



**Northern Ireland
Assembly**

**COMMITTEE FOR
SOCIAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

Welfare Reform Bill

11 May 2010

NORTHERN IRELAND ASSEMBLY

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SOCIAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Simon Hamilton (Chairperson)
Ms Carál Ní Chuilín (Deputy Chairperson)
Mr Mickey Brady
Mr Alex Easton
Ms Anna Lo
Mr Fra McCann

Witnesses:

Ms Anne McCleary)
Mr Colm McLaughlin) Department for Social Development
Ms Margaret Sisk)

Mr Kevin Higgins) Advice NI

The Chairperson (Mr Hamilton):

We are joined by officials from the social security policy and legislation division of the Department for Social Development (DSD), who will brief us on the clauses, schedules and delegated powers of the Welfare Reform Bill. I welcome Anne McCleary, director; Margaret Sisk, assistant director; and Colm McLaughlin.

The proceedings are being recorded for Hansard for the benefit of the report and for our scrutiny. Members have a cover note from the Committee Clerk and all the relevant papers. Will you give some brief opening remarks before taking us through the clauses of the Bill?

Ms Anne McCleary (Department for Social Development):

Thank you for giving us the opportunity to go through the Bill with the Committee. It is a complex but important piece of legislation. We will try to keep things as succinct as possible. We will deal with the various clauses and allow members to ask questions. I will deal with the first 14 clauses and Margaret Sisk will deal with the remainder of the Bill. Colm McLaughlin is our resident guru so, if there are any questions on the detail, I may defer to his superior knowledge.

Clause 1 refers to schemes for assisting persons to obtain employment through “work for your benefit” schemes. The clause inserts two new articles into the Jobseekers (Northern Ireland) Order 1995: article 19A, which refers to schemes for assisting persons to obtain employment through “work for your benefit” schemes, etc; and article 19B.

Article 19A(1) enables the Department for Social Development to make provision in regulations:

“for or in connection with imposing on claimants ... a requirement to participate in schemes ... designed to assist them to obtain employment.”

In particular, those regulations may impose a requirement on claimants to undertake work or work-related activity as part of a “work for your benefit” scheme. I stress that the intention is to pilot “work for your benefit” schemes in limited geographical areas of Great Britain from 2010 onwards in order to assess their effectiveness. Implementation in Northern Ireland will be subject to the outcome of the evaluation of those pilot schemes in Great Britain and the availability of resources.

Paragraph (1) will provide for regulations to set out the circumstances in which jobseeker’s allowance (JSA) claimants are required to participate in schemes under that article. Paragraph (2) makes it clear that regulations may require claimants:

“to undertake work, or work-related activity, during a prescribed period with a view to improving their chances of obtaining employment.”

Paragraph (3) defines “work-related activity” as:

“activity which makes it more likely that the person will obtain or remain in work or be able to do so.”

Paragraph (4) precludes regulations made under paragraph (1) from applying to JSA claimants who are not required to satisfy the job-seeking conditions. The Department envisages that the precluded groups will include lone parents with younger children who are moved to JSA after the

abolition of income support.

Paragraph (5) provides examples of provisions that may be included in regulations made under paragraph (1). Sub-paragraph (5)(d) enables regulations to provide that benefit payments may be withheld or reduced where a claimant fails to comply with the regulations and that person does not show good cause for the failure within the period specified in regulations. Paragraph (6) provides that JSA is not payable for a period specified in regulations where a claimant fails to comply with regulations made under article 19A. That paragraph also provides that the period specified in the regulations in respect of which a JSA is not payable must be at least one week and not more than 26 weeks.

Paragraph (7) provides that the appropriate consequence if a member of a joint-claim couple fails to comply with regulations is that he or she is treated as subject to sanctions for the purpose of article 22A. The period for which the full allowance is not payable must be at least one week and not more than 26 weeks.

Paragraphs (8) and (9) make provision for claimants to receive an income-based JSA, even though provision made by the regulations may prevent it. That is to enable claimants who are subject to a sanction to receive hardship payments. Paragraph (8) does not apply in the case of a joint-claim JSA.

New article 19B is supplemental to article 19A. Its provisions relate to the practical operation of schemes prescribed under article 19A and provide support for any contractual arrangements that the Department for Employment and Learning may make regarding their delivery. Paragraph (1) enables the Department for Employment and Learning to associate itself, financially or otherwise, with any scheme falling within it. Paragraph 3 enables the Department for Employment and Learning, where necessary, to use existing powers in article 4 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 to make an order dealing with the employment status of claimants participating in schemes under article 19A and detailing how any income gained when on a scheme should be treated for the purpose of other legislation. That follows the same approach as the Welfare Reform and Pensions (Northern Ireland) Order 1999.

Subsections (3) and (5) of clause 1 make amendments which are consequential to the new

article 19A. Subsection (3) inserts a new paragraph to make it clear that:

“regulations under article 19A may make different provision for different areas ... may make provision which applies only in relation to an area or areas specified in the regulations.”

I think that this is really talking about pilots.

Subsection (4) amends schedule 3 to the Social Security (Northern Ireland) Order 1998 to provide that a decision relating to non-payment of benefit under article 19A may be appealed. That is the appeals provision.

The Chairperson:

I thought that it was the whole Bill.

Ms McCleary:

It just felt like it.

The Chairperson:

You mentioned the piloting of “work for your benefit” schemes in GB, and you said that nothing would be done here until the outcome of those pilots was clear. Does the Bill allow for “work for your benefit” schemes to be introduced in Northern Ireland without the pilots having been carried out?

Ms McCleary:

It does allow us to do that, but we are not going to do that. We are going to wait until we have seen the outcome of the pilots.

The Chairperson:

When are they due to be completed?

Ms McCleary:

I am not sure.

Ms Margaret Sisk (Department for Social Development):

They run for a minimum of two years in GB, so it will be 2011-12 before they are completed.

The Chairperson:

So there is no intention to bring them in until it is clear that the “work for your benefit” schemes work?

Ms McCleary:

That is the plan.

Ms Ní Chuilín:

Has the Department taken into consideration the concerns around the potential exploitation of the unemployed in the “work for your benefit” schemes? There are concerns out there, and I am sure that we will hear from a few people and groups about the potential impact on the minimum wage as well. Those are real concerns. I want to get the mind of the Department at this stage. You assure us that it will not break parity if this scheme is introduced, even though there are pilot schemes in Britain, before the outcome of those pilot schemes.

Ms McCleary:

The first point is to deal with how it affects the unemployed. The scheme is about work experience. I take from what you said that you are talking about displacement of jobs —

Ms Ní Chuilín:

I am talking about exploiting unemployed people.

Ms McCleary:

This is to do with giving folk the opportunity to gain work experience. It is not about exploiting them; it is about giving them an opportunity to move closer to the workplace. It is not about exploitation. That is not the plan. The plan is to give them opportunities to gain work experience and to still receive benefits while they are doing so.

Ms Ní Chuilín:

I appreciate that that is the Department’s intention, but I know what the reality is on the ground. Even before this Bill was introduced, I was hearing anecdotal evidence of people who have the necessary means paying fairly big companies so that they can walk into an office and get experience. Those people have the means, and their families have the means to support them. I am thinking of someone who is coming out of school, who does not have any experience, who is

perhaps not very assertive, and who does not have a strong community or family background. That is probably over 50% of our young population. They will go in somewhere and will be exploited. It is not just a possibility; they will be. That has happened before, and this clause is a concern. When we come back to you after this Bill — which I have no doubt we will under something else — you will hear this again. You will not hear the phrase “I told you so”, but it is a real concern. Even employers that have the ability to —

Ms McCleary:

The pilot —

Ms Ní Chuilín:

The employers that have the ability to employ are waiting on this Bill going through so that they can get the results, which are not good. That is what is making me nervous. Rather than employing people now when they have the opportunity to do so, they are waiting on the potential to exploit young people as a result of the Bill.

Ms McCleary:

I understand why you have that concern. We will look very closely at the pilot to see whether that concern is borne out, because it will be fairly apparent. I know that you were not referring exclusively to the very young, but one thing to remember is that this scheme is only applicable to those who have been unemployed for two years. Therefore, it should not affect somebody who is coming straight out of school. As I said at the outset, the idea is to help people to move back to the workplace and give them work experience so that, hopefully, they will be able to find jobs thereafter.

Ms Sisk:

The programmes will have to be designed and approved by the Department for Employment and Learning (DEL). It will be responsible for making sure that the programmes do what they are supposed to do. At this stage, DEL has not decided what form the programmes will take in Northern Ireland anyway. It is talking about perhaps having mentoring schemes, rather than people physically having to go out and do work. At this stage, an awful lot is still very much up in the air, but the whole point is to try and help people who have been out of the workforce for a long time to move them closer to that, to upgrade their skills and give them a better chance of being able to compete with people who are only just out of the workforce. Clearly, those people

are disadvantaged by the fact that they have been unemployed for two years. What tends to happen is that they go round and round employment schemes and never really progress into work. That is the point of all of it. As Ms McCleary said, it is certainly not to exploit workers in any way. The whole point of it is to help them.

