to the affirmative resolution procedure:

... the sheer scale of the numbers involved in the benefit cuts and the amount of money being cut off the budget—2 million or so people will be affected one way or another—require a much clearer idea of the regulations and how the Government intend to proceed in the coming months. We want to know that we will have an opportunity to discuss those regulations through the affirmative procedure.<sup>187</sup>

In moving this amendment she asked about the definition of under-occupation to be applied by the DWP, the scale of under-occupation in the social rented sector, the ability within the sector to respond to requests for down-sizing from affected tenants, and the maximum amount of benefit that a tenant might lose.<sup>188</sup> Several Members referred to the difficulties local authorities will face in finding suitable alternative accommodation for under-occupying tenants to move to.

The Minister, Maria Miller, argued against the use of the affirmative procedure:

As the Minister of State said earlier, housing benefit legislation is extensive, and deals with a significant amount of detail. As Opposition Members will know, it is amended frequently through regulations to ensure that procedures and customer service are the best that they can be and respond to the changes in housing provision. Housing benefit will need to provide support to a large number of people with very different needs. The system also needs to maintain flexibility so that changes can be made quickly without disproportionate demands on the legislature. That is why I think that the regulation-making powers should remain subject to the negative procedure.<sup>189</sup>

The amendment was withdrawn and Ms Buck moved a further amendment to ensure that the AMHB would always meet actual rent levels where a person in the household is in receipt of a component of Disability Living Allowance (DLA) – she described this as “a proxy for severe disability.” This was debated alongside another amendment aimed at ensuring no deduction from Housing Benefit entitlement for under-occupation where the claimant is disabled and living in an adapted property.<sup>190</sup>

Members questioned the capacity to move under-occupying disabled people to suitable alternative accommodation. Ms Buck referred to the lack of information on the number of under-occupying DLA claimants in the social rented sector. She also referred to evidence submitted by the National Housing Federation (NHF) indicating that there are 108,000 working-age social housing tenants in Britain who are in receipt of Housing Benefit and who are under-occupying adapted homes. She asked for reassurance that tenants in receipt of DLA, or disabled and living in an adapted property, would be protected “from the worst impact of the cuts in Housing Benefit.”<sup>191</sup> Sheila Gilmore raised concerns about shifting costs from Housing Benefit expenditure to local authorities’ adaptation budgets.<sup>192</sup>

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<sup>187</sup> PBC Deb 3 May 2011 c674

<sup>188</sup> PBC Deb 3 May 2011 cc674-5

<sup>189</sup> PBC Deb 3 May 2011 cc678-9

<sup>190</sup> PBC Deb 3 May 2011 c680

<sup>191</sup> PBC Deb 3 May 2011 c684

<sup>192</sup> PBC Deb 3 May 2011 c685

Maria Miller, while rejecting the amendment to exempt all residents in adapted accommodation, said that she “saw sense in the argument presented” and committed to “explore the matter further.”<sup>193</sup> On the question of an exemption for tenants in receipt of DLA, she said:

We want to minimise any adverse effect on people who may be in accommodation that has been adapted, and we will look at ways of doing so, but not everyone who receives disability living allowance has had adaptations to their accommodation, and certainly it is not disproportionate for the Government to put in place a measure that reflects the make-up of those who are claiming rent in the social rented sector.<sup>194</sup>

Ms Buck withdrew her amendment, noting that the issue would be returned to.<sup>195</sup> She moved a further amendment to exempt under-occupying social tenants who do not receive “a reasonable alternative offer” of accommodation.<sup>196</sup> She argued that social housing providers do not have the capacity to offer smaller accommodation to all tenants who are currently under-occupying and that affected tenants should not be penalised by a Housing Benefit shortfall if there is no suitable accommodation for them to move to.<sup>197</sup>

Jenny Willott, Liberal Democrat backbencher, raised the impact of the measure on tenants who have been placed in larger properties in less desirable areas by local authorities as a “conscious part of their allocations policy:”

Manchester is very different in a lot of ways. There is a conscious policy of offering young and potentially growing families the choice of a larger property in less favourable areas of the city. Trying to ensure that there is a broad variety of different types of people living in the different areas of the city is a conscious part of the allocations policy. It also means that a lot of families, particularly those with younger children, are in houses that are too big for them now, but will probably not be too big for them in future because they are growing families, which is why they have chosen to live in those properties. The council has made those conscious decisions as part of its allocations policy, and those individuals who will find it very difficult to work around the situation in which they find themselves could be penalised.<sup>198</sup>

The amendment generated a discussion around how a “reasonable alternative offer” of accommodation would be defined. Local authorities are currently under a duty to offer “suitable accommodation” to homeless households to whom a main homelessness duty is owed.<sup>199</sup> Chapter 17 of the *Homelessness Code of Guidance for Local Authorities* provides guidance on what factors should be taken into account in determining whether accommodation is suitable for a particular household or not. The key factors referred to include: the needs, requirements and circumstances of each household; space and arrangement; health and safety considerations; affordability, and location. There is also a substantial body of case-law that has informed the question of what a suitable offer of accommodation amounts to.

In response to this discussion the Minister said that the purpose of the under-occupation measure is not to force people to move:

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<sup>193</sup> PBC Deb 3 May 2011 c685

<sup>194</sup> PBC Deb 3 May 2011 c686

<sup>195</sup> PBC Deb 3 May 2011 c690 - the NHF has prepared a briefing on the potential impact of the under-occupation measure on disabled people: [Download our briefing on the impact of under-occupation cuts on people with disabilities](#), 2011

<sup>196</sup> PBC Deb 3 May 2011 c690

<sup>197</sup> PBC Deb 3 May 2011 cc690-4

<sup>198</sup> PBC Deb 3 May 2011 cc696-7

<sup>199</sup> Section 206 of the *1996 Housing Act* (as amended)

...but we would expect them to make similar choices about affordability as those not receiving housing benefit. The amendment seems to put the onus squarely on landlords and others to find alternative accommodation, with claimants having a passive role. That is not what the Government envisage. It is important that claimants take responsibility for their financial decisions, with support from others if necessary.<sup>200</sup>

She said that, as part of the implementation policy, the impact of clause 68 in different locations would be explored, and went on to outline how tenants might react to the loss of Housing Benefit:

The average reduction for those under-occupying by only one bedroom—the vast majority of those affected by the measure—will be about £11 a week.

There are various ways in which individuals can choose to deal with that change. We would expect most people to choose to remain in the existing property, even if the option of a smaller one were available. That may be a legitimate choice for a family or individual to make, with them finding other ways to meet the shortfall. They will have time to consider ways in which to do that and appropriate advice will be available as part of our implementation strategy. In the long term, we need to ensure that we are using our housing stock better; it will be in the interest of landlords, social landlords and tenants to ensure a better match between our housing needs and the accommodation provided.

Individuals could choose other ways to meet the difference in cost, such as taking up additional work. We are investing in the largest ever back-to-work project, under the Work programme, to ensure that people have the right support to help them into work while we move out of recession and into recovery. We are keen to ensure that disabled people, who were the subject of a great deal of discussion under the previous group of amendments, have the same employment opportunities as everyone else. Indeed, they will receive support not only through the Work programme, but through Work Choice.<sup>201</sup>

Karen Buck argued that the restriction would “bring about a cut in the income of low income people” and would not discourage under-occupation.<sup>202</sup> She pressed the amendment to a vote – it was defeated by 15 votes to 9.

She moved a further amendment to provide for the phasing in of the under-occupation restrictions over a five year period with transitional protection for certain categories of people:

At the moment we have a big bang, and in 23 months we will have some 650,000 households facing the cut or a demand to move, and we know that there will not be sufficient accommodation. I am interested to know whether the Government have thought about minimising the pain that will arise for people who are registered for a downsize, for example. There will be people submitting applications to cash incentive programmes, and applying to their local authorities or registered social landlords for a downsize, and they are exactly the people Ministers say they want to encourage in order to reach the objective of tackling under-occupation, which is stated—slightly disingenuously, I think—as an objective of the policy.

The simple and decent thing to do would be to protect people who are now registered for a move until the time when they can have one. Similarly, there are households who, before April 2013, would currently be deemed as under-occupying their property, but

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<sup>200</sup> PBC Deb 3 May 2011 c700

<sup>201</sup> PBC Deb 3 May 2011 cc700-1

<sup>202</sup> PBC Deb 3 May 2011 c704

whose circumstances are likely to change, making them not under-occupy it. As an example, I will use a couple with two children aged nine and 10. At the moment, they would be deemed as under-occupying their property according to the criteria used by the Government, but obviously, in 10 months or a year, they would legitimately occupy such a property. It seems rather bad to apply a penalty that could, in London and the south-east, cost £1,000 or so for a family caught in that predicament.<sup>203</sup>

The Minister acknowledged that there may be a case for exempting some people, such as disabled people occupying homes with substantial adaptations, but said it would be difficult to legislate for all the circumstances Karen Buck had described. She said that the Government “would be looking at the level of discretionary housing payment” to ensure that it addresses the issues raised.<sup>204</sup> She defended the lead in time for the introduction of the measure:

It can come as no surprise that we are bringing in this measure, which was announced in the emergency Budget just after the general election. We made it clear that the changes would be introduced from April 2013, which is enough lead time in which to develop the detail of how the measures will operate and how to communicate them on the ground to those affected. We have a great deal of time in the system for us to be able to do that effectively, and a great deal of effort has already been put in by officials in our Department and local authorities.<sup>205</sup>

The Minister also emphasised the need to achieve the savings identified from the under-occupation restriction of “around £0.5 billion in the first year alone.”<sup>206</sup> During the debate the point was repeatedly made by the Opposition that the expected savings would only be realised if households do not move to smaller accommodation and opt to fund the shortfall in Housing Benefit from other income.

The amendment was withdrawn.

### ***Uprating by CPI***

The other amendments considered by the Committee in relation to clause 68 concerned the intention to up-rate Local Housing Allowance rates by the Consumer Price Index (CPI) from April 2013.