Ms Ní Chuilín:

That is my point also; we are just coming from different perspectives. More often than not, the experience of someone who is very young or who has been unemployed for two years is that they get passed from one scheme to another. They do not feel valued or get a sense of the big wide world out there. To be honest, I imagine that if I spoke to 10 people, at least six would say that it is not for them simply because of the experience that they have had. All the more reason why I worry is that we do not know the shape of the programmes that DEL will bring forward. We are being asked to introduce this Bill without that information.

Ms McCleary:

No, we are not introducing —

Ms Ní Chuilín:

It is almost like giving someone a blank cheque.

Ms McCleary:

This is about giving us the power to introduce —

Ms Sisk:

There will be —

Ms Ní Chuilín:

That is what I am worried about.

Ms McCleary:

There will be regulations —

Ms Sisk:

There will be an opportunity to comment —

Ms Ní Chuilín:

That is what I am worried about: giving you the ability to do something that we have not had sight of.

Ms McCleary:

We will have to come back to the Committee with the regulations that set up the schemes. At that point, the Committee will know exactly what the format of the scheme is. At this point —

Ms Ní Chuilín:

Are we agreeing this without prejudice, then?

Ms Sisk:

Yes. The authority is there to make the regulations, but the Committee will have to see all of these things again. The delegated powers memorandum sets out everything that will require regulations to be made.

I hear what you are saying. At this stage, there are an awful lot of unknowns from our point of view also, because GB has not really started those pilots yet. We do not really have any idea of what exactly GB will do or how things will work. Some of the things that GB wants to test are some of the things that you are concerned about, such as the exploitation factor or the idea that other people who are in employment may be displaced.

Ms Ní Chuilín:

Absolutely.

Ms Sisk:

As regards the pilots, the proof of the pudding is in the eating. When we come back to the Committee, we should have a lot more information, as will DEL.

Ms McCleary:

That will have to go through you.

Mr Brady:

The point is that, although the Department may say that the measure is not meant to exploit people, it gives others the opportunity to do exactly that. You mentioned power, and that is what it is all about.

This is parity legislation. If different groups on JSA are targeted and, as the Minister has said, sanctions are not be imposed on those who cannot participate due to a lack of childcare, particularly lone parents, does that constitute a breach of parity? Parity is supposed to mean comparing like with like. That is where the whole thing becomes ridiculous, because we do not have that in a lot of the legislation.

Ms McCleary:

The lone parent example is a good one, because it is a situation where we are doing something different because the situation on the ground is already different, which means that we cannot simply apply the same criteria as in GB.

Mr Brady:

Do you have any idea of where in Britain the pilot schemes are operating?

Ms McCleary:

I am not even sure that the Department for Work and Pensions (DWP) has decided.

Ms Sisk:

We can probably check that out for you.

Mr Colm McLaughlin (Department for Social Development):

I think that there are four areas. We will check that out.

Mr Brady:

If you are going to compare areas here which have historically had high unemployment and continue to have low-wage regimes, it seems that areas in England with equivalent or similar problems might provide a better picture and help us in coming to a decision.

Ms Sisk:

We will see if we can establish where the pilot schemes are operating and let you know on Thursday or at one of the other evidence sessions.

A lot of this will be under the control of DEL anyway. Although we make the legislation that requires people to take part in the schemes, DEL will be responsible for designing the schemes. Therefore, a lot of the issues that you raise are ones that that Department will need to take account of.

Mr Brady:

I am aware of that, but the problem and fear is that schemes implemented by the Department for Employment and Learning in the past have failed and continue to fail the people that they are aimed at. I do not want to be too prescriptive at this point, because there are going to be pilot schemes, but I do not see anything particularly different in the Bill or anything that will help young people, particularly lone parents, and those who have been unemployed for two years. I am very sceptical.

Ms Sisk:

Only the pilots will provide any sort of evidence. At this stage, we have not got any evidence to convince you.

Mr Brady:

With respect, in my experience, when these things are up and running they do not change. They certainly do not improve.

Ms McCleary:

The scheme will not be up and running here, so —

Mr Brady:

It will eventually, because we are talking about parity legislation.

Ms Sisk:

The legislation that will require jobseekers to take part in the schemes will be the same, but we do not necessarily have to have the same sort of schemes.

Ms Ní Chuilín:

Like disability living allowance (DLA)?

Ms Sisk:

DLA is a benefit, which is different. We are talking about employment schemes. We do not necessarily have to design our employment scheme in exactly the same way.

Mr Brady:

With respect, Carál is making the point that the schemes are predicated on the fact that benefit is payable if a jobseeker participates.

Ms Sisk:

Oh yes, that is right.

Mr Brady:

If they do not participate, they will be sanctioned.

Ms Sisk:

That is right. We will require jobseekers to take part in the scheme, but the “work for your benefit” scheme that runs in Northern Ireland does not necessarily have to be exactly the same type of scheme that is run in GB.

Mr Brady:

Ultimately, if you do not participate, you will not get your benefit.

Ms Sisk:

That is right. Participation is a different issue.

Mr Brady:

Therein lies the difficulty.

Ms Lo:

Obviously, a lot of questions still have to be asked. It will be interesting to see the outcomes of

the pilots so that we can learn from them.

DEL's employer-led and programme-led apprenticeships are falling down around our ears, because we do not have enough placements. Unless the economic climate improves considerably, it will be very difficult to get young people into any type of job experience. Have the additional resources required by your Department and DEL to fund the administration and setting-up of the schemes been costed?

Ms Sisk:

All that will have to come as a result of the pilot schemes, because at this stage neither we nor DEL have any idea what form those things will take. However, you are absolutely right to make the point that if there are no employment opportunities out there, these things will clearly not work. You would not tell lone parents that they must go and find a job if there is no job out there. We will not be saying to people that they must go on a "work for your benefit" scheme if there is no scheme for them to go on. At this stage, therefore, it is a case of what we would like to do, and these are the benefits that we see in those schemes, but there is a lot to come out in the wash, so to speak. However, I appreciate what you are saying.

Ms Lo:

We are doing this in a wrong way. Young people do want to work, but when they come out of school without qualifications they can work, but there are not enough jobs in our economy to provide them with a range of jobs. Even if they go on a scheme, whatever you call it, that gives them six or 12 months' experience, they are not going to get a real job. We really have to look at this in a more strategic way through education and the economy rather than a narrow, fix-it approach. As Cárál said, they are being penalised.

Ms Sisk:

The problem needs to be tackled on a number of different levels. I know that you are a member of the Committee for Employment and Learning. A lot of those issues will have come up there, and are also for DEL to take up. The whole idea is to try to tackle unemployment and the lack of employment on different levels and see what will work. If this does not work, it will not be rolled out in GB either. If it does not look like the sort of thing that will be successful in Northern Ireland, it simply cannot happen. There is no point in running something that everyone sees is not going to work.

Mr Easton:

I am concerned about people going on to a “work for your benefit” scheme after two years. As we stand, how many people will that affect? I do not see where they will get positions, because we are in the middle of a recession, and we always tend to be a year or two behind Great Britain when it comes to being hit badly. There is a concern that there will not be positions, and benefits cannot be taken off people if there are no positions.

Ms McCleary:

They will not lose their benefits if there is no scheme for them to join. They cannot be penalised. That will not happen.

Mr Easton:

I just do not see how the scheme will work with the way that the economy is at the moment.

Ms Sisk:

A couple of years down the line, who knows? Things will have improved a bit.

Mr Easton:

What happens if you introduce the scheme and there is another recession five years down the road? You could be leaving yourself with a big problem.

Mr Brady:

Do not be so optimistic.

Ms Ní Chuilín:

Simon, give him a hug, will you, and cheer him up.

Ms McCleary:

It is dependent on there being opportunities for folk to go on those schemes. In times when things improve a bit, hopefully there will be greater opportunity. If we do not do this, we could miss the boat.

Mr Easton:

It might sink on you as well. *[Laughter.]*

Ms Sisk:

We will see how GB does, and take our cue from that.

The Chairperson:

I don't know about plunging into another recession, but he has plunged us into a depression.

[Laughter.] Fra, cheer us up.

Mr F McCann:

Research that we got on similar schemes in Nova Scotia, the USA, the Netherlands and Denmark seems to suggest that, by and large, such schemes were failures. I take it that, when they were looking at the "work for your benefit" schemes, they tried to draw on the experience of those countries, which seems to be a poor reflection on the Bill.

One of the Committee's concerns — and Alex was one of the people who asked the question — is the worth of the employment in the schemes that people will be asked to go into. On the record of the past, whether it is to do with New Deal or whatever, that call is 100% right. Young people were heavily exploited by employers, and even at the end of the schemes they left with little or no training.

You also spoke about people doing the round of schemes. If the pilots are seen as having been a success in different parts of England but do not match the employment situation here, are you saying that they will not be implemented here?

Ms Sisk:

I am saying that the model of scheme that is introduced in GB does not necessarily have to be the same as the one that is introduced in Northern Ireland. All that we are saying in the legislation is that, where an individual is required to go on a scheme, going on that scheme will be a condition of his or her continued receipt of benefit.

However, there is nothing in our legislation that states what the scheme will be. It will be a matter for the Department for Employment and Learning to decide on suitable schemes for

Northern Ireland. It will be entirely up to the Department to work out what it thinks will work here. The scheme is not prescribed in the legislation. It is not a parity issue. The only parity issue is the condition that, in order to receive benefit, an individual must attend the scheme, whatever that may be. It is entirely open to DEL to decide what type of scheme it thinks will work here.

Mr F McCann:

The bigger part of the legislation will be operated by DEL. We need to be clear in our own minds about what we may or may not be agreeing to.

Ms Sisk:

That is right. By the time that we come back to the Committee with the regulations to introduce the schemes, we will need to know what DEL plans to do. At that point, both the Committee for Social Development and the Committee for Employment and Learning will know the scheme that DEL plans to introduce. However, at this stage, we are saying that clause 1 is the power in the Bill that will allow us to go down that road. We do not have any detail yet. The detail will be in the regulations, with which we will come back to the Committee.

Mr F McCann:

I thought that you also said that, if employment levels are as bad or worse than they are now, people will not be expected to go on the scheme.

Ms Sisk:

That is right. If there are no places out there, and employers are not prepared to create opportunities for people to go on the schemes because the level of unemployment is too high, the schemes will not work. People cannot be forced to go on a scheme that does not exist.

Mr F McCann:

I am a firm believer that what you have in the first round is what you will end up with, especially when we look at consultations, and so on.

Ms Sisk:

We just do not know at this stage.

Mr F McCann:

The difficulty that I have with the legislation as it stands is that people will be sanctioned for a number of different reasons. People may go into a jobs and benefit office and be told that they are not looking hard enough for a job or that there is no employment at the end of the scheme that they have been asked to go on. Regardless of what you are saying, people will be sanctioned in those circumstances, because of the regulations that are laid down.

Ms Sisk:

They will certainly not be sanctioned. It will not be their fault that there is no employment at the end of the scheme. The idea of the scheme is to make people more work-ready. If there are no jobs out there, it is clearly not a person's fault that he or she cannot find a job at the end of the scheme. The purpose of the scheme is to help people who have been long-term unemployed to get back into the way of working. The longer that one is out of work, the more difficult that it is to find employment.

As I said, the point of the scheme is to try to help people who are long-term unemployed to be more work-ready, to improve their skills, and to get used to getting up in the morning and going out to work. People who have been out of work for a long time can get out of that habit. The scheme is not about forcing people into employment. It is not employment; it is a work-preparation scheme.

Mr F McCann:

But preparing them for what?

Ms Sisk:

That will depend. DEL will have to assess what is the best type of scheme for people to go on, what they are already skilled to do and what the gaps are in their competencies. Much of this will be down to what type of schemes the Department for Employment and Learning draws up. We have to wait for the pilots to be run in GB in order to see what type of scheme DEL will run.

I accept that it is difficult at this stage for you to envisage what is planned. This is very much a framework, and we are waiting to put flesh on the bones. We will have to come back to the Committee to flesh out the legislation, and you will get a much clearer picture of the plans then. At that stage, if you do not like it, you can say no to it.

Mr F McCann:

What you are asking us to do at present is to support apparatus that will allow you to deal with people somewhere down the line.

Ms Sisk:

We are asking you to agree the framework, because, without it, we will not be able to do this. Even if the scheme is beneficial in GB, and even if it looks as though it is working, we will not be able to do this if you do not allow us to put the framework in place now. That is what we are asking for.

Mr Brady:

I take your point that DEL will implement the scheme. However, the buck stops with the Social Security Agency (SSA), because it controls the benefit money and imposes the sanctions.

Ms Sisk:

Yes.

Mr Brady:

There would have to be very close networking between DEL and the SSA, and that really is not happening at the moment. Although they are now back in the same office, you may find that the right hand does not know what the left hand is doing most of the time. If DEL is to introduce schemes, however wonderful —

Ms Sisk:

Hopefully.

Mr Brady:

We live in hope, as we have done for a long time while we wait for you to come up with some decent schemes. However, that is another story.

If schemes are put in place, there will come a time when the Social Security Agency says that someone did not go on a scheme. There has to be some valued judgement of the schemes made by someone in the Department who will then go on to decide whether that person is sanctioned. I

am not just talking about lone parents —

Ms Sisk:

Schemes will also be personalised to the person. It will not be the case that there will be one scheme for all.

Mr Brady:

“Personalised to the person” sounds a wee bit euphemistic.

Ms Ní Chuilín:

You are personally losing your benefit — stuff like that?

Mr Brady:

In my experience, the Social Security Agency is not full of counsellors.

Ms Sisk:

That is not really its job.

Mr Brady:

People in the Social Security Agency have a job to do and targets to meet under severe pressure. Therein lies another problem. All that has to be addressed

Ms Sisk:

That is right. The starting point in deciding whether a person is co-operating will be the personal adviser in the Department for Employment and Learning. The personal adviser will have to go tell the decision-makers in the Social Security Agency that that person is not co-operating. Once the SSA refers a case, it is handed over to DEL. As far as the SSA is concerned, people are co-operating unless it is told different.

Mr Brady:

I suppose that you would have to decide how co-operative somebody may or may not have been.

Ms Sisk:

Again, that will be a decision for DEL. It will decide whether a person is co-operating.

Mr Brady:

To finish, if DEL ultimately makes the decision on whether the scheme is being implemented to its satisfaction, the Social Security Agency will then follow its directive when it comes to sanctions.

Ms Sisk:

That is how it operates at the minute, and this will be exactly the same. Nobody will be referred to a disciplinary hearing in the SSA for sanction unless the DEL personal adviser decides to do that. The start and end point is with DEL, as it is at the minute for jobseeker's allowance.

Mr Brady:

Therefore, the Social Security Agency performs a hand-washing exercise?

Ms Sisk:

No. In the end, it will have to make the ultimate decision. However, good cause, and so on, will be applied.

Mr Brady:

"Good cause" is open to debate.

Ms Sisk:

It is a discretionary thing. It has to be.

The Chairperson:

That is everything on clause 1. We have 35 clauses to get through. Therefore, I suggest that as we go through the rest of the clauses, the witnesses give an overview of them rather than have us have a detailed debate. Clause 1 on schemes was a particularly contentious issue.

Ms McCleary:

Clause 2 deals with work-related activity for income support claimants and the partners of claimants. The clause will allow the Department to make regulations that may require a person in receipt of income support or the partner of a person receiving income support, income-based jobseeker's allowance or income-related employment and support allowance (ESA) to undertake

work-related activity as part of their progression to work group. It allows for action plans for people in receipt of certain benefits and the partners of such people, who are required to attend a work-focused interview.

Regulations will provide the details on the form, content, review and updating of the action plans. The clause also allows the Department to direct those groups to undertake specific work-related activity or activities, which are detailed in their action plans. However, those directions must be reasonable and have regard to a person's circumstances. The specific activity identified should be one that helps the individual to prepare for entry into work. The existing flexibilities and safeguards in the jobseeker's regime will also apply in those cases. That particularly includes the cases of lone parents, for whom work may be restricted to the hours when their children are at school, and the provision on suitable and affordable childcare applies.

The policy will be piloted in a number of areas in Great Britain, and it will be fully evaluated to determine whether, when implemented, the policy objectives have been achieved. It will be considered here only following a full evaluation of the pilot.

The Chairperson:

Do members have any questions, issues or concerns?

Mr Brady:

Are any criteria laid down to define "partner"? A partner might also be a person's carer. Will all of that be taken into account?

Ms Sisk:

Yes. The requirement will not apply to carers, who will be excluded. A person who has a caring responsibility will not be required to work.

Mr Brady:

Will the definition of "carer" be determined by whether he or she is in receipt of carer's allowance?

Ms McCleary:

We will look at all the circumstances.

Mr Brady:

There may well be carers who are not in receipt of carer's allowance.

Ms Sisk:

I do not think that it will be decided solely on the basis of whether the person is in receipt of carer's allowance. If a person were to have evidence to show that he or she had caring responsibilities, even if he or she were not in receipt of carer's allowance, that would be sufficient.

Mr Brady:

The sanction would then be decided based on what the person was or was not prepared to do.

Ms Sisk:

That is right. As Anne said, numerous safeguards are built in. Lone parents will be able to restrict their availability for work to school hours, and they will be treated as not available for work during the school holidays. If they are the victims of domestic violence, they will be allowed to be unavailable for an extra three months on top of what they are currently allowed. The necessity to have affordable and available childcare is also included. A tight restriction is available for lone parents, so there is plenty of scope for them not to be forced to do things that they cannot do because they need to care for their children.

Mr Brady:

You mentioned preparation for work. Given that school holidays here can last for two months or longer, will it not be difficult for an employer to consider taking on someone who will be off for relatively long periods?

Ms Sisk:

Yes, and employers will have to take that into consideration.

Mr Brady:

That is particularly true when lack of childcare provision is considered.

Ms Sisk:

If a parent can find childcare during the school holidays, that is all well and good. The legislation accepts that if lone parents cannot work during the school holidays because they do not have anyone to care for their children, their benefit will not be affected. The whole idea is to try to facilitate lone parents as much as possible to be able to seek work, while still recognising that their primary consideration is their children. At the same, the clause recognises that, unless some way is found of breaking the cycle of lone parent unemployment, we will never get anywhere with ending child poverty.