Sheila Gilmore moved an amendment to provide for an annual check of actual rents charged in the private rented sector against the level of Local Housing Allowance (LHA) rates and to provide for an adjustment where the LHA rate falls beneath the 30<sup>th</sup> percentile of rents within a locality:

I contend that history shows that rents continued to rise much faster than inflation, whether of the RPI or of the CPI variety. As the local housing allowance has been reduced by linking it to the 30th percentile, there is a risk that year-on-year the gulf will open further. That is what the amendment seeks to address.<sup>207</sup>

In response the Minister advised that the Secretary of State would be able to adjust rates to ensure that housing support “does not become completely out of kilter or out of touch with local rental markets.” She said that the impact of the measure would be monitored and further adjustments would be made “if it is right to do so, either locally or generally.”<sup>208</sup> She

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<sup>203</sup> PBC Deb 3 May 2011 c715

<sup>204</sup> PBC Deb 3 May 2011 c716

<sup>205</sup> PBC Deb 3 May 2011 c716

<sup>206</sup> PBC Deb 3 May 2011 c717

<sup>207</sup> PBC Deb 3 May 2011 c705

<sup>208</sup> PBC Deb 3 May 2011 c711

went on to say that where rents rise faster than inflation “there should be no presumption that housing benefit will always pick up the bill.”<sup>209</sup>

Sheila Gilmore welcomed the Minister’s commitment to review the situation and withdrew the amendment.<sup>210</sup>

### 3.6 The Social Fund

Clause 69 provides for the abolition of the discretionary Social Fund as it currently exists. The Government intends to transfer funding to the devolved administrations, and to local authorities in England, which will then decide on the most appropriate arrangements for giving assistance.<sup>211</sup>

For the Opposition, Karen Buck moved an amendment to clause 69 to ring-fence the amounts transferred to local authorities. Speaking to the amendment, she said it was unfortunate that the discretionary Social fund was to be abolished, leaving a system with no statutory force. The Social Fund provided an “essential safety-net for the poorest of the poor” and the Government’s decision had been “heavily challenged” by a number of organisations working in the social welfare field. The amendment sought to ring-fence the budget, as an “essential safeguard” for localised delivery:

My amendment seeks to address two related problems. First, will any devolved grants and loans from the discretionary social fund be protected by the local authorities to which they are given? Secondly, what will those funds be? I accept that this is not a cost-cutting exercise, and we believe that the money now available through the social fund will be devolved to local government. Critically, what will those funds be in the light of recoverability?<sup>212</sup>

Ms Buck cited the example of the Supporting People programme, where local authorities cut spending when ring-fencing was removed. She also argued that localising provision would create a “serious capacity issue” and increase costs for local authorities. Ms Buck was also concerned that social workers, instead of being advocates for their clients, might be put in the position of having to turn down applications for grants from them.<sup>213</sup>

The Minister for Disabled People, Maria Miller, said that the Government’s plans for the Social Fund fell “well short of total abolition”, pointing out that loans would still be available at a national level through a new system of payments on account to replace Budgeting Loans and Crisis Loan “alignment payments”, which would not be cash-limited. The Government’s commitment to localism meant that local authorities would be given the freedom to take the most appropriate decisions for their areas. The Government did not intend to impose a new duty on local authorities, but local authorities would be open to scrutiny at local level for the decisions they took. The Government was in discussions with local authorities, the Local Government Association and the devolved administrations on how to ensure there was clarity on how people could access support, and the particular problems of people who had experienced domestic violence had formed a great part of those discussions.<sup>214</sup>

Karen Buck said she was “not entirely convinced by the Minister’s responses” and that the Government’s plans amounted to “de facto abolition of the national scheme”. She added:

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<sup>209</sup> PBC Deb 3 May 2011 c712

<sup>210</sup> PBC Deb 3 May 2011 c715

<sup>211</sup> See Library Research Paper 11/24, pp69-77

<sup>212</sup> PBC Deb 3 May 2011 c720

<sup>213</sup> PBC Deb 3 May 2011 cc720-725

<sup>214</sup> PBC Deb 3 May 2011 cc731-733

We are looking at something of a poisoned chalice for local government, and that places some very vulnerable people at risk. The only reasonable approach, without investing large amounts of additional money, is at least to provide a safety net so that when local authorities get their allocation of resources and start working out for themselves how they might meet the needs of those millions of annual applicants, they know that there is a fund that must be protected and used for that purpose.<sup>215</sup>

She pressed the amendment to a vote, and it was defeated by 14 votes to 9.

Karen Buck moved an Opposition amendment to clause 69 to require the Secretary of State to put in place appropriate mechanisms to ensure quality of service and the level of awards for claimants did not differ significantly across the country, and to ensure a national appeals process was in place. This was discussed along with a further Opposition amendment requiring the Secretary of State to publish “local connection eligibility rules” to prevent applicants being refused assistance solely on the grounds of where they lived or how long they had lived there.<sup>216</sup> Ms Buck was particularly concerned that local authorities might refuse help to vulnerable people not deemed to have a local connection, leading to significant problems in areas with large transient populations.

For the Government, Maria Miller said that local authorities had not only a moral obligation to ensure their services met the needs of their residents, but also had a “legal obligation to act reasonably and fairly.” She added:

As a result of the responses we have received to the call for evidence on these changes, we are actively considering a range of ways that we could offer support to local authorities during transition to the new assistance. It will be the responsibility of local authorities in England to ensure that decisions are fair and impartial, as well as deciding on appropriate arrangements on reconsideration or review; that was another issue that the hon. Lady brought up.<sup>217</sup>

The Minister said that funding would be allocated according to need, and the Government would shortly be publishing statistics on levels of demand for and spending on Community Care Grants and Crisis Loans by local authority. She added that the issue of how to ensure that people moving between local authorities did not “fall through the net” was something local authorities would have to consider, but added that there was nothing to stop local authorities working together to provide assistance. The Minister hoped that Ms Buck was reassured about the work that had been done, and was being done, to address the sorts of issues she had raised.<sup>218</sup>

Ms Buck replied:

I am slightly reassured by the Minister. Some thinking has clearly gone into the legislation, particularly the mechanisms that will be available to deal with people who do not have a local connection. I do not intend to press the amendment to a vote.

The lack of specificity will need to be redressed before the devolution of the grants, because it will not be good enough to say that local authorities will, whether alone or in partnership with neighbouring authorities, willingly accept applications from people for whom they do not have a connection. The Secretary of State’s moral obligation notwithstanding, there is no question about it: with a budget that is not ring-fenced—we have still not had a clear indication from the Minister of its scale—and given what we

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<sup>215</sup> PBC Deb 3 May 2011 c734

<sup>216</sup> PBC Deb 3 May 2011 c735

<sup>217</sup> PBC Deb 3 May 2011 cc742-743

<sup>218</sup> PBC Deb 3 May 2011 cc742-744

heard about the reduced level of funding from recovered grants, local authorities will simply not want to take applications from people without a local connection. I cannot see any way round that other than a clear national mechanism to deal with those people.<sup>219</sup>

Ms Buck noted that on 14 April a joint letter had been sent by 15 organisations to the DWP Minister Steve Webb outlining their “extreme concern” about the Government’s plans for the Social Fund.

### **3.7 Personal Independence Payment**

Part 4 of the Bill (clauses 75-92 and Schedules 9 and 10) provides the framework for a new benefit – the “Personal Independence Payment” – to replace Disability Living Allowance (DLA) for people of working age. Further details can be found in section 7 of Library Research Paper 11/23. More detailed background to the Government’s proposals is given in a Library standard note, *Disability Living Allowance reform*.

No amendments were moved to clause 75, but in the debate on whether the clause should stand part of the Bill the Opposition Work and Pensions Spokesperson Margaret Curran outlined her Party’s concerns. These included the uncertainty about how many people would be affected by the changes, and which groups would be winners and losers. The Government had, she said, failed to present any analysis of the reasons for the growth in DLA. She was also concerned about the short consultation period, adding “Rushing such a fundamental reform is unforgivable.” The Government had said repeatedly that it would concentrate resources on those with “the most severe disabilities”, but it was unclear how this would be defined. Other areas of concern included the proposal that the assessment take into account the use of aids and adaptations, the extension of the qualifying period to six months, and the ending of automatic entitlement for people with certain conditions. She concluded:

There is a need to modernise benefits, and I would always support that. We need to address the current gateway, but I strongly argue that we could have mobilised and galvanised more support if we had taken an evidence-based approach, paced the reform properly, and worked alongside disabled people and disability organisations. The basis of the reforms should have been consulted on properly, and the gaps in the existing legislation could have been addressed. Sadly, I do not think that the legislation in front of us today is full and proper.<sup>220</sup>

For the Government, Maria Miller said that reform was needed because there was “clear evidence that the current structure of DLA is simply not working in the way that is in the best interests of disabled people.” Her key concern was that DLA failed to recognise many of the problems faced by people with sensory impairments and learning disabilities. Secondly, the lack of an in-built mechanism for reassessment left disabled people at the risk of either being over-rewarded or under-rewarded. She also added that “Who qualifies can be unclear and the decisions about qualification can be deeply inconsistent and subjective.”<sup>221</sup>

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<sup>219</sup> PBC Deb 3 May 2011 cc744-745

<sup>220</sup> PBC Deb 10 May 2011 c770

<sup>221</sup> PBC Deb 10 May 2011 cc777-778



On the new assessment, the Minister said that the criteria were being developed not by the Government but by an independent group of experts. Some testing was underway, with further testing planned for the summer.<sup>222</sup>

The Minister strongly refuted the allegation that the consultation was rushed and that the Government had pre-empted its outcome.<sup>223</sup>

### ***Exemption from initial and repeat assessments***

People with certain conditions, and those with a terminal illness, can gain entitlement to DLA automatically without having to satisfy the usual disability requirements. The Government proposes there should be no automatic entitlement to Personal Independence Payment for people with certain conditions, except for terminal illness.

The Liberal Democrat backbencher Jenny Willott moved an amendment to clause 78 to provide for exemptions from initial assessment for certain groups. An Opposition amendment was also discussed which carried over to the Personal Independence Payment the current DLA rules on automatic entitlement for people suffering from certain conditions.<sup>224</sup>

Speaking to her amendment, Jenny Willott said she was encouraged by suggestions from the Government that not all claimants would have to attend a face-to-face assessment, and hoped the Minister would clarify the circumstances where someone might be exempt from an initial assessment.<sup>225</sup>

Margaret Curran said that the Opposition amendment would improve the Bill by helping to reduce the anxiety among severely disabled people, while also reducing administrative costs. She drew attention to the “widespread support within the disability movement for an amendment to retain automatic entitlement for those with severe disabilities that will clearly not change during their lifetimes.”<sup>226</sup> She noted the Government’s briefing paper suggesting that some people might not have to attend a face-to-face assessment:

It states that assessments will be carried out with a trained assessor but, in some cases, a paper-based assessment may be more suitable. Just to repeat the comments made by the hon. Lady [Jenny Willott], I would be grateful if the Minister said what that will actually mean. Although a paper-based assessment is better than a face-to-face assessment, it is still an assessment and it means that we are taking away that automatic entitlement and guarantee. The use of such an assessment does not fundamentally address my points.<sup>227</sup>

For the Government, Maria Miller said that it was inappropriate to make “blanket assumptions” about what people with particular conditions could or could not do. However, she added:

I should like to assure the Committee that, in some situations, individuals might not need to come forward for face-to-face assessments. We could assess them through a paper application process, with supporting evidence that they did not need a face-to-face assessment.