Mr Brady:

A point that I raised concerning lone parents was the need to sort out tax credits. The Minister said that she is not responsible for that, and I know that that is the case. However, the two issues are linked.

It is accepted that a lone parent will not be required to work during the summer. If that person had been on a scheme to prepare them for work before the summer, would they have to return to the scheme because they were in the same situation that they were in before the summer holidays?

Ms McCleary:

Schemes will have to take such situations into account, because, fairly obviously, a significant number of people will be in that position.

Mr Brady:

That will make the situation more complex than it is already.

Ms Sisk:

Those people are in what are called progression to work groups. The groups are made up of parents of children ranging from three to six years old. Much of this will come out in the wash in the pilots that are being run in GB. Again, we will have to come back to the Committee to put flesh on the bones of some of the issues, such as what sort of things people who are in a progression to work group will be doing. It might not necessarily be work-related activity; it might just be arranging a CV or doing some form of training course, which often do not run over the summer holidays. People in the progression to work groups will not be required to go to

work. That is not a requirement. Parents of children who are seven years old and above will be required to seek employment.

Mr Brady:

Moving lone parents to job seeker's allowance from income support is surely working towards —

Ms Sisk:

The lone parents will be on a modified form of job seeker's allowance. They will not be required to seek work. The Bill modifies job seeker's allowance to make it suitable for people who are in a progression to work group. They will not be required to satisfy the condition that they must be actively seeking work. It is a preparation.

At present, those people will not have to do anything until the child reaches seven years of age. Then, all of a sudden, when the child becomes seven, the parent will be required to seek work. The idea behind that is to prepare people for work so that there is no sudden step. As it is, one minute, they are not required to do anything, and the next, they are required to go out and look for work. To a certain extent, the situation is similar to that of the long-term unemployed. If a lone parent has been at home with children for seven years, he or she may not be ready to go out to work. Many women find that they have lost their confidence. They do not feel that they are able to go out into the workplace; they feel that they cannot compete with people who have been in work throughout their lives. The idea is to get those women ready so that, when their child reaches seven, they are in a position to seek work. The intention is that work will help those families to get themselves above the poverty line. While people remain on benefit, they will never be on anything other than the rock-bottom minimum.

Mr Brady:

In many cases, people are caught in the poverty trap because of the nature of the work that they may or may not get. Many assumptions have been made. The Minister said in the Chamber that by the age of seven, a child has already bonded with its mother. I am not sure from where she gets that. Perhaps she has read Dr Spock's 'Baby and Child Care', but I do not know.

Ms Sisk:

One would like to think they had bonded before the child reaches seven.

Mr Brady:

How is that decided? It is a matter for the individual. However, the assumption is made that it happens at seven, which to me is a totally arbitrary age. The Minister was almost getting in her retaliation first, by declaring that, at the age of seven, a child should be able to make its dinner, open the front door, stay in the house alone, and so on.

Ms Sisk:

That is probably to expect too much of seven-year-olds.

Most seven-year-old children are in school from 9.00 am to 3.00 pm. That allows women to work for sixteen hours per week, which is the suggestion. When children are younger than seven years of age, they will not be in school, and that is why those women are not required to work. We are asking them to get themselves prepared for work. That is all that we require of them. All sorts of flexibilities are built into the clause. If lone parents need to go on training courses, they will not be required to do so if they cannot find childcare that will enable them to do so.

The proposal is reasonable. At present, the children of lone-parent families belong in one of the economically worst-off groups and are closest to the poverty line. The only way in which to improve lone parents' situation is to get them into work. I take your point entirely that they must have decent jobs. However, the starting point has to be a job.

Mr Brady:

Part of the difficulty for many lone parents is that they cannot access the childcare element of working tax credits because they have no registered childminder.

Ms Sisk:

I accept what you say. In many cases, grandparents act as childminders.

Mr Brady:

In many cases, lone parents are going out to work for less than what they would get if they were not going out to work.

Ms Sisk:

I accept that, but I have to say the same thing as the Minister says: we do not have responsibility

for tax credits. I take the point that it is a difficulty.

Mr Brady:

The two cannot be divorced. If you are going to introduce a scheme that compels lone parents to prepare for work, there has to be some motivation for them to go out and work. Whether you agree with scheme, it would be even worse to expect people to go out and get less for working. They would be as badly off —

Ms Sisk:

They will not be expected to do that. If someone will be financially worse off, that is good cause for not taking up employment. No lone parents will be required to take up a job if they will be worse off in work than they would be on benefits.

Setting aside the financial benefits, all sorts of other benefits are available to people returning to work, such as dignity and self-esteem. A lone parent who goes back to work also creates a role model for the children in the family, particularly the girls, who will see their mother going out into society and competing on a level playing field with everyone else. Surely that is a good thing.

Mr Brady:

Is it not almost social engineering?

Ms Sisk:

I would not describe it as that. It is useful to create role models.

Mr Brady:

It is therapeutic for many young parents, but it does not necessarily negate the fact that, when they are working, they may not be any better off.

Ms Sisk:

They would have to be at least as well off —

Mr Brady:

They may have dignity and self-esteem, but, logically, they will not be any better off.

Ms Sisk:

Some would consider themselves to be better off. The fact that they have self-esteem —

Mr Brady:

I am thinking about them being financially better off.

Ms Sisk:

They must be at least as well off, and they certainly cannot be worse off.

The starting point must be the job, which will be the springboard from which an individual can move on. If that start is not made, what will we do? Will those people simply be left on benefits for ever?

Mr Brady:

With respect, I have met very few people over the years who want to be on benefits.

Ms Sisk:

I am sure that that is right, and I fully accept that point.

Mr Brady:

The reason that most people are unemployed is because there are no jobs.

Ms Sisk:

I also accept that.

The Chairperson:

This is all very interesting, but we have strayed off the subject of clause 2.

Mr F McCann:

May I ask one question?

The Chairperson:

If it is related to the clause under discussion, I will allow it.

Mr F McCann:

Much of what you say, Margaret, is based on the assumption that there will be jobs for people to go into.

Ms Sisk:

I absolutely agree with you.

Mr F McCann:

That is the broad point that Mickey has made. Most of the available jobs are low paid, but are highly enough paid for those people to fall just outside the bracket of being able to obtain help with their rent and other things. They will be far worse off, but I understand what you say about the benefits of having a job.

The Chairperson:

That point does not really relate to the Bill. Anna, do you have a question?

Ms Lo:

I am OK. I was going to raise the same points.

Ms McCleary:

Clause 3 of the Bill deals with lone parents. It will remove the current requirement for lone parents on income support or employment and support allowance who have a youngest child under the age of one to undertake work-focused interviews. Those with a youngest child aged between one and two will still be required to attend mandatory work-focused interviews. The clause will also ensure that lone parents with a child under seven are a prescribed category of person entitled to income support. Lone parents with a child under three will not be required to undertake work-related activity. They will be entitled to restrict the times when they are required to undertake work-related activity, and we have covered the majority of that already.

The Chairperson:

Yes; I think that we have already covered that.

Ms McCleary:

Clause 4 deals with the entitlement conditions for jobseeker's allowance as set out in the Jobseekers (Northern Ireland) Order 1995, and its aim is not to require people currently claiming income support to satisfy the same requirements as those who currently claim jobseeker's allowance. Through the clause, the Department is creating a new category of income-based jobseeker's allowance, with modified requirements appropriate to those who are not expected to be available for and actively seeking work.

The key change is that people will be able to claim jobseeker's allowance on a means-tested basis without having to meet the job-seeking conditions, if they fall within the prescribed groups. That will enable groups who are currently able to claim income support, including lone parents with young children, to be prescribed as able to claim jobseeker's allowance instead. Again, the aim is to move towards a simpler system of benefits for people of working age, with employment and support allowance for those who are sick or disabled and jobseeker's allowance for the range of other groups. The clause will also provide for people to make joint claims to income-based jobseeker's allowance. It paves the way for the measures in clause 5 that ensure that couples, where at least one partner is able to take steps towards doing so, return to work.

I must emphasise that carers will not be removed from income support until there is a clear and detailed plan setting out how their benefits will be changed.

The Chairperson:

OK. If members have no further questions, we will move on to clause 5.

Ms McCleary:

Clause 5 deals with couples where at least one member is capable of work. It sets out the provisions that are being introduced for claimants and their partners who are capable of making progress towards work. The clause makes provisions for couples where one member is capable of work and inserts additional provisions into the conditions of entitlement for income support and income-related employment and support allowance.

The new provisions will mean that, for couples where at least one member is work-ready, the only income-related support available will be the income-based jobseeker's allowance. Receipt

of that benefit will be conditional on the work-ready partner's fulfilling the full labour market conditionality regime in jobseeker's allowance. For example, that partner will be required to enter into a jobseeker's agreement and remain available for, and actively seek, work.

It is intended to define in regulations the groups to whom the new provisions will not apply. The jobseeker's allowance system contains safeguards to ensure that people are not sanctioned for failing to comply, where they can show that they have good cause. For example, if a parent cites difficulty in sourcing suitable childcare, that will form part of the decision-maker's consideration of good cause.

Mr Easton:

Perhaps I have misunderstood the explanation of the clause. I am not sure that it is fair that one member of a couple can be penalised because the other person, on whom he or she may rely, does not want to work.

Ms McCleary:

That is obviously a tricky issue. However, we are talking about couples where one person is capable of work and the other is not. It is about whether that person wishes to return to the workplace and about encouraging and helping them to do so. We are talking about good cause; circumstances will be taken into account in the round by the decision-maker.

Mr Easton:

If one member of a couple is disabled and not capable of working, and the other member is able to work but has to manage his or her partner, does that mean that one will be penalised because his or her partner is disabled?

Ms McCleary:

No. It means that all factors will be taken into account and will be in the mix when the decision is being made.

Mr Easton:

Will there be a list of safeguards?

Ms McCleary:

Yes.

Ms Sisk:

A disabled person in receipt of disability living allowance or something like that would still be entitled to it.

Ms McCleary:

Clause 6 deals with statutory sick pay and employment and support allowance. It will amend an exclusion in the Welfare Reform Act (Northern Ireland) 2007 that prohibits people who are receiving employment and support allowance while they are also in receipt of statutory sick pay. The new change will enable people, in prescribed circumstances, to claim income-related employment and support allowance while they are in receipt of statutory sick pay.

Mr Brady:

Are you saying that a person who is in receipt of income support to boost their statutory sick pay will be transferred to employment and support allowance in certain circumstances?

Ms McCleary:

Yes.

Mr Brady:

What about the passported stuff that comes with income support — housing benefit, all of that kind of thing? Will that be transferrable as well?

Ms Sisk:

They will still get that, because they will be on the income-related element of ESA. They will still be passported.

Mr Brady:

Even though they have made contributions? I want to clarify that point, because you have to fulfil certain conditions to get statutory sick pay. If someone is getting that benefit, obviously, he or she must have been working, so he or she may or may not have made contributions. Will the contribution element be looked at first, or will the claimant automatically go on to income-based

ESA, on top of statutory sick pay?

Ms Sisk:

You are talking about people who moved from statutory sick pay and are now getting income support.

Mr Brady:

Yes, but will people on statutory sick pay get the advantages of income-based ESA?

Ms Sisk:

They will still be passported on to all the same benefits.

Mr Brady:

Will those benefits be income-based, rather than based on their contributions?

Ms Sisk:

Yes, because we are talking about the people who would have been moved on to income support, not those who would have been moved on to contributory benefits. Otherwise, they would have gone on to incapacity benefit, rather than income support.

Mr Brady:

Obviously, statutory sick pay lasts for a particular period, but, when it finishes, they may still be below the limit, so will they qualify for contributory ESA, which is the old incapacity benefit?

Ms Sisk:

Yes, but contributory ESA is not income-based, so those would be different people, because —

Mr Brady:

But they will in the interim? That is really what I am asking.

Ms Sisk:

Oh right, yes.

Ms McCleary:

Clause 7 makes provision for the transition of people who move from income support to either ESA or JSA as a result of earlier provisions. It enables awards of income support or ESA to be stopped where appropriate and allows for a transitional allowance to be paid for a time and of an amount that can be prescribed by regulation.

The Chairperson:

That is fine.

Ms McCleary:

Clause 8 provides that regulations made within five years of the passing of the Welfare Reform Bill, and which impose a requirement for a lone parent of a child under the age of seven to undertake work-related activity, will be subject to the confirmatory procedure of the Assembly.

The Chairperson:

Say, at a later stage, the Assembly does not fancy that. What would it mean for parity? Would it be a breach?

Ms McCleary:

Who knows?

The Chairperson:

I would hope that you would know.

Ms McCleary:

The aim is for the social security systems in Northern Ireland and Great Britain to be as closely aligned as possible. It would be patently unfair to apply a sanction in Northern Ireland that could not be applied in Great Britain, or vice versa. The answer is that it depends. The bottom line is that childcare is a huge issue in Northern Ireland, and that will have to be taken into account.

Ms Sisk:

Parity means that benefit is paid under the same conditions in Northern Ireland as it is in Great Britain. Anything that goes against that would be a breach of parity. Anne McCleary was talking about childcare, but the same childcare situation applies in GB: you are not required to seek work

if you cannot get childcare. What we do in Northern Ireland does not breach the parity policy. We are simply more careful about how we apply it operationally on the ground. Nevertheless, to answer your question, in our opinion, the legislation has to be the same, otherwise it will breach parity.

The Chairperson:

Therefore, to maintain parity, any future regulation will have to be passed here.

Ms Sisk:

Yes. That is why we will have to come back with information about work-related activity for lone parents and partners. That will require the agreement of not just the Committee but the whole Assembly. There is an extra element of control there, if that gives the Committee any comfort.

The Chairperson:

From a different perspective, it puts the whole system at the mercy of the Assembly. Our system is much more different.

Ms Sisk:

Our other lone parent regulations were exactly the same. They had to go through a vote of the Assembly to be confirmed, and this is no different.

Ms Ní Chuilín:

If, for the sake of talk, Assembly Members decided that they could support the Bill — apart from the lone parent end of it, because they are not convinced that good cause is going to be exercised across the board and you already know that the availability of childcare is problematic — how would that sit with the Department?

Ms McCleary:

We would be in a breach situation. It is crucial to all of this that the legislation be the same. We have been able to answer the concerns that have been expressed by others in how we operate it. However, we need the legislation to be identical so that we can meet the requirements of parity.

Mr Brady:

You are saying that parity is set in stone.

Ms Ní Chuilín:

It is not.

Mr Brady:

As far as I am aware, it is not. It has evolved as if it were, but really it is not.

Ms Sisk:

We are saying that the same conditions should apply to someone who is claiming benefit in Northern Ireland as to someone who is claiming benefit anywhere else in the United Kingdom. The idea is that there will be free movement; claimants will be able to move from one part of the UK to the other without having to make a fresh claim, because they will have satisfied the conditions and a decision will have been made that they will have satisfied the conditions and their benefit will be payable to them. We do not want to threaten that. That is the bottom line.

Mr Brady:

Claimants may be able to move around, but they might not get paid for two months.

Ms Sisk:

They will get the money paid back to them. We do not want to enter into a situation where people in Northern Ireland could end up being worse off because we have done something to threaten the money that is coming to us from GB. Members will have heard that many times.

Mr Brady:

Oh yes, I have heard the old Treasury argument.

Ms Sisk:

You have heard the whole story. You will also have heard about the computer systems and everything else that the SSA gets the benefit of using. All the Department is concerned about is that it does not place that under threat. We will look at areas where there is flexibility to take account of circumstances in Northern Ireland, and we have done that for lone parents. To date, no lone parent in Northern Ireland has been sanctioned, and no lone parent will be sanctioned if

they cannot find available childcare. We will do what we can within the bounds of ensuring that we do not undermine in any way the money that is coming to us from the Treasury without any cost to the Northern Ireland block.

Mr Brady:

That argument has been well rehearsed. The other thing is that, if childcare was available here, it is quite likely that the cost would be much higher, because in Britain it is administered by local authorities. There is a whole infrastructure in place there, whereas here it tends to be more privatised. All of those things may have to be addressed eventually.

Ms McCleary:

Affordability is an issue.

Ms Sisk:

We will take account of all the circumstances in Northern Ireland, but in the end it comes down to threatening the funding. We are probably getting as bored of saying this as you are of hearing it, but that is where we are.

Mr F McCann:

You have talked about having a degree of flexibility, but you are saying that you have to operate within parity. I have no doubt that there will be a number of cases, because of the differences between here and England, where there are no jobs and there is little childcare. For us to sit down and pass legislation will be seen as being punitive against people.

Ms Sisk:

A claimant in Northern Ireland gets benefit paid to them on the same condition as they get paid in the rest of the United Kingdom. The condition would have to be that employment and childcare were available to them. If those things are not satisfied, they cannot be said to have breached the conditionality. We want to keep the same law that is written down on paper. How we implement that is where we will look for the flexibility. We will look to find flexibility in how the SSA and DEL deal with customers, and we will operate the maximum flexibility that is available to us within the law.

The Chairperson:

OK, thank you.

Ms McCleary:

Clause 9 continues the move to the long-term aim of a single working-age benefit to remove the need to move between benefits as circumstances change. As an interim measure, income support is to be abolished, and beneficiaries moved to either ESA or JSA. There is no specific date for the abolition of income support, but it is considered important to set out now a clear intention to abolish income support and thereby move to a system based on two main benefits for people of working age. Carers will not be moved from income support until there is a clear and detailed plan setting out how the benefits system will be reformed over the longer term.

The Chairperson:

In relation to the timing and phasing of the abolition of income support, has any flexibility on when that can be done been given to the SSA here by DWP, particularly in relation to vulnerable groups?

Ms McCleary:

There is no date.

Ms Sisk:

We have no idea. There is no set timescale at all for the abolition.

The Chairperson:

So there is no rigid date or flexibility?