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<sup>222</sup> PBC Deb 10 May 2011 cc777, 779; further details are given at the DWP website and in a letter of 18 May 2011 from Maria Miller to Stephen Timms on ‘Testing the Personal Independence Payment Assessment’ (DEP 2011-0873)

<sup>223</sup> PBC Deb 10 May 2011 c781

<sup>224</sup> PBC Deb 10 May 2011 cc808-809

<sup>225</sup> PBC Deb 10 May 2011 c809

<sup>226</sup> PBC Deb 10 May 2011 c810

<sup>227</sup> PBC Deb 10 May 2011 c810

I have been in discussions about various other opportunities as well, particularly for people with serious mental or cognitive impairments where it would be difficult for them to go to an unfamiliar place. We are already exploring opportunities for the potential of home visits or assessments in more familiar places.<sup>228</sup>

For the Opposition, Stephen Timms described the Minister's response to the amendment as "vague and unsatisfactory", but Jenny Willott was satisfied with the Government's undertaking and sought leave to withdraw her amendment. This was refused, and the amendment was defeated by 14 votes to 10.<sup>229</sup>

Jenny Willott moved a further amendment to clause 78 to exempt certain categories of people from the requirement to undergo reassessments for the Personal Independence Payment, where their diagnosis, or available medical or other expert evidence, was deemed sufficient to determine entitlement.<sup>230</sup> Speaking to her amendment, Ms Willott said that for people with certain permanent or degenerative conditions, regular reassessment would be a waste of time and money, and would cause unnecessary stress for them and their families. She hoped the Minister would confirm that "paper assessments" would be considered where a person's condition would not improve.<sup>231</sup>

For the Opposition, Margaret Curran said:

I take the point that this is about reassessment, and perhaps we cannot cover the principle of assessment itself. However, enshrined in the amendment is the notion of categories of people, not individuals, and that is not in step with what the Minister has said, so I think that we need to resolve that issue. I support what the hon. Member for Cardiff Central said, as it is reasonable to look at categories. We are talking about a very limited number of people, which will not undermine in any way the general thrust of the Bill.

The hon. Lady also discussed the Government's intentions. The implicit purpose of looking at individuals, rather than categories, is to keep tabs on people with such conditions. I have not yet heard a satisfactory argument about why it is necessary to keep tabs on certain people, or what the purpose is of doing so. If it is to ensure that people receive a range of support to assist them with their conditions, I would accept that argument, but I do not regard that as a function of the Department for Work and Pensions.<sup>232</sup>

The Minister replied:

Although we think that face-to-face consultations are an important part of the process for most people, we accept that it will not be appropriate in every case. In particular, where we have strong enough evidence to make a decision on entitlement, a face-to-face consultation may not add very much value, and in such cases, a paper-based assessment of an individual may well be more appropriate. All individuals should be assessed, but we want the process to be tailored to individual circumstances and, most importantly, to be carried out sensitively...<sup>233</sup>

She added:

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<sup>228</sup> PBC Deb 10 May 2011 c813

<sup>229</sup> PBC Deb 10 May 2011 c819

<sup>230</sup> PBC Deb 10 May 2011 c819

<sup>231</sup> PBC Deb 10 May 2011 c820

<sup>232</sup> PBC Deb 10 May 2011 c820

<sup>233</sup> PBC Deb 10 May 2011 c821

If we should decide—for example, as a result of testing the assessment or in the light of operational experience—that we need to deem certain individuals exempt, we already have the powers to do so in clause 78(3)(a). For that reason, I cannot accept the amendment of my hon. Friend the Member for Cardiff Central, because it would duplicate an existing power in the Bill.<sup>234</sup>

Margaret Curran said that there was an opportunity to “resolve some of what we are beginning to hear as contradictions” and urged Jenny Willott to press her amendment to a vote. Ms Willott felt however that the Minister had clarified that the Bill already included provision for exemptions, should they be deemed desirable in the light of experience. She sought leave to withdraw her amendment but this was again refused. The amendment was defeated by 14 votes to 10.<sup>235</sup>

### ***Piloting the assessment***

Stephen Timms moved an Opposition amendment to clause 78 to require piloting of the new assessment for the Personal Independence Payment, prior to national implementation.<sup>236</sup> Mr Timms explained:

It specifies three characteristics of the pilot. First, it should operate in one or more specified areas. Secondly, it should assess the impact on specific groups of people. Thirdly, it should be the subject of a formal response from the Secretary of State.<sup>237</sup>

The Opposition did not oppose the establishment of an objective test for the new benefit, but said the Government needed to “tread very carefully.” Some 1.8 million working-age DLA claimants were to be reassessed, as well as new applicants. It was important, he said, to learn lessons from the Work Capability Assessment, and to identify and address any problems as possible before the assessment was implemented nationally. He summed up the case for the amendment:

The three compelling reasons for proceeding carefully and starting with a proper pilot are to ensure that people’s circumstances are assessed accurately and fairly, to allow disabled people to have full confidence in the process, and to ensure that we do not end up wasting money by implementing a flawed assessment.<sup>238</sup>

Maria Miller sought to reassure Mr Timms that the Government had the same objectives in mind. “Testing” the new assessment was however preferable to “piloting”:

If we piloted PIP, we would have to take legal powers to reassess entitlement to disability living allowance and assess entitlement to PIP by taking an approach termed “testing” as opposed to “piloting”. We could therefore examine the impact of the new assessment on recipients of DLA without withdrawing their entitlement to their current benefits.<sup>239</sup>

The Minister went on:

Our approach to testing clearly meets the right hon. Gentleman’s first two criteria of being able to operate in one or more specified areas and evaluating the impact of the new assessment on specific groups, including people with fluctuating conditions. On the third—to receive a formal response from the Secretary of State—we will publish a

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<sup>234</sup> PBC Deb 10 May 2011 c821

<sup>235</sup> PBC Deb 10 May 2011 c822

<sup>236</sup> PBC Deb 10 May 2011 c833

<sup>237</sup> PBC Deb 10 May 2011 c833

<sup>238</sup> PBC Deb 10 May 2011 c838

<sup>239</sup> PBC Deb 10 May 2011 c840

report and provide an update to draft regulations in time for that to be discussed in the other place, as I mentioned earlier. We have similar objectives for the next set of activities; perhaps we are just calling them slightly different names.<sup>240</sup>

Pressed by Mr Timms on when the report would be made available, the Minister said:

As I have said, in the summer, we want to move forward to testing the draft criteria on current recipients of DLA, and we will consider our findings from that before the Bill reaches the Lords. We anticipate producing information about that testing in advance of the debate there.<sup>241</sup>

The Minister added:

Testing and our work with disabled people's organisations will inform the next draft of regulations to be published in the autumn and the Bill's final stages in the other place. We will also consider further testing afterwards along similar lines if we think it necessary. The resulting regulations will, of course, be subject to full parliamentary scrutiny, including debate under the affirmative procedure.<sup>242</sup>

The Minister also drew attention to the fact that the Bill required the Secretary of State to commission an independent report on the operation of the assessment once implemented, and to lay the report before Parliament.

Mr Timms did not agree that a pilot would delay the reforms, but said that the Minister had made some helpful points and that he would like to reflect on what the Minister had said. The amendment was withdrawn.

The Minister subsequently wrote to Mr Timms giving further information on the Government's plans for testing the new assessment. The letter is available as a deposited paper.<sup>243</sup>

### ***Qualifying periods***

DLA is only payable after a person satisfies the disability conditions for three months (the "qualifying period"), and the person must be expected to need help for a further six months (the "prospective test"). For the Personal Independence Payment, the Government proposes to retain the six month prospective test, but to extend the qualifying period to six months. A Personal Independence Payment briefing note on "Required Period Condition" was published by DWP on 9 May and is available at the Department's website.

For the Opposition, Margaret Curran moved an amendment to clause 79 to retain the existing three month qualifying period. However, the Opposition also proposed to extend the period for the prospective test to nine months, to retain the overall 12 month "required period condition" for the new benefit. Speaking to the amendments, Ms Curran said that while the Opposition supported the extension of the required period to one year, there should be a "different balance for that year." The Opposition did not believe that it was right to make disabled people wait for six months before they could get support, since it "unfairly penalises those disabled people who need extra help to cope with their disability early on in their treatment." Ms Curran noted that many organisations were deeply concerned about the

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<sup>240</sup> PBC Deb 10 May 2011 c840

<sup>241</sup> PBC Deb 10 May 2011 c840

<sup>242</sup> PBC Deb 10 May 2011 c841

<sup>243</sup> Letter of 18 May 2011 from Maria Miller to Stephen Timms on 'Testing the Personal Independence Payment Assessment' (DEP 2011-0873)

change, including those working with people with mental health conditions, degenerative conditions such as multiple sclerosis, and cancer charities.<sup>244</sup>

For the Government, Maria Miller said that the extension of the qualifying period to six months was not meant to be punitive, but reflected the Government's view that "support in the short term should be met by existing, albeit mainly means-tested, support mechanisms, with PIP kicking in at a stage when additional costs become burdensome to all regardless of income."<sup>245</sup> The aim was not to save money, and the Government did not expect the measure to provide any significant savings. The Minister continued:

It is a principled measure to bring PIP in line with the common definition of disability used in the Equality Act 2010, to provide an appropriate measure of long-term disability that can be robustly assessed, and to align with the qualifying period for attendance allowance.<sup>246</sup>

The Minister also pointed out that many people would not actually have to wait six months before receiving the Personal Independence Payment, since the qualifying period started when the person satisfied the relevant conditions, regardless of whether a claim had been received.<sup>247</sup>

Margaret Curran said that she was "not broadly persuaded" by what the Government were doing. She felt that the Opposition's proposed three month qualifying period and nine month prospective test would, as she understood it, "be consonant with the requirements of the Equality Act." Ms Curran noted the Minister's assurance that the change was not about saving money, but added "I cannot see that there is any strong rationale for the measure other than tidying up, which seems to be the argument that she is making."<sup>248</sup>

The amendment was withdrawn.

The Minister also resisted a subsequent amendment moved by Jenny Willott to exempt people with "sudden onset" conditions from the qualifying period requirement. That amendment was withdrawn.<sup>249</sup>

### ***Mobility component for people in care homes***

The October 2010 Spending Review announced that the DLA mobility component would be withdrawn from people in care homes whose place is funded by a public body. The proposal met strong opposition from disability and welfare rights organisations, and the Government subsequently said that it would retain the DLA mobility component for people in care homes until March 2013, review the support given by DLA alongside the responsibilities of care homes, and reflect the outcomes of the review in the Personal Independence Payment eligibility criteria for people in care homes.<sup>250</sup> The Secretary of State also reiterated the undertaking at Second Reading (see above).

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<sup>244</sup> PBC Deb 10 May 2011 cc845-847

<sup>245</sup> PBC Deb 10 May 2011 c849

<sup>246</sup> PBC Deb 10 May 2011 c849

<sup>247</sup> PBC Deb 10 May 2011 c850

<sup>248</sup> PBC Deb 10 May 2011 cc851-852

<sup>249</sup> PBC Deb 10 May 2011 cc853-856

<sup>250</sup> See Library standard note SN/SP/5841, *Disability Living Allowance mobility component for people in care homes*; and Library Research Paper 11/23, p37-46

For the Opposition, Margaret Curran moved an amendment to clause 83 to delete the provision which would enable the mobility component of Personal Independence Payment to be removed from people in care homes.<sup>251</sup>

Speaking to the amendment, Ms Curran said the Opposition did not believe that the mobility component should be removed from those in residential care homes. There had, she said, been “various developments in the story” following the original announcement. The Prime Minister had said that the Government were not removing the mobility component from those in care homes, but the March 2011 Budget Red Book suggested otherwise. Furthermore, the promised review seemed to be “shrouded in mystery”, and the Minister had said the Government had no plans to publish its findings.<sup>252</sup> Ms Curran said:

In conclusion, this element of the Government’s proposals has been subject to great controversy and has been heavily criticised. The goalposts have changed significantly over the past four months: first, there was the issue of double funding; then there was overlap and chaos, and everything we heard in the oral evidence sessions showed that there was no shred of evidence for that; and then there was the review and the real concerns about how it has been conducted.

In fact, some people would have us believe that no cut is taking place at all. If that is so, why are we having to deal with this provision in the Bill and why is that saving still flagged up in the Red Book?<sup>253</sup>

In her response, Maria Miller said:

I want to send a very clear message to both sides of the Committee about the new power in clause 83. We have already announced that we will not remove the mobility component of DLA from people in residential care from October 2012, as was originally planned, and we have said clearly that we will review the needs of care home residents alongside all other recipients of DLA, either current or future, and not separately. That is entirely consistent with what the Prime Minister said and what I said previously. Let me be absolutely clear: we will not remove disabled people’s mobility. We will only remove overlaps.<sup>254</sup>

Opposition members expressed confusion about the Government’s position. Kate Green intervened:

Is the Minister suggesting that the savings in the Red Book will arise entirely because double funding will be identified, and DLA and PIP payments will not therefore be made for those individuals where double funding is in existence? Or is she suggesting that some of those individuals will cease to qualify as a result of the assessment? What she is not suggesting, I think, is that the mere fact they are in residential care homes will, of itself, disqualify them in future.<sup>255</sup>

Stephen Timms said:

I do not understand the argument. According to my reading of clause 83, unamended, people in residential care will not get the mobility component. The Minister says that

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<sup>251</sup> PBC Deb 10 May 2011 c858

<sup>252</sup> PBC Deb 10 May 2011 cc858-860

<sup>253</sup> PBC Deb 10 May 2011 c862

<sup>254</sup> PBC Deb 10 May 2011 c868

<sup>255</sup> PBC Deb 10 May 2011 c869

she does not intend to take the mobility component away from those people. Does that mean that the Government will amend the Bill?<sup>256</sup>

Margaret Curran said that she was “speechless”:

...whatever way one describes this measure, it certainly is not clear—no wonder people are confused. I am not at all clear where the Government are coming from on this matter, and as the evidence I gave in my opening speech shows, Labour Members are not the only people who think that.<sup>257</sup>

Ms Curran said that the Minister had not given her any answers that would allow her to withdraw the amendment. The amendment was put to the vote, and was defeated by 12 votes to 10.<sup>258</sup>

Later in the proceedings, Ms Curran moved a further Opposition amendment to provide that regulations under clause 83 be subject to the affirmative procedure.<sup>259</sup> The Minister sought to reassure Ms Curran that the provision was not needed. She added:

I sympathise with the hon. Lady's desire to ensure that the provisions receive the fullest scrutiny, but I hope that she understands that, with all the different measures that we have in place, I am not prepared to commit to making regulations subject to affirmative procedure today. I will, however, ensure that I keep that under consideration, and if it were appropriate for other regulations to be subject to the affirmative procedure, that is something that we can consider. I appreciate her wish to ensure that the needs of those in hospitals or care homes receive proper consideration, and I can assure her that that will always be the case with the Government.<sup>260</sup>

Ms Curran replied:

I can think of no other circumstances in which we need the affirmative procedure except for these. There is still a degree of confusion. There are still outstanding policy issues that the Government need to bring forward. There is still this scale of concern. Parliamentarians are still unclear about what will actually happen and what the impact of this policy, either in principle or in practice, will be. Given the scale of concern, it is the least that we can do.<sup>261</sup>

The amendment was put to the vote, and was defeated by 12 votes to 10.

### **Children**

The Personal Independence Payment is to be introduced for working-age adults from 2013 and the new objective assessment is being designed to gather information about adult needs. The Government also intends to reform the support for disabled children, but only after it has considered the effectiveness of the new arrangements for working age individuals. A Personal Independence Payment briefing note on the Government's proposals regarding children was published on 9 May.

The Labour backbencher Kate Green moved a probing amendment to clause 87 to elicit further information on the Government's intentions regarding disabled children. She noted:

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<sup>256</sup> PBC Deb 10 May 2011 c870

<sup>257</sup> PBC Deb 10 May 2011 c871

<sup>258</sup> PBC Deb 10 May 2011 c874

<sup>259</sup> PBC Deb 12 May 2011 cc904-095

<sup>260</sup> PBC Deb 12 May 2011 c906

<sup>261</sup> PBC Deb 12 May 2011 c906

There is a concern that, with Ministers focusing their attention on the migration of disabled adults from DLA to personal independence payment, and the considerable work—which all Opposition Members accept is being undertaken by Ministers and Department officials—to design and get right the implementation of that transition for working-age adults, there will not be any thinking time at this stage in the process for the Department to develop the design of PIP in a way that meets the needs of disabled children.<sup>262</sup>

The Minister replied that “It is clearly and deliberately set out in the Bill that we will be able to accommodate a bespoke approach to children in PIP, in terms of both assessment and the operation of the benefit.” The Government had not yet set out a timetable, but any changes to the rules for children would be subject to public consultation and full parliamentary scrutiny. She also welcomed a suggestion by Ms Green that the Work and Pensions Committee could provide input.<sup>263</sup>

Ms Green welcomed the Minister’s response. The amendment was withdrawn.

Kate Green moved a further amendment to clause 91 to provide that regulations concerning all aspects of the PIP for children under 16 – not just the assessment – should, when first introduced, be subject to the affirmative procedure.<sup>264</sup> Maria Miller replied:

We are clear that we will need to develop a specific child assessment before we can apply the new PIP to children. Furthermore, the Government are committed to consulting on the arrangements for children—another reassurance which I hope the hon. Lady will find helpful. There will, therefore, be ample opportunity for the families of disabled children, organisations representing their interests and hon. Members to scrutinise our full proposals. I reassure her that I have listened carefully to what she said and I share her desire to have a full and open debate about all aspects of the measures for children. I am not, however, prepared to commit to regulations subject to the affirmative procedure across the board, as she proposes, but if I consider it appropriate that other regulations should be subject to the affirmative procedure, the Bill can be amended at a later stage.<sup>265</sup>

The amendment was withdrawn.

The Minister gave additional information on the Government’s plans to migrate children from DLA to the PIP in response to a further amendment moved by Kate Green. That amendment was also withdrawn.<sup>266</sup>

### **3.8 The Benefit Cap**

Clause 93 introduces the principle of a benefits cap for a single claimant or a couple. Where total entitlement exceeds the cap, entitlement to benefits may be reduced up to the excess. The detail will be prescribed in regulations, including how the amount of benefits in excess of the cap is to be calculated, the benefits to be reduced, exceptions to the cap, and the intervals to which the cap will apply. In terms of the benefits that can be reduced, the only exempt benefits mentioned in subsection 11 are state pension credit and state retirement pensions.

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<sup>262</sup> PBC Deb 12 May 2011 c890

<sup>263</sup> PBC Deb 12 May 2011 cc890-893

<sup>264</sup> PBC Deb 12 May 2011 cc902-903

<sup>265</sup> PBC Deb 12 May 2011 c904

<sup>266</sup> PBC Deb 12 May 2011 cc909-915



From April 2013 it is intended that the cap will operate by reducing Housing Benefit entitlement where a household's total benefit payments exceed the cap. The cap will be carried into the Universal Credit so that the award of Universal Credit will not exceed a maximum amount set on the basis of median earnings, after deducting tax and National Insurance contributions, for working families.

The amendments moved in respect of clause 93 focused on attempts to secure various exemptions from the cap.

Kate Green, for Labour, opened the debate on the benefit cap by moving an amendment to exempt parents or carers of a child subject to a child protection plan. She argued that the Government's Housing Benefit reforms, provided for in the Bill and in earlier regulations, will result in increased housing mobility and that housing transience can exacerbate child neglect while making it harder for local authorities to keep track of families in which children are at risk.<sup>267</sup> She also raised the position of relatives who take in children when their parents are unable to care for them. She questioned whether the impact on relatives' benefit entitlement (through the operation of the cap) might act as a disincentive to take in the children of family and friends in distressing circumstances:

For those households that already have their own children, the cap will act as a disincentive to offer care to, and to take in, the children of family and friends in distressing circumstances. If those people are already just below the level of the cap, there will be a very real effect on their inducement to take on children because they would thereby risk losing financial support through the benefits system.

[...]

An unintended consequence could be that more children will be taken into care because they cannot go to live with family and friends.<sup>268</sup>

The Minister, Chris Grayling, explained that clause 93 allows for regulations to make exceptions to the application of the benefit cap. He said that it was not his intention to write specific exemptions into the Bill.<sup>269</sup> He went on to argue that in order to achieve the objective of incentivising people into work, "the benefit cap must apply to most households, including those in which concerns about child welfare have been registered."<sup>270</sup> He agreed that the cap might result in individual cases of housing mobility but did not believe "that the measure will exacerbate an existing problem."<sup>271</sup> He provided an assurance that the Government would "think carefully" about the issues raised.<sup>272</sup>

Kate Green questioned the implication that the need to get benefit claimants into work would take precedence over the interests of children's safety and well-being. However, she withdrew her amendment.<sup>273</sup>

Karen Buck, Labour's Spokesperson for Work and Pensions, moved an amendment to exempt claimants from the cap unless they have received a reasonable job offer. Related amendments were discussed alongside this, including exemptions for:

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<sup>267</sup> PBC Deb 17 May 2011 cc919-20

<sup>268</sup> PBC Deb 17 May 2011 c924

<sup>269</sup> PBC Deb 17 May 2011 c925

<sup>270</sup> PBC Deb 17 May 2011 c925

<sup>271</sup> PBC Deb 17 May 2011 c926

<sup>272</sup> PBC Deb 17 May 2011 c928

<sup>273</sup> PBC Deb 17 May 2011 cc928-30

- couples with children who, between them, work more than a prescribed number of hours;
- claimants who, within a prescribed period, have left work due to redundancy or illness or to care for a child;
- couples with dependent children who, if living in separate households would have benefit entitlements lower than the cap;
- households where no adult is subject to the “all work related requirements” (defined in clause 22);
- families who are worse off in work when childcare costs are taken into account; and
- for any claimant in receipt of Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Constant Attendance Allowance, Employment and Support Allowance, Carer’s Allowance, or any element or sub-element of Universal Credit paid in respect of disability.<sup>274</sup>

During the debate on these amendments Karen Buck described the cap as “fundamentally misconceived and unworkable.”<sup>275</sup> She advanced the following arguments in support of the amendments:

- the potential for an increase in public expenditure in response to increased numbers of evictions (due to rent arrears), increases in homeless applications and placements in expensive temporary accommodation – thus offsetting savings gained from the application of the cap.<sup>276</sup>
- the disproportionate impact of the cap on larger families (this is referred to in the Impact Assessment) who are more likely to be from black and ethnic minority groups;
- the failure of the cap to recognise and take account of regional variations in housing costs;
- the incentive the cap might provide for families to separate to avoid the cap;
- the “perverse consequences” of applying the cap to households that are not in the work-search groups;
- the impact of households moving to find cheaper accommodation on their ability to find work in those areas;
- the logic of applying the cap to someone who is actively seeking work and complying with all requirements in terms of job search and who is not subject to a sanction for failing to seek work;
- the impact on households with children for whom work does not pay because of the cost of child care; and

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<sup>274</sup> PBC Deb 17 May 2011 cc930-1

<sup>275</sup> PBC Deb 17 May 2011 c937

<sup>276</sup> The Impact Assessment acknowledges these costs but states that they are difficult to quantify as they are based on behavioural changes.