Ms Sisk:

There is no date at all; at this stage DWP has not made a decision. What it is saying is that it will only abolish income support when it has made arrangements for all of the groups of people who are currently on income support to move to other benefits. We are going part of the way by putting lone parents onto a modified form of JSA, but there will still be people, particularly carers, who are on income support, and at this stage there is no plan to move them anywhere else.

One of the things being looked at with regard to carers is how they would fit into the support

Green Paper that was produced before the election. What is going to happen to that is anybody's guess at the minute. There really is no date at all at this point, but the intention is that at some point income support as a benefit will no longer exist, and there will only be two working-age benefits: ESA and JSA.

The Chairperson:

When I hear about moving people from one benefit to another I start to panic, because then I hear about computer systems and change.

Ms McCleary:

There is a huge project involved in the migration from income support and incapacity benefit to ESA. That alone will take a couple of years. It is not something that has not been thought of; there is a huge amount of work going into it within the Department already.

Ms Sisk:

In relation to the group that we are talking about moving on to JSA, that is being piloted in GB for a minimum of two years; it could well be longer than that.

The Chairperson:

OK.

Ms McCleary:

Clause 10 provides the power to direct claimants to undertake specific work-related activity. Work-related activity is defined as any activity that helps the claimant to obtain work, remain in work, or be more likely to obtain or remain in work. ESA claimants in the support group — those with the most severe health conditions or disabilities — are exempt, although they can undertake work-related activity voluntarily. The power is intended to prevent claimants from undertaking activities that are inappropriate in order to fulfil the work-related activity requirement.

Clause 10 provides that, in prescribed circumstances, the Department for Social Development, or the Department for Employment and Learning, can direct that a particular activity is the only activity that can be regarded as work-related activity for that person. It will also be made clear in regulations that it will never be appropriate to require people to undergo medical treatment.

In addition, clause 10 provides that any direction must be reasonable, having regard to a person's circumstances, and that if a specific activity is required or ruled out as work-related activity, that must be recorded in the claimant's action plan.

Mr Brady:

Who will make the decision on whether something is inappropriate to a person's circumstances?
I presume it will be DEL.

Ms McCleary:

Yes.

Mr Brady:

The Bill's explanatory and financial memorandum says that:

"Failure to undertake the specified activity without showing good cause for this within the allowed time would be sanctionable."

Will that be looked at on an individual basis?

Ms McCleary:

Yes.

Mr Brady:

It seems fairly nebulous.

Ms McCleary:

It is flexible. It gives the person making the decision the opportunity to take all the factors that we have been discussing this afternoon into account. It is also worth remembering that the Bill refers to the need to always take into account the welfare of children in particular. That is important.

Mr F McCann:

I have asked this a number of times over the past couple of years. Some people work within their communities: will that be recognised by your Department or DEL as worthwhile work or training?

Ms Sisk:

Oh yes. I think I have said this to you before, Mr McCann. Certainly, people are entitled to do community work, but they cannot say that they are not available for paid work because they are doing that. There is nothing to say that they cannot do that kind of work; there is nothing to stop them doing so.

Mr F McCann:

People have gone to local offices and have been challenged about work that they were doing. Some people had their benefits suspended.

Ms Sisk:

Yes, you have to be available for and seeking work to get JSA. It is not permissible for people in that situation to say that they cannot look for work because they are doing voluntary work. They can do voluntary work, but they still have to be available for and seeking work to qualify for JSA.

Mr F McCann:

So they have to fulfil all the criteria that you are talking about?

Ms Sisk:

Yes, for JSA.

Mr F McCann:

So community work is not accepted as —

Ms Sisk:

It is not paid work.

Mr F McCann:

What you are doing is —

Ms Sisk:

It is not employment.

Mr F McCann:

I think that it is a worthwhile job. It is worthwhile training.

Ms Sisk:

I do not disagree at all.

Mr F McCann:

It is something that has always been excluded by the Department.

Ms Sisk:

That is not to say that it could not be recognised as a sort of preparation for work. It is possible that it could be recognised as work-related activity, but it is not paid employment. That is the difficulty. There is no getting around that.

Mr F McCann:

Most community work is voluntary, anyway.

Ms Sisk:

Yes.

The Chairperson:

We will move to clause 11.

Ms McCleary:

People can qualify for up to six months of contribution-based JSA or a lifetime of contributory ESA after working for only a short period. Clauses 11 and 12 mean that people can qualify for those non-means-tested benefits by working for as little as 12 weeks at the national minimum wage, or three weeks for higher-rate taxpayers, in one of the past two tax years in order to claim JSA, or in of the past three tax years to obtain ESA.

For claims made after 2010, new claimants will need to have worked and made National Insurance contributions for a minimum of 26 weeks to qualify for contributory ESA or contribution-based JSA. Those contributions will need to have been made in one of the past two tax years before the claim. The second condition largely aligns ESA allowance rules with those

for JSA.

Mr Brady:

Will those particular contribution conditions reduce the number of people eligible for JSA?

Ms Sisk:

I think that it is bound to reduce —

Ms McCleary:

It probably will.

Mr Brady:

It is inevitable.

Ms Sisk:

Tightening of the contributions inevitably will reduce that number.

Mr Brady:

If you are aiming at the long-term unemployed and asking them to have made contributions within the past two years, it negates the argument.

Ms Sisk:

There will definitely be a reduction in the number of claimants. It is difficult to say how many. I can give you a rough idea about ESA. GB has estimated that the caseload will be reduced by 20,000 over four years. There will be a relatively small reduction in Northern Ireland, because we usually take about a fortieth of their numbers. We are talking about hundreds. However, there will definitely be a reduction if the same circumstances apply in Northern Ireland.

The Chairperson:

We will move to clause 12.

Ms Sisk:

That is the same.

Ms McCleary:

That included clause 12.

The Chairperson:

Sorry. I think that everyone is content with clause 13, which refers to visual impairment. We will go to clause 14.

Ms McCleary:

Clause 14 is about maternity allowance and carer's allowance, and the abolition of adult dependency increases. This clause will abolish the payment of an adult dependency increase with maternity allowance and carer's allowance for new claims from 2010. An increase for adult dependants is considered outdated, and this is part of the process of simplifying and updating the benefits system to reflect modern society.

Adult dependency increases are not a feature of the new ESA, have never been a feature of JSA and are being phased out from state pension by the Pensions Act (Northern Ireland) 2008. Adult dependency increases in payment with carer's allowance at the time of the change will be phased out between 2011 and 2020, in line with the arrangements for state pension. Phasing out will not apply to maternity allowance, as it is a short-term benefit that is paid for only 39 weeks.

The Chairperson:

Does the delay in the introduction of the Bill here advantage the people of Northern Ireland?

Ms McCleary:

Yes.

Ms Sisk:

It will carry on for longer here, yes.

Mr Brady:

With the publication of the White Paper, the whole issue around carers may change if a new regime is put in place for them. That may well be redundant before it really takes effect. The issue of carers is one that needs to be looked at.

Ms McCleary:

It is a huge issue.

Mr Brady:

Carer's allowance, for instance, is a stand-alone benefit. It seems reasonable.

Ms McCleary:

Yes. We will have to see what happens. I do not think that any of us really knows where that is going.

Mr Brady:

Will many people here who are adult dependents on carer's allowance be affected?

Ms Sisk:

No. The number involved is relatively small; in fact, very small.

Mr Brady:

I have not come across too many. It affects benefit anyhow, so they claim assistance.

Ms Sisk:

Yes.

Ms McCleary:

That is right.

Ms Sisk:

The majority of people who are dependents are entitled to claim other benefits anyway, so it will not have a huge impact.

Mr Brady:

Will they still get their carer's premium?

Ms Sisk:

The individual carer will still get all of that, yes.

The Chairperson:

Clauses 15 to 17 relate to community care grants. We will take those all together.

Ms Sisk:

OK. I think that it is over to me now.

The Chairperson:

Is it the halfway point?

Ms Sisk:

More or less, yes.

Clause 15 amends the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to enable the Department to require that where the goods or services are covered by arrangements that the Department has made with the supplier, the award made must relate to specified goods or services and the payment will be made to the supplier. It is expected that those arrangements will involve the supply of white goods and furniture at a discounted rate. Basically, what it is saying is that instead of people who apply for community care grants getting money, they will have white goods or furniture provided by arrangements between the Department and the contractor.

Clause 16 precludes reviews of such arrangements. At the minute, reviews tend to be applied for by people who have asked for £200 for a fridge or a bed and only got £100. In future, they will be provided with the item, so there should not be the same requirement for a review. Clause 17 is about the Assembly's control over regulations around the disclosure of information. It provides for penalties for the disclosure of information.

To a certain extent, clause 18 is also about the social fund. At the minute, where there is a delay in paying benefit — when the claim cannot be paid immediately or an award has been made but cannot be paid immediately — a claimant can get a payment from the social fund to tide them over. Under the new arrangements, they will actually get a payment of the benefit that they are entitled to, and that will be recouped once they get their full benefit payment.