- the impact of the cap on people with disabilities who may not be in receipt of Disability Living Allowance (recipients of DLA will be exempt from the cap).<sup>277</sup>

When challenged on whether the Opposition supported the imposition of a cap on benefit or not, Karen Buck said she agreed that households should be better off in work but argued that comparing households who are out of work and on benefits with those in work is not the right approach:

The central argument is one of comparability between working households and households who are out of work and on out-of-work benefits. I will return to this point in more detail, but the difficulty is that people's average earnings are used for comparison, not their average income. In many cases, households who are on average earnings are entitled to top-up in-work benefits, such as housing benefit, council tax benefit, working tax credit and universal credit, so we are not even beginning by comparing like with like.<sup>278</sup>

She referred to the "cliff edges" created by the benefit cap which, she said, run counter to Universal Credit's aim of blurring the distinction in the benefit system between being in and out of work.<sup>279</sup>

Stephen Timms, Shadow Minister for Employment, focused on how the Government intends to implement the benefit cap in respect of working households. He cited several examples modelled by Ferret Information Systems showing that a small drop in earnings for a working family could trigger the benefit cap resulting in "a catastrophic drop in income."<sup>280</sup>

Sheila Gilmore asked whether there was a consensus over which benefits should not form part of the cap and, if so, called for them to be listed.<sup>281</sup>

In response the Minister described the amendments as "wrecking amendments" that would "completely demolish the principle and substance, and the rest, of a benefit cap."<sup>282</sup> He provided examples of where the cap would not apply, e.g. to households with a member in receipt of DLA or an equivalent benefit, working families entitled to Working Tax Credit and working families on the Universal Credit. He said that war widows and war widowers' pensions would not be included in the cap:

All those exemptions, and the detailed criteria for the working families exemption, will be set out in regulations in due course. The Bill creates scope for further exemptions, if we or future Governments consider it appropriate. However, the case for exemptions must be set against the reasons for needing a benefit cap.

It is certainly the case that this measure provides some savings, but it is not primarily a financial savings measure. The primary objective is to tackle the culture of welfare dependency by setting a clear limit to what people can expect from the benefits system. It is important that the system is fair and that it is seen to be fair to the taxpayers who pay for it. It is not reasonable or fair for households receiving out-of-work benefits to have a greater income from benefits than the net average weekly wage for working households. Many working people have to cope with difficult circumstances, and they have to live within their means. It is not sensible, nor is it ultimately helpful, to shield people on benefits from the realities of life by giving them

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<sup>277</sup> PBC Deb 17 May 2011 cc930-41

<sup>278</sup> PBC Deb 17 May 2011 c933

<sup>279</sup> PBC Deb 17 May 2011 cc938-9

<sup>280</sup> PBC Deb 17 May 2011 cc941-4

<sup>281</sup> PBC Deb 17 May 2011 c948

<sup>282</sup> PBC Deb 17 May 2011 c950

unreasonably high levels of financial support. To do that would certainly create a culture of welfare dependency. For that reason, it is essential that exemptions are kept to a minimum.<sup>283</sup>

The Minister expressed some sympathy with an exemption for “short claims” where people have left employment through no fault of their own and need “breathing space” during which they can adjust their circumstances – he said that there was a need to “give some thought” to this during the regulation-making process.<sup>284</sup> He provided the following response to Stephen Timms:

The right hon. Member for East Ham asked a number of specific questions about the details of exemption for people in work. Those questions will all be answered in the regulations. For now, I will say that my expectation is that the test would be for earnings and not income out of work. Seasonal variations would be treated no differently from the universal credit. People experience variations, which should be reflected in the way the system operates. We will have to vary people’s support with universal credit, and that will be no different. On the question whether the cap will apply to gross or net earnings, universal credit will be assessed on the basis of earnings after tax and national insurance and 50% of contributions to pension schemes, and this will be no different. For self-employed people we will have to build this on the same rules that we put in place for handling self-employment through the universal credit. We will have to do that quite carefully to make sure that we do not create the kind of disincentive to self-employment that concerns the right hon. Gentleman.<sup>285</sup>

In rejecting the amendments he emphasised that the cap is about influencing behaviour:

... it is not about creating hardship. If we succeed in influencing behaviour, the number of cases affected by the cap will be cut to a minimum. However, we will only influence behaviour if we have a simple rule which people can understand, and not one hedged about with numerous exemptions that only welfare rights experts can follow. The simple message to every citizen of this country as they enter adult life is that there is a limit to the amount of financial support that the state will provide to people if they fall on hard times, and therefore they need to adapt their circumstances to reflect that reality.<sup>286</sup>

Karen Buck, who was not persuaded by the Minister’s arguments in respect of those claimants who cannot avoid the cap “because they have not been offered a job and are often not in the work-search categories,” pressed for a division on her amendment to exempt claimants who have not received a reasonable offer of employment. The amendment was defeated by 13 votes to 9.

During the 22<sup>nd</sup> sitting of the Committee Karen Buck moved an amendment to clause 93 to exempt all residents of social housing from the benefit cap.<sup>287</sup> Alongside this the Committee discussed amendments to exempt people from the cap who:

- are owed a duty to be placed in temporary accommodation under sections 188, 190, 193 or 200 of the *1996 Housing Act*;
- are living in supported or sheltered housing; and

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<sup>283</sup> PBC Deb 17 May 2011 c952

<sup>284</sup> PBC Deb 17 May 2011 c953

<sup>285</sup> PBC Deb 17 May 2011 c954

<sup>286</sup> PBC Deb 17 May 2011 c954

<sup>287</sup> PBC Deb 17 May 2011 c959

- are offered accommodation by a local authority in discharge of homelessness duties under Part 7 of the *1996 Housing Act*.<sup>288</sup>

Karen Buck asked the Minister to explain how the figure of 50,000 households affected by the benefit cap was arrived at. She questioned whether the figure took into account families living in expensive temporary accommodation (particularly in London) and those living in the private rented sector that are in receipt of Housing Benefit.<sup>289</sup> She referred to the 70% of households affected by the cap who are living in social housing (established by Parliamentary Questions) and raised the implications of the benefit cap for these households:

One of the most dramatic problems facing the Government goes back to some of my examples and the journey that must be made by those caught by the cap: what will happen to them? People currently living in council houses will have entered the system through different routes—for the past two or three decades, people have often been allocated a council house because they were defined as being in need or homeless—and have then become the responsibility of the local housing authority. Such people will now be caught by the cap because the social housing rent for a large family will take them above the threshold, and they will not be able to pay the shortfall in rent without pushing themselves into poverty. The local authority will say that in law, arrears have been accrued, and the family have placed themselves at risk of losing their home. However, that will not be through any fault of theirs: they did not take specific steps to put themselves in that situation. The Government did—the Government changed the terms and conditions.

The local authority will have to find that such people are homeless. The impact assessment notes that one cost that cannot be calculated concerns what will happen when people now in social housing fall out of that and move into homelessness accommodation procured by the local authority, which is more expensive. In theory, the Government will be moving people from a social housing property where the rent is £110 a week, which they cannot afford, into temporary accommodation or private rented accommodation that costs £400 a week. That will dramatically increase the Government's bill, and will catch that family in an even deeper cap. I look forward to the Minister explaining the logic behind the measure because I cannot see it.

The Government's top-line argument will be that such families must cut their cloth to meet their means. They must move out of the social housing—it could be almost anywhere in England; there are only a few places where social housing rent is significantly lower—and find somewhere cheaper. The problem with that argument is that no other local authority in the country will have a duty to house that family. Local authorities already have local connection rules which, not least because of the Localism Bill, are becoming more entrenched. My local authority is changing its local connection threshold to 10 years. No other local authority will take that family, so they will not have the choice of moving to cheaper social housing but will have to move into private rented accommodation which, almost everywhere, is more expensive. The legislation is almost Kafkaesque.<sup>290</sup>

She went on to question the interaction between the benefit cap and the Government's affordable rent model,<sup>291</sup> under which social landlords will be able to charge up to 80% of market rents:

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<sup>288</sup> PBC Deb 17 May 2011 cc959-60

<sup>289</sup> PBC Deb 17 May 2011 cc960-1

<sup>290</sup> PBC Deb 17 May 2011 c962

<sup>291</sup> See Library note SN/SP/5933

One way or another, the interactions are creating a pincer. Developers will not be able to build the homes that we so desperately need, because the people for whom they are building the homes, and who will create an income stream to subsidise that new development, will not be able to afford it. For those interacting reasons, I tabled an amendment that suggests that social housing should not be included, as I think it is completely perverse and unworkable to include it.<sup>292</sup>

The Minister refused to exempt all social housing residents from the benefit cap on the grounds that households should ensure that they live in accommodation that they can afford. He said that in some circumstances households may have to move to cheaper accommodation or locations.<sup>293</sup> On temporary accommodation, he advised that local authorities should place homeless households in suitable accommodation and emphasised that “suitability includes affordability,” therefore, “a local authority can only pass on a reasonable charge that the applicant can afford.” He went on to advise the Committee that the Government is looking at housing costs for those in temporary accommodation and how they might be treated from 2013 onwards – he said that detailed proposals would be “ready this year.”<sup>294</sup> Similarly, on the position of households housed as homeless, the Minister said that it was too early to consider a blanket exemption from the cap for this group but that future arrangements were under consideration and details will be provided “later this year.”<sup>295</sup>

He refused to consider an exemption for people living in supported or sheltered accommodation, noting that there is no formal definition of this type of housing.<sup>296</sup>

The Minister told the Committee that ways of providing transitional assistance for hard cases would be considered:

We have always said that we will look at ways of providing transitional assistance in hard cases. There may be an argument for providing such help in some of the circumstances raised in this debate. We have not yet taken any decisions on who should get this support. That is where hon. Members’ contributions are valuable. We listen carefully to the issues raised in a debate like this. We will look carefully at the points made as we shape the final arrangements. The Bill gives us the flexibility we need to listen, respond and deliver something that is right. That is what we will seek to do.<sup>297</sup>

Karen Buck did not press these amendments to a vote but was critical of the lack of information provided to the Committee on how regulations made under clause 93 might actually look. She also criticised the DWP’s use of a micro-simulation model for estimating the impact of the cap.<sup>298</sup>

Karen Buck moved a further amendment to require the Government to take account of the level of in-work benefits that someone earning the average wage might receive when setting the level of the cap. The concern here is that households affected by the cap should be compared with the income, rather than the earnings, of a comparable household. Amendments discussed alongside this included:

- provision to adjust the cap according to household size;

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<sup>292</sup> PBC Deb 17 May 2011 c964

<sup>293</sup> PBC Deb 17 May 2011 c966

<sup>294</sup> PBC Deb 17 May 2011 c967

<sup>295</sup> PBC Deb 17 May 2011 c967

<sup>296</sup> PBC Deb 17 May 2011 c968

<sup>297</sup> PBC Deb 17 May 2011 c968

<sup>298</sup> PBC Deb 17 May 2011 cc969-70

- provision to exclude Housing Benefit/housing costs within Universal Credit from the cap;
- provision to exclude benefits paid in relation to children from the cap; and
- provision to exclude benefits paid in relation to disability from the cap.<sup>299</sup>

In speaking to her amendments Karen Buck asked for greater clarity “if not in Committee then afterwards” about average income, including in-work credits and benefits, and entitlements for different sizes of household and households in different regions, with a view to producing a set of comparables that would inform the “right way to proceed.”<sup>300</sup>

On the exclusion of housing costs from the cap, she argued that the housing sector’s main concern is to remove these costs from the calculation in order to prevent homelessness.<sup>301</sup>

Kate Green spoke to her amendment on household size – she asked for information on the likely financial losses for families with varying numbers of children and argued that the benefit cap should take account of family size in order “to provide a fairer comparison between families in work and out.”<sup>302</sup>

The Minister acknowledged that the proposed level for the cap “is lower than the total income of someone receiving in-work benefits while earning the average wage” but defended this on the grounds that the system should ensure that people are better off in work.<sup>303</sup> He rejected a cap adjusted to family size on the basis that the salaries of those in work are not determined by family size.<sup>304</sup> Excluding certain benefits from the cap, e.g. Housing and Child Benefit, would, he said “undermine the fundamental principles that underpin the cap, namely that there must be a limit on the amount of benefit a household can receive, and that work should pay.”<sup>305</sup>

Karen Buck withdrew her amendment but asserted that the lack of information available on the impact of the cap meant that proper analysis of the clause, and possible variations to it, was not possible. She said that the Opposition would return to this issue.<sup>306</sup>

During the clause stand part debate Chris Grayling said that there would be further debate about the impact of decisions around the cap when the detailed regulations are brought forward.<sup>307</sup>

Karen Buck moved an amendment to clause 94 to probe the uprating of the benefit cap. She questioned the intention to uprate the cap by inflation:

We know that he intends to have an uprating formula. At the moment, this provides for an uprating by inflation, but what is the logic behind that? The whole point of the benefit cap is to peg benefits entitlements to average earnings, so what is the logic in looking at an uprating formula that will be linked to inflation rather than linking it to earnings and the relationship between earnings and in-work benefits that have to be included in the total? It seems illogical to establish a benefit link to earnings and then

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<sup>299</sup> PBC Deb 17 May 2011 c970

<sup>300</sup> PBC Deb 17 May 2011 cc970-1

<sup>301</sup> PBC Deb 17 May 2011 c972

<sup>302</sup> PBC Deb 17 May 2011 c973

<sup>303</sup> PBC Deb 17 May 2011 c975

<sup>304</sup> PBC Deb 17 May 2011 c975

<sup>305</sup> PBC Deb 17 May 2011 c975

<sup>306</sup> PBC Deb 17 May 2011 c977

<sup>307</sup> PBC Deb 17 May 2011 c986

not to uprate it with earnings. Has the Minister made any planning assumptions on what the implications of those different options would be?<sup>308</sup>

The Minister responded:

We have said that the level of the benefit cap should be set to reflect estimated average earnings. As currently drafted, clause 94 will require us to review the level of the cap each year to see whether its relationship with estimated average earnings has changed. Following that review, we will be able to increase or decrease the level of the cap, if we consider it to be appropriate.<sup>309</sup>

Karen Buck withdrew her amendment noting that the complexities around the issue of uprating may be returned to at a later date.<sup>310</sup>

### **3.9 Miscellaneous provisions**

#### ***Recovery of overpayments***

For most social security benefits, overpayments may only be recovered by the Department if they were caused by a misrepresentation or failure to disclose a material fact by the claimant.<sup>311</sup> Clause 102 enables overpayments of certain benefits to be recovered in a wider range of circumstances.<sup>312</sup>

For the Opposition, Karen Buck moved probing amendments to seek clarification from the Government on the wording of the provisions, and on how powers of recovery would be exercised.<sup>313</sup> For the Government, Chris Grayling explained that the clause would allow all overpayments of Universal Credit, Jobseeker's Allowance and Income Support to be recoverable, along with all payments on account and certain hardship payments. Overpayments of all other benefits would remain recoverable only if there had been misrepresentation or failure to disclose.<sup>314</sup>

Ms Buck said:

The important organisations out in the community providing advice, assistance and representation to claimants have certainly expressed considerable concern about the presumptions underpinning clause 102, which seem to lead to a greater expectation of mandatory, automatic recoverability from the claimant.<sup>315</sup>

She added:

Where an overpayment has arisen as a result to fraudulent behaviour, we are completely at one in saying that it should be pursued vigorously. Where it has arisen as a result of error and misrepresentation on behalf of the claimant then, as we shall discuss later, a proper balance should be struck on the penalties that accrue. Where the overpayment has arisen through no fault whatever of the individual, the presumption should not be for automatic repayment. The implicit realignment in clause 102 is not necessary and needs to be justified by the Minister. I look forward to hearing

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<sup>308</sup> PBC Deb 17 May 2011 c986-7

<sup>309</sup> PBC Deb 17 May 2011 c987

<sup>310</sup> PBC Deb 17 May 2011 c989

<sup>311</sup> See Library standard note SN05856 , *Recovery of benefit overpayments due to official error*

<sup>312</sup> See Library Research Paper 11/23, pp60-61

<sup>313</sup> PBC Deb 19 May 2011 cc1011-1022

<sup>314</sup> PBC Deb 19 May 2011 c1012

<sup>315</sup> PBC Deb 19 May 2011 c1016



from the Minister why he feels that realignment is necessary, and what the Government are able to do to protect vulnerable individuals from its consequences.<sup>316</sup>

Mr Grayling replied:

The practical reality is that we do not have to recover money from people where official error has been made, and we do not intend, in many cases, to recover money where official error has been made. There will be an absolutely clear code of practice that will govern the circumstances in which recovery action will or will not be taken, to ensure consistent, considered decision making.<sup>317</sup>

The Government did not however want to prescribe in legislation the particular circumstances where an overpayment would be written off, since there had to be “sufficient flexibility in the system to apply discretion and common sense to individual cases.”

Mr Grayling continued:

With recovery of all overpayments, a number of factors will be considered. We will consider not only whether the claimant received the money in good faith but whether recovery of the money is likely to cause the claimant or their immediate family significant hardship or threaten their health or welfare, which was a point made by the hon. Member for Westminster North. That will be an important factor when we consider the recovery of overpayments. In such situations, “hardship” can mean various different things. We are dealing with vulnerable people, including people with mental health problems who cannot possibly be reasonably expected to know that an overpayment had been made.<sup>318</sup>

Ms Buck welcomed the Minister’s commitment to put into the guidance a presumption in favour of vulnerable people, but said that it would require a manual running into hundreds of pages and a level of discretion within Jobcentre Plus. She continued:

Officers will have to spend a huge amount of time considering the merits and demerits of all such cases, testing them against a manual that gives guidance on what their actions should be, and then seeing those decisions tested, probably frequently, in the courts.<sup>319</sup>

Ms Buck suspected that, despite the Minister’s assurances, “reality is that a substantial minority of vulnerable individuals is more likely to fall through the net.”<sup>320</sup>

The amendment was withdrawn.

### ***Civil penalties***

Clause 111 introduces a new “civil penalty” for claimants who make incorrect statements or fail to disclose information.<sup>321</sup> For the Opposition, Karen Buck moved probing amendments to elicit information on this Government’s thinking on civil penalties, and when they would be applied. Speaking to the amendments, Ms Buck said that while the Opposition was “wholly supportive of measures to reduce fraud”, when looking at fraud and error it was “important to strike a proportionate balance that looks at the individual, and at the treatment of errors that stem from official sources or those that are due to unwitting but well-intentioned mistakes by

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<sup>316</sup> PBC Deb 19 May 2011 c1018

<sup>317</sup> PBC Deb 19 May 2011 c1019

<sup>318</sup> PBC Deb 19 May 2011 cc1019-1020

<sup>319</sup> PBC Deb 19 May 2011 c1021

<sup>320</sup> PBC Deb 19 May 2011 c1022

<sup>321</sup> See Library Research Paper 11/23 p62

constituents.”<sup>322</sup> The first Opposition amendment would limit civil penalties to cases involving “significant” overpayments, while the second prevented the amount of the penalty exceeding the amount overpaid.

For the Government, Chris Grayling said that the £1.2 billion overpaid each year due to claimant error was “unaffordable and unacceptable in the current climate.” He continued:

We should not be seeing and tolerating error in our benefits system. It impacts on the resources we have for other Government programmes. Claimants should take responsibility for the accuracy of their claim and the information they provide.<sup>323</sup>

The £50 civil penalty was, he said-

...designed to sit between those cases of genuine error that we described in the previous debate and those cases of clearly fraudulent actions. There needs to be a halfway house for those individuals who are negligent in supplying incorrect information or in making incorrect statements to us and who have no reasonable excuse for that failure.<sup>324</sup>

The Government did not however intend to impose a penalty on every overpaid claimant. Vulnerable people or those with mental health problems might not face a penalty. All cases considered for a penalty would involve “claimants acting negligently or failing without reasonable excuse to do something they should have done”, but no account would be taken of the cost to the Department of the overpayment. The £50 flat rate penalty, Mr Grayling said, “strikes the right balance, to send a message without unduly imposing a burden on people who are on benefits.”<sup>325</sup>

Karen Buck was “disappointed” with the Minister’s response, and expressed concern that giving Jobcentre Plus staff discretion could lead to an inconsistent approach.<sup>326</sup> Ms Buck was also concerned with the Department’s projection of £30.5 million raised from civil penalties by 2014-15 which, she said, equated to around 600,000 penalties a year, far in excess of the number of administrative penalties currently imposed. She was concerned that the £30 million figure might generate a “cultural response” in Jobcentre Plus. She added:

The Minister says that DWP officials will act with discretion and common sense when applying the penalties, but they will be put under a countervailing pressure that will encourage them to exercise less discretion and spend less time digging into the details of a claimant’s mental health condition, or the good reasons they give for why they made an error or a late application.<sup>327</sup>

Mr Grayling said that there would be “no guidance for targets or financial goals” relating to penalties. He said that the Department estimated that the number cases resulting in a penalty would be in the region of 571,000 a year by 2014-15.<sup>328</sup>

Ms Buck said that the Minister’s response was “extraordinary”, and that he had not given any explanation why there would be “such a phenomenal increase” in the number of cases

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<sup>322</sup> PBC Deb 19 May 2011 c1029

<sup>323</sup> PBC Deb 19 May 2011 c1031

<sup>324</sup> PBC Deb 19 May 2011 c1031

<sup>325</sup> PBC Deb 19 May 2011 cc1031-1032

<sup>326</sup> PBC Deb 19 May 2011 c1038

<sup>327</sup> PBC Deb 19 May 2011 c1040

<sup>328</sup> PBC Deb 19 May 2011 cc1041-1042

leading to a penalty. Replying to Mr Grayling's point that comparisons with current arrangements were not possible because the policy was new, Ms Buck said:

I sort of understand that point, but I have been assured passim by Back-Bench Members and the Minister for the last six or seven weeks that universal credit will be so smooth, comprehensible, integrated and simplified that there will not be any errors. It is not possible to have it both ways. On the one hand, the Minister says that universal credit will be so easy to use that there will not be a vast increase in error, but on the other he says that the number of errors will explode, proportionate to the existing tax credit and benefits system, so those two things do not go together.<sup>329</sup>

The amendments were withdrawn.