Mr Brady:

That method of providing goods was tried in the old single payments system, which led to two things happening. It created almost a monopoly in which certain dealers made a living out of providing those goods, particularly via local offices in which they had contacts. It also stigmatised social security claimants. There is no doubt about that, because there were shops with notices up saying that social security claimants were welcome. When they provided the same service to other people, they did not put a sign up in the window. That needs to be addressed. The other thing is that it can also lead to suppliers raising prices or distributing goods that are not quite up to standard. There needs to be some sort of a check. This type of scheme has been tried before, and I do not see the point of reintroducing it.

Ms Sisk:

We are told that the purpose is to try to maximise the amount of benefit obtained from the community care budget. It is reckoned that entering into contracts with suppliers will lead to goods at a cheaper rate than a person approaching them individually would get. There will, as you suggest, have to be quality control elements to make sure that the goods supplied are of an acceptable quality. We are still trying to find out from DWP exactly how that will operate. DWP is still talking about the specific arrangements, so I am afraid that I really cannot say much more than that at this stage. I do not really know a lot more.

All that we are looking for in the Bill is the power to go down that road should we choose to do so. We may well have to think about the scheme if, when it operates, it looks as if it will not be beneficial. We are trying to get maximum benefit from the amount of money in the community care grant so that we cover as many people as possible.

Mr Brady:

I understand that.

Ms McCleary:

It is also about removing bureaucracy.

Mr Brady:

What happens at the moment is that if you apply under the social fund for, say, a fridge, there is a set rate locally. Are you saying that the Department may well change that? I cannot see it doing

that, because it normally goes to three or four suppliers and works out an average price for the area.

Ms Sisk:

Clearly, it will not be doing that, because it will have entered into a contract with one supplier, who will be asked to supply the item of furniture or white goods. Therefore, they will not be trawling around. As Anne McCleary said, that reduces bureaucracy.

Mr Brady:

It does, but are you saying that one supplier in an area will be the sole supplier?

Ms Sisk:

I understand that the plan is for the Department to enter into a contract with one supplier.

Mr Brady:

But surely that creates a monopoly situation.

Ms Sisk:

Well —

Mr Brady:

It did before.

Ms Sisk:

It probably will in terms of supplying the Department. Presumably, it will suggest that it will get good value for money and a better deal from that contract.

Mr Brady:

Allegedly.

Ms McCleary:

One of the other benefits is that the person who applies for whatever it is — if they need, say, a washing machine with a particular function for their circumstances — can actually request that. If that is approved, it is easier to get that item, rather than the person having to come back and say

that £150 for a washing machine does not cut it for them because they need a special one —

Mr Brady:

I absolutely understand that. However, it creates a situation whereby that person simply does not have freedom of choice. If there is one dealer in the area and they are, let us be honest, selling crap, you will have to go with that.

Ms McCleary:

If there are problems with —

Mr Brady:

There is no point in saying otherwise.

Ms McCleary:

If there are problems with that —

Mr Brady:

That is what happened in the past, and it will happen again.

Ms McCleary:

If there are problems like that, they will have to be raised with whoever is negotiating the contract, and dealt with.

Mr Brady:

I would love to talk to some of these people who are negotiating the contracts. I do not want to go on about it, but this is an absolutely bad idea, and I will certainly find it very difficult to support that. I am just flagging that up now.

Mr F McCann:

I fully support what Mickey has said. All the terminology that you are using to support this approach was used to support it years ago. That scheme was removed years ago because there was gross abuse of it by people selling fridges, cookers, washing machines or whatever. That needs to be considered. I cannot support anything like that, because I have seen the difficulties that people who come into our advice centres have had. The cheques were made out to certain

suppliers, and because they were out of the item, they refused to provide a more expensive item or something similar. The people ended up keeping the old item.

Ms Sisk:

Before we come back to do the clause-by-clause scrutiny of the Bill, I will see whether we can find out more from DWP about the contract control mechanisms that they are suggesting we put in place.

Mr Brady:

When you were doing this years ago, a dealer in Newry brought in Spanish cookers and nobody could find the grill.

Ms Sisk:

Oh aye, they would not work.

Mr Brady:

They were supposed to have a grill, but nobody ever found it.

Ms Sisk:

Oh dear.

Mr Brady:

I think that there is one in Newry museum as an example of how not to —

Mr F McCann:

It is in Mickey's house now.

Mr Brady:

I never got one of those. Seriously, though, that is the kind of thing that opens up. I know that it is funny and all, but that is what happens.

Ms Sisk:

I understand. We will get in touch with DWP and see whether it has any more —

Mr Brady:

Spanish cookers left.

Ms Sisk:

Any more information about the contract controls.

As you said, Mr Brady, much of it will depend on how well the contract negotiators conduct the negotiations and impose the conditions based of the contracts. However, the SSA is much better at contract negotiations now than it was in the past, as many contracts are being —

Mr Brady:

I am thinking about their white-goods skills and what training they will have had.

Ms McCleary:

It may not be people in the agency who conduct those negotiations.

Mr Brady:

More privatisation?

Ms McCleary:

No. Central Procurement Directorate (CPD) now carries out all contract negotiations for the Civil Service. It is expert in that field and could undertake the negotiations for the scheme.

The Chairperson:

I do not disagree with the principle behind this, and if the Department is trying to drive efficiencies and save money, that is fine. However, although bureaucracy could be reduced, a new layer could also be created in the process, because, as Committee members have outlined, someone will have to check that the new system is operating correctly and that there are no cowboy operations. Furthermore, if the Department is to be successful in achieving maximum efficiencies, it may be better to have one contract for the whole of Northern Ireland. However, that also has its own potential problems, with the successful supplier perhaps not having a branch on an individual's high street.

Ms Sisk:

If there were problems of that nature, it might be possible to give people the money.

I will find out whether DWP has any more information on how it intends to operate the scheme, how many contractors will be used and what controls it envisages being written into the contracts.

The Chairperson:

We must appreciate that we are talking about community care grants. I understand the point made about freedom of choice, and the scheme does look a little Soviet. It is almost as though people can have any colour that they want, as long as it is black — although, of course, it was not a Soviet but an arch-capitalist who used that phrase.

Ms Ní Chuílin:

I was going to say that. That was Ford.

The Chairperson:

However, the scheme does have that ring to it. Community care grants are not entirely about the freedom of choice that a normal consumer will have, but there is still a consumer element involved.

Ms Sisk:

That is correct. It is about getting the best value for money from the scheme and getting the person what they want. If an individual wants a fridge or a cooker, he or she should be able to get one of a reasonable quality and standard, but at the best possible price.

The Chairperson:

And not Spanish necessarily?

Ms Sisk:

Unless there is a grill on it.

Mr F McCann:

Someone said that the Model T Ford also started life as a washing machine.

Mr Brady:

Or as a Spanish cooker. *[Laughter.]*

The Chairperson:

Clause 18 deals with payments on accounts and has already been covered. There is nothing too controversial in that clause.

Clauses 19, 20 and 27 are all similar and deal with sanctions. Can we take those clauses together?

Ms Sisk:

Yes. Clause 19 deals with fraud sanctions. Currently, when someone is convicted of benefit fraud on two occasions, and the second offence is committed within five years of the date of conviction for the first, there is a loss of benefit provision, commonly referred to as the two-strike rule.

Clause 19 introduces a new benefit sanction to apply after the first conviction, or after an administrative penalty or caution, which will be known as the one-strike rule. The combined effect will be for the benefit to be reduced, or withdrawn for a disqualifying period when a person convicted of one or more benefit offences accepts an administrative penalty as an alternative to prosecution or agrees to be given a caution. The disqualifying period will be four weeks, beginning at a prescribed time after conviction, or on the agreement of an administrative penalty or caution.

Clause 20 deals with the sanction for violent conduct. Where someone has been found guilty of violent conduct towards staff in a social security office, staff in a jobs and benefits office or the staff of a contractor, a sanction of one week will be applied to a jobseeker's allowance claimant who has been successfully convicted or cautioned for violent or threatening behaviour.

Clause 27 deals with the sanction for attendance in connection for jobseeker's allowance. It will allow for regulations to be made providing for entitlement to jobseeker's allowance to cease for between one and five days if the claimant fails to attend a mandatory interview, and subsequently makes contact with the social security office or the jobs and benefits office within a

prescribed period of the date of the interview without showing good cause for the failure to attend. The prescribed period in this instance will be five working days.

Mr Brady:

Obviously, the whole area of fraud is a judicial matter, and cases must go through the courts. Therefore, it will be a double whammy, with someone possibly receiving a suspended sentence, being jailed or fined and then being sanctioned. Fraud is a matter for the courts to decide on, but even though the courts make a judicial decision to punish a person, that person will be punished again. That seems unfair, particularly if children are involved.

Ms Ní Chuilín:

That does not happen in the tax system.

Ms Sisk:

It already happens in the benefits system, but only after the second benefit offence. Clause 19 applies the new benefit sanction after the first offence. A person does not necessarily have to be convicted in a court; he or she can accept an administrative penalty. The idea is to deter people from committing fraud in the first place. The provision will be used only in certain circumstances. The rationale is to deter people from considering committing fraud at the outset.

Mr Brady:

In my experience, there will always be people who will commit fraud. However, the proportion of people in the North who commit fraud is relatively small. The level of fraud is currently 0.01% among benefit claimants. I was looking at the Department for Social Development website yesterday, and all that I read about concerned people being convicted of fraud.