### 3.10 Child maintenance

#### *Fee charging*

A regulation-making power to allow the Child Maintenance and Enforcement Commission (the Commission) to charge parents fees for using the new statutory scheme was included in the *Child Maintenance and other Payments Act 2008*.<sup>330</sup> When this legislation was debated, the then Minister for Child Support, James Plaskitt, made it clear that the issue of whether it was appropriate to charge fees for the new statutory scheme was one for the Commission to determine, once regulations allowing it to do so had been laid by the Secretary of State.<sup>331</sup>

In a green paper published earlier this year, the Government revisited the issue of fee-charging as part of its public consultation on child support reform.<sup>332</sup> A Government response to the consultation had not been published when the issue was raised at Committee stage.

In Committee, a group of amendments were tabled to clause 128 (supporting maintenance agreements) on the issue of fee charging<sup>333</sup> – provision for which is not included in the Bill but in earlier legislation. The amendments would, in effect, prescribe in primary legislation the circumstances when fees could be levied on parents under section 6 of the *Child Maintenance and Other Payments Act 2008* and restrict the circumstances when charges could be imposed on parents with care. Stephen Timms stated that the probing amendments had been tabled in order to have on record reassurances from the Government that fees would be not be set inappropriately, for example on applicants who had suffered domestic violence. In support of the amendments, Kate Green expressed concern that a charging system would deter parents from entering the statutory system. She was also of the opinion that a lot of uncertainty remained about the proposals and sought further details from the Minister on the Government's plans for implementing them.<sup>334</sup>

Sheila Gilmore queried why the Government was making two major changes; namely, the new gateway to the statutory scheme<sup>335</sup> and fee charging "without waiting to see what impact one might have upon the other".<sup>336</sup> She also sought reassurances from the Minister that fees would be waived in domestic violence cases involving less visible signs of abusive behaviour not resulting in physical injury. She urged the Minister to include a definition of "domestic

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<sup>329</sup> PBC Deb 19 May 2011 cc1042-1043

<sup>330</sup> Section 6

<sup>331</sup> PBC Deb on the *Child Maintenance and Other Payments Bill*, 24 July 2007 cc160-2

<sup>332</sup> The Government consultation, *Strengthening families, promoting parental responsibility: the future of child maintenance* ran from 13 January to 7 April 2011

<sup>333</sup> Amendments 272-275 and 289

<sup>334</sup> PBC Deb 24 May 2011 c1094

<sup>335</sup> Clause 128 of the Bill

<sup>336</sup> PBC Deb 24 May 2011 c1094

violence” in the Bill so that clear guidance was available to those making decisions about waiving fees in appropriate cases.<sup>337</sup>

In response, the Minister for Child Maintenance, Maria Miller, stressed that it was important to clarify that charging was a mechanism to incentivise parents to make their own private arrangements rather than a deterrent to the statutory scheme. She said that the amendments, which would restrict the circumstances in which fees could be imposed on parents, would undermine the process of encouraging parents to take responsibility for their financial arrangements.<sup>338</sup> She assured the Committee that in addition to the green paper consultation, the charging proposals would initially be published in draft regulations and be subject to further consultation and debate in the House. The intention was to introduce charging only once the new scheme was operating effectively and not before six months of the scheme going live.<sup>339</sup>

Stephen Timms was not entirely convinced by the Minister’s arguments that encouraging arrangements outside of the statutory scheme would necessarily be better for relationships between all separated parents.<sup>340</sup> He also had concerns about the financial impact of high fees on families - an issue which charities such as Gingerbread and Barnado’s had also raised in evidence to the Committee.<sup>341</sup> He warned:

That is a real issue. The charges the Government have said might be applied could force people such as non resident parents to give up their jobs and go on benefits instead.<sup>342</sup>

However, Mr Timms said he took some comfort in the Minister’s reassurance that the proposals would be subject to Parliamentary scrutiny under the affirmative procedure, and withdrew the amendments.<sup>343</sup>

### ***Child maintenance objectives***

The main objective of the Commission is set out in section 2 of the *Child Maintenance and Other Payments Act 2008* as:

to maximise the number of those children who live apart from one or both of their parents for whom effective maintenance arrangements are in place.

Stephen Timms moved a group of amendments<sup>344</sup> to clause 128 which would, amongst other things, require the Secretary of State to have the same objective as the Commission in applying the provisions of the *Child Support Act 1991*. The amendments would also require the objective to be applied by the Commission when fulfilling any new obligations under the Bill and require the Commission to report on how it has fulfilled those objectives. Mr Timms explained that one of the purposes behind the amendments was to ensure that the Commission’s core objective was not lost if its current status as a non-departmental public body was changed under proposals set out in the *Public Bodies Bill*. He added:

Once the commission becomes an executive agency, its objectives and functions will no longer be set out in primary legislation. Amendment 277 aims to secure the commission’s main objectives in the core Act of Parliament that provides the

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<sup>337</sup> PBC Deb 24 May 2011 c1095

<sup>338</sup> PBC Deb 24 May 2011 cc1095-6

<sup>339</sup> PBC Deb 24 May 2011 c1098

<sup>340</sup> PBC Deb 24 May 2011 c1099

<sup>341</sup> PBC Deb 24 May 2011 c1088

<sup>342</sup> PBC Deb 24 May 2011 c1099

<sup>343</sup> PBC Deb 24 May 2011 c1100

<sup>344</sup> Amendments 277-279

framework for the statutory child maintenance scheme: the Child Support Act 1991, which was enacted by the previous Conservative Government 20 years ago. Amendment 277 would ensure that, alongside the basic principles of the statutory child support scheme, the commission's main objectives, which I have quoted, are set out in primary legislation.<sup>345</sup>

In response, the Minister restated the Government's continued commitment to maximise the number of effective maintenance arrangements. She went on to explain that the amendment requiring the Commission to report against its statutory objectives was unnecessary because this duty is already contained in the section 9 of the 2008 Act.<sup>346</sup> In respect of the status of the Commission, the Minister confirmed that the changes would be taking place later in the year, subject to the *Public Bodies Bill* proceeding through its Parliamentary stages. She added that until then, she was not able to give a more precise answer to when the status of the Commission would change.<sup>347</sup>

Mr Timms was unconvinced by the Minister's reassurances that the Commission's objectives would be preserved once its status changed. He was adamant that the central purpose of maximising effective maintenance arrangements should be enshrined in primary legislation and pressed the amendment to a vote. The amendment was defeated by 8 votes to 13.<sup>348</sup>

### 3.11 Social Mobility and Child Poverty Commission

The *Child Poverty Act 2010*, which received Royal Assent on 25 March 2010, fulfilled the Labour Government's commitment made in September 2008 to enshrine the 2020 child poverty target in legislation. It establishes four separate child poverty targets to be met by 2020/21, requires the UK Government to publish a regular UK child poverty strategy, requires the Scottish and Northern Irish Ministers to publish child poverty strategies, provides for a Child Poverty Commission to provide advice, requires the UK Government to publish annual progress reports, and places new duties on local authorities and other "delivery partners" in England to work together to tackle child poverty.<sup>349</sup>

Following the 2010 General Election the new Government announced its intention to review the approach to child poverty. This culminated in the publication on 5 April 2011 of the Government's Child Poverty Strategy, *A New Approach to Child Poverty: Tackling the Causes of Disadvantage and Transforming Families' Lives*.<sup>350</sup> In a Written Ministerial Statement announcing the publication of the Strategy, the Secretary of State for Work and Pensions, Iain Duncan Smith, said that the Government had decided to change the remit of the Child Poverty Commission and intended to use the *Welfare Reform Bill* to make the necessary legislative changes:

As part of the strategy, we are announcing that we will establish a child poverty commission with an improved remit, wider and more effective than previously legislated for by the last Government. We have consulted widely to ensure that we get the power of the commission right and we have decided to increase the effectiveness of this body, further strengthening its role in holding the Government to account, while amending its advisory functions. This will be a broader commission which will monitor and drive progress towards ending child poverty, improving life chances, and increasing social mobility. Until the new commission is in place, we will be broadening the current remit of the Government's independent reviewer on social mobility (Alan

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<sup>345</sup> PBC Deb 24 May 2011 c1102

<sup>346</sup> PBC Deb 24 May 2011 c1104

<sup>347</sup> PBC Deb 24 May 2011 c1105

<sup>348</sup> PBC Deb 24 May 2011 c1107

<sup>349</sup> For further details see Library standard note SN/SP/5585, *Child Poverty Act 2010: a short guide*

<sup>350</sup> Cm 8061

Milburn) to include child poverty. Alan Milburn will then be appointed acting chair of the new commission while an open appointment process for the commission takes place. It is our intention to use the Welfare Reform Bill to make the necessary changes to the Child Poverty Act.<sup>351</sup>

Further details regarding the proposed “Social Mobility and Child Poverty Commission” were given in Chapter 5 of the Child Poverty Strategy:

### **Aligning Child Poverty and Social Mobility and setting up the New Commission**

5.18 The Child Poverty Act requires the establishment of a Child Poverty Commission to provide independent input to help ensure that the policies outlined in the Government’s strategy have a positive impact on ending child poverty. As part of developing our new approach, we have given careful consideration to how the Commission should be developed in order to best perform its independent role. We also sought stakeholder views on the issue by including the role of the Commission in the consultation on the strategy.

5.19 We believe that any commission we establish needs to reflect the Government’s new approach to child poverty, which acknowledges the crucial links between child poverty, children’s life chances and social mobility. Responses to our consultation were broadly supportive of extending the remit of the Commission in this way.

5.20 In addition, the Government believes that public bodies should only be established when they can provide additional value to the taxpayer, and that they should not be given responsibility for action or decisions that Ministers ought to be accountable for. We feel that while the accountability functions of the original Child Poverty Commission are appropriate for a public body, some of the advisory functions are not: Ministers should take direct responsibility for strategy development rather than delegating this to arms length bodies.

5.21 We have therefore decided to amend the Child Poverty Act to create a new Social Mobility and Child Poverty Commission. This new Commission will have a broader remit incorporating social mobility as well as child poverty to ensure that the Commission considers the issue of child poverty within the wider context of children’s life chances and inter-generational poverty. The Commission’s role will be to monitor progress against the broad range of child poverty, life chances and social mobility indicators, towards the end goal of eradicating child poverty.

5.22 The Commission will report to Parliament on both strands of its responsibility. It will then be for the Cabinet’s Social Justice Committee to oversee the resulting work focusing on child poverty, and for the Ministerial Group on Social Mobility to consider policies related to increasing social mobility in the United Kingdom.

5.23 We know from the recent consultation that many stakeholders are keen for the work of the Commission to begin immediately. As forming the new Commission will involve amending legislation, we are setting out a clear plan for interim arrangements to ensure that progress on tackling child poverty is not delayed. Until the new Commission is in place, the remit of the Government’s Independent Reviewer on Social Mobility (Alan Milburn) will be expanded to include child poverty. This will ensure that a progress review function for child poverty is in place from the point at which the Child Poverty Strategy is published. To provide continuity between the work of the Review and the work of the new Commission, Alan Milburn will be appointed as Acting Chair once the Commission is established, while a public appointment process is held

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<sup>351</sup> HC Deb 5 April 2011 cc63-64WS

in line with best practice. We intend to appoint both a Chair and a Vice Chair to the Commission, providing scope for both the social mobility agenda and the child poverty agenda to have strong representation.

On 9 May 2011 the House passed a motion to instruct the Committee that it had power to make provision in the Bill to establish the Social Mobility and Child Poverty Commission.<sup>352</sup>

The New Clause and Schedule making provision for the Commission were considered by the Committee at its final sitting on 24 May.<sup>353</sup>

For the Opposition, Karen Buck said the while the Government had “a tendency to segue the whole debate about social mobility into the debate on poverty, particularly child poverty” they were “distinct and different agendas.” She continued:

Although I would not give up my body to be burned in opposition to introducing social mobility to the scope of the Child Poverty Commission, like my hon. Friend the Member for Stretford and Urmston [Kate Green], other Opposition Members and many of the excellent and expert voluntary and charitable bodies working in the field, I think there is a risk of diluting the core focus on income, which is the task given by the Child Poverty Act 2010 to the Child Poverty Commission.<sup>354</sup>

Ms Buck said:

We have some concerns, not only because of the amendments to the Child Poverty Act 2010 in the schedule but because of the underlying thrust of the tax and benefits changes being made. It is promised that universal credit will lift 350,000 children out of poverty. We hope that that is true and we want it to be true, but of course we know that this is happening the context of an £18 billion reduction in tax credits and benefit support before universal credit comes in.<sup>355</sup>

The Opposition had tabled five amendments to the New Schedule-

...because we are genuinely concerned that the Government amendments to the 2010 Act will weaken the degree of scrutiny and accountability that the new child poverty and social mobility commission will be able to apply to the Government’s record and achievements in the future.<sup>356</sup>

The amendments addressed a number of concerns including:

- the ability of the Commission to publicly criticise the Government’s strategy;
- the expertise of Commission members;
- consultation with devolved administrations regarding appointments;
- the ability of the Commission to commission research; and
- requirements to produce reports.

Summing up for the Opposition, Karen Buck said that all five amendments-

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<sup>352</sup> HC Deb 9 May 2011 cc966-975

<sup>353</sup> PBC Deb 24 May 2011 cc1129-1151

<sup>354</sup> PBC Deb 24 May 2011 c1141

<sup>355</sup> PBC Deb 24 May 2011 c1142

<sup>356</sup> PBC Deb 24 May 2011 c1142

...deal with the real dilemma in ministerial accountability and the differences in accountability between what is expected of the commission and the Government's own responsibility. All five amendments, almost entirely and in terms of a story, address what was in the Child Poverty Act before to the Government's proposed changes. Those changes cumulatively create a sense of weakening the structure of accountability and the Child Poverty Commission's capacity properly to hold the Government to account and to roam more widely in terms of understanding and reporting to Parliament on child poverty. All that is apart from our concerns about a dilution of the child poverty focus through the introduction of the concept of social mobility.

The End Child Poverty coalition—I know that the Government appreciate and value enormously the contribution and expertise that the various constituent organisations bring to the table—is deeply concerned about the extent to which the new schedule removes what it feels to be important checks and balances in the Child Poverty Act. Even if the Minister is sincerely committed—I have no doubt that she is—to ensuring proper scrutiny of Government progress, it means that there will not be the protection in future. Therefore, based on practical experience of politics over the decade, I am afraid that there is a real risk that the consequence will be a future Government being able to marginalise the commission's work and not being held to account in the way that we sought to make possible when we introduced the Child Poverty Act.<sup>357</sup>

For the Government, Maria Miller said:

I have to say that our changes are all about strengthening, not weakening, the commission. The Committee may be assured about that for three prime reasons. First, we are broadening the commission's scope to include social mobility, which will set child poverty issues in a broader context and make us more able to address them in the long term and not just the short term.

Secondly, we are driving through a strong ministerial responsibility for the child poverty strategy, and not leaving the door open for future Ministers to rely on a commission to provide them with answers. I understand Opposition Members' point that that was never their intention, but if they look carefully at the Child Poverty Act 2010 as it currently stands, they will see that there is the opportunity for that to happen, and we want to close that down.

Thirdly, we firmly believe that we are baking accountability and transparency into the heart of the commission. At the moment, the commission cannot comment on the extent to which its advice is heeded or on whether strategy is effective. We want to change that fundamentally, and enable the commission to set out its views on the progress that the Government make, thereby allowing both analysis and assessment. That will not just be a comment about progress made; it will be about looking at and analysing the effectiveness of the interventions that the Government set out in the strategy. It will fundamentally strengthen the commission's role and its ability to play an active part in the child poverty strategy.<sup>358</sup>

The Minister's responses to each of the Opposition amendments are in cc1148-1151.

The New Clause and Schedule were agreed without amendment.

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<sup>357</sup> PBC Deb 24 May 2011 c1142

<sup>358</sup> PBC Deb 24 May 2011 c1142



## Appendix 1 – Members of the Public Bill Committee

### Chairs

Mr James Gray and Mr Mike Weir

### Members

Baldwin, Harriett (*West Worcestershire*) (Con)  
 Bebb, Guto (*Aberconwy*) (Con)  
 Buck, Ms Karen (*Westminster North*) (Lab)  
 Curran, Margaret (*Glasgow East*) (Lab)  
 Elliott, Julie (*Sunderland Central*) (Lab)  
 Ellison, Jane (*Battersea*) (Con)  
 Elphicke, Charlie (*Dover*) (Con)  
 Fovargue, Yvonne (*Makerfield*) (Lab)  
 Gilmore, Sheila (*Edinburgh East*) (Lab)  
 Glen, John (*Salisbury*) (Con)  
 Grayling, Chris (*Minister of State, Department for Work and Pensions*)  
 Green, Kate (*Stretford and Urmston*) (Lab)  
 Greenwood, Lilian (*Nottingham South*) (Lab)  
 Hollingbery, George (*Meon Valley*) (Con)  
 McVey, Esther (*Wirral West*) (Con)  
 Miller, Maria (*Parliamentary Under-Secretary of State for Work and Pensions*)  
 Newton, Sarah (*Truro and Falmouth*) (Con)  
 Paisley, Ian (*North Antrim*) (DUP)  
 Patel, Priti (*Witham*) (Con)  
 Pearce, Teresa (*Erith and Thamesmead*) (Lab)  
 Sarwar, Anas (*Glasgow Central*) (Lab)  
 Smith, Miss Chloe (*Norwich North*) (Con)  
 Swales, Ian (*Redcar*) (LD)  
 Timms, Stephen (*East Ham*) (Lab)  
 Uppal, Paul (*Wolverhampton South West*) (Con)  
 Willott, Jenny (*Cardiff Central*) (LD)

### Committee Clerk

James Rhys

## **Appendix 2 – Witnesses giving oral evidence to the Public Bill Committee**

### **22 March 2011 (morning)**

Matt Oakley, Head of Enterprise, Growth and Social Policy, Policy Exchange  
Deven Ghelani, Senior Researcher, Centre for Social Justice  
Mike Brewer, Deputy Director, Institute for Fiscal Studies  
Professor Roy Sainsbury, Research Director, Social Policy Research Unit, University of York  
Dr Patrick Nolan, Chief Economist, Reform  
Chris Goulden, Policy and Research Manager, Joseph Rowntree Foundation  
Paul Bivand, Head of Analysis and Statistics, Centre for Economic and Social Inclusion  
Kate Wareing, Director of UK Programme, Oxfam  
Andy Rickell, Chief Executive, Vassall Centre Trust, and Member of Personal Independence Payment Objective  
Assessment Development Group, and Equality 2025  
Vicki Nash, Head of Policy and Campaigns, Mind

### **22 March 2011 (afternoon)**

Anne Spaight MBE, Former Chair, Disability Living Allowance Advisory Board  
Mike Adams, Chief Executive, Essex Coalition of Disabled People  
Andrew Lee, Director, People First  
Sue Bott, Chief Executive, National Centre for Independent Living  
Duleep Allirajah, Policy Manager, MacMillan Cancer Support  
Marc Bush, Head of Public Policy, Scope  
Maeve McGoldrick, Campaigns Co-ordinator, Community Links  
Nicola Smith, Head of Economic and Social Affairs, TUC  
Lizzie Iron, Head of Welfare Policy, Citizens Advice  
Sue Royston, Social Policy Officer, Citizens Advice  
Robin Williamson, Technical Director, Low Incomes Tax Reform Group

### **24 March 2011 (morning)**

Professor Elaine Kempson CBE, Social Security Advisory Committee  
Sir Richard Tilt, Social Security Advisory Committee  
Emily Holzhausen, Director of Policy, Carers UK  
Professor Paul Gregg, Department of Economics, Bristol University

### **24 March 2011 (afternoon)**

Alison Garnham, Chief Executive, Child Poverty Action Group  
Fiona Weir, Chief Executive, Gingerbread  
Adrienne Burgess, Head of Research, Fatherhood Institute  
Sarah Jackson OBE, Chief Executive, Working Families  
Fran Bennett, Member, Women's Budget Group  
Nick Woodall, Policy and Development Officer, Centre for Separated Families  
Sam Royston, Policy and Campaigns Officer, Family Action  
Councillor Steve Reed, Leader, London Borough of Lambeth, representing London Councils and the Local Government Association  
Roger Harding, Head of Policy, Shelter  
David Orr, Chief Executive, National Housing Federation  
David Salusbury, Executive Chairman, National Landlords Association  
Duncan Shrubsole, Director of Policy and External Affairs, Crisis  
Rt Hon Iain Duncan Smith MP, Secretary of State, Department for Work and Pensions  
Neil Couling, Director, Benefit Strategy, Department for Work and Pensions  
Terry Moran, Director-General, Universal Credit, Department for Work and Pensions