The claim that everyone is committing fraud is an urban myth. In my opinion and experience, the number of people who commit fraud is relatively small. They are easy targets. There are other areas in which the same sanctions do not apply. It seems that people on benefit, who to a large extent are vulnerable anyway, are being targeted.

I used to conduct appeals for people who had been overpaid by £200, but had had allegations of fraud made against them. It costs £1,500 or £1,600 to put in an appeal. Is that good use of public money? I do not think that it is.

Ms Sisk:

You are right to say that the amount of fraud in Northern Ireland is not great. However, the rationale behind the provision is to reduce the level of fraud even more and protect the social security system. If people do not commit fraud, they will not be sanctioned. It is as simple as that.

Mr Brady:

The statistics from two years ago show that £61 million was lost, £32 million of which was lost in error, more than was lost because of fraud. We do not see that on the DSD website.

Ms Sisk:

I absolutely agree that the Social Security Agency needs to and wants to improve its performance. I am sure that if representatives from the agency were before the Committee, they would tell you that they are doing their best to make those improvements.

Mr Brady:

That is not necessarily a criticism. Staff are under pressure and have targets to meet. I am just saying that if we are to have equality in that sense, both sides of the equation must be considered.

Ms Sisk:

I would not disagree with that. I am sure that the Social Security Agency is striving to improve its performance all the time. The bottom line is that if people do not commit fraud, they will not be sanctioned. It is as simple as that.

Ms Ní Chuilín:

It just seems a bit punitive that if someone commits fraud and an offence is proven in court, not only does that person receive a penalty from the court but he or she is penalised through the benefits system. That does not happen in the tax system. I know that that is not your responsibility, but it seems a bit strange.

Ms Sisk:

I do not know why the tax system does not operate in the same way. It is a deterrent; that is the idea.

Ms Ní Chuilín:

I appreciate that.

Ms Sisk:

One hopes that sanctions would not have to be used.

The Chairperson:

I have a couple of questions, the first of which is about clause 27, which deals with non-attendance at mandatory interviews. What account is taken of certain illnesses or what are euphemistically called “chaotic lifestyles”?

Ms Sisk:

All sorts of safeguards are built in to take account of good cause, particularly safeguards for people with disabilities. Mr McCann asked what happens in the case of someone who fails to turn up once. It is highly unlikely that someone who forgets to turn up for an appointment on one occasion will be sanctioned in that way. The provision is not as draconian as that. It is there to ensure that people satisfy the conditions that are required in order to receive jobseeker’s allowance. It is as simple as that.

The Chairperson:

Perhaps we should have some sanctions for non-attendance at Committee meetings.

Mr F McCann:

That is wishful thinking on your part.

I have dealt with a number of cases involving young people who have been sanctioned. My big concern is that they are already paid below the poverty line. Whether they are living with parents or on their own, for one, two, six or 26 weeks, they have to go without money. All sorts of possibilities open up if people are hungry or have no money to survive. The only other option that they may have is to turn to crime. You may be forcing people down that road, simply because they might have forgotten to turn up at a meeting. We all forget to turn up at meetings sometimes.

Ms Sisk:

I expect the decision-makers to take into account all an individual's circumstances before they take the step of sanctioning someone's benefit. They have the discretion to do that.

Mr F McCann:

In some of the cases that I have dealt with, I have argued and debated that point, but not everything was taken into consideration.

Ms Sisk:

I am not in a position to comment on individual cases. However, the decision-makers are expected to take account of an individual's circumstances.

The Chairperson:

Clause 19 deals with fraud, while clause 20 concerns violent conduct. Mickey made the point that fraud is dealt with through the judicial process. Violence is reasonably easy to identify.

Ms Sisk:

That would also be a matter for the courts. The person must be convicted.

The Chairperson:

Threatening behaviour is more of a grey area. Who would determine what constitutes threatening behaviour?

Ms Sisk:

The courts would determine that as well. The law will require a person to be convicted by a court of an offence involving violent behaviour in the first place. Staff in the Social Security Agency or DEL would not make that decision; it would be made by the courts.

Ms Ní Chuilín:

I want to return to a point that I raised about clause 19 and fraud. If a person is convicted of fraud and loses his or her benefits, what happens if he or she is claiming for dependants?

Ms Sisk:

There is a hardship provision.

Ms Ní Chuilín:

Is that definitely built into the legislation?

Ms Sisk:

Yes.

Ms Ní Chuilín:

The partner of the person will not be penalised for that person's behaviour?

Ms Sisk:

No.

Ms Ní Chuilín:

Definitely not?

Ms McCleary:

I would expect that, in such circumstances, the lawyer representing the person would make the point to the judge that the claimant would lose benefit as a result of the decision. Therefore, the judge or magistrate could take account of that circumstance.

Ms Ní Chuilín:

That complicates matters, because I thought that, if there were a judicial ruling, someone would be punished for committing fraud.

Ms McCleary:

They are two separate things. I am saying only that it might be one of the circumstances —

Ms Ní Chuilín:

It might be considered a mitigating circumstance?

Ms McCleary:

Yes.

Ms Ní Chuilín:

Will you make your decision regardless of that?

Ms McCleary:

No. It is up to the court to convict the person of fraud before we can apply sanctions. The only other situation would be one in which the case does not go to court and the person accepts that he or she has committed fraud. The court would not be involved in that case, and the sanction would be applied. There is protection on the basis of hardship to the family of the individual. The individual's benefit is sanctioned, not that of the family.

Ms Ní Chuilín:

OK. I just wanted to clear that up.

The Chairperson:

Clauses 21 and 22 are not controversial. Clauses 23 to 25 are about exemptions. Perhaps we can consider those two clauses together?

Ms Sisk:

Clause 23 is the one that I mentioned earlier. There is a new exemption from jobseeking conditions for people who have been subjected to domestic violence. They will have an extra 13 weeks before they must make themselves available for work. Clause 24 is about good cause for omissions or failure to comply with certain regulations, and it expressly states that the availability of childcare and the claimant's physical or mental health or condition will always be considered as just cause.

Clause 25 states that the well-being of the child must also be taken into account when drawing up agreements or action plans. Those are extra safeguards that were put into the Bill in GB when it passed through the House of Lords at Westminster, and they are replicated in the Northern Ireland Welfare Reform Bill. They all will be beneficial to claimants.

Mr Brady:

There are two types of domestic violence. Obviously, there is physical violence, but, having talked to Women's Aid and other people with whom I have worked over the years, I know that a great deal of domestic violence is psychological. Who will decide whether the provision

applies?

Ms Sisk:

To be honest, I do not know. We have not been asked that question before. I will come back to you on that.

Mr Brady:

It needs to be addressed, because it is a big issue.

Ms Sisk:

Yes, I will check up on it.

Mr Brady:

If someone were to present with two black eyes, the domestic violence would be obvious. Much domestic violence is not obvious, but it is still domestic violence.

Ms Sisk:

I am wondering whether a person's word would be accepted or whether evidence from a third party would be required.

Mr Brady:

Much of that kind of domestic violence, people keep to themselves, and therein lies a problem that will have to be addressed.

Ms Sisk:

The person would have to be prepared to admit that domestic violence took place before allowance could be given. I will check that for you and come back to you either at Thursday's meeting or the next time that we attend the Committee.

Ms Ní Chuilín:

Is there a difference between "good cause" and "just cause"? Do those terms mean the same thing?

Mr C McLaughlin:

“Just cause” relates to the taking-up of employment or leaving employment, and “good cause” relates to such issues as failure to attend to sign on.

Ms Sisk:

The conditions are the same under each of those terms.

Ms Lo:

Can you give some examples of good cause?

Ms Sisk:

The unavailability of childcare is a good cause.

Mr C McLaughlin:

Mental health conditions is another one.

Ms McCleary:

That would cover someone with psychological issues. There is a list of what are considered to be good causes.

Mr C McLaughlin:

A few conditions are also prescribed in the legislation.

Ms Ní Chuilín:

Can we have a copy of the list, please?

Ms Sisk:

Yes, we will provide that.

Clause 26 deals with contracting out functions under the Jobseekers (Northern Ireland) Order 1995. The clause will be a matter for DEL rather than DSD. It will enable the contracting out of certain functions of the Department for Employment and Learning under the Jobseekers (Northern Ireland) Order 1995. It includes measures such as the drawing-up of action plans. It will not cover decision-making services, which the Department for the Social Development runs.

DSD has no intention of contracting out any of its functions. I would not like to hazard a guess as to whether DEL has any such plans, but I do not think that that is likely.

Mr Brady:

It is privatisation, and it begs the question —

Ms Sisk:

The functions could also be contracted out to voluntary organisations; they will not necessarily be contracted out to private companies.

Mr Brady:

The issue goes back to the question of which organisation deals with it. You mentioned action plans, and, obviously, some experience of working on those will be needed. To me, the contracting-out of those functions will mean job losses in the Department.

Ms Sisk:

If the Department for Employment and Learning were to decide to go down that road, it would have to make decisions on all such matters. The clause is more a matter for DEL than it is for DSD. DSD will not contract out its functions, which include benefit-related work and decision-making.

Mr Brady:

It includes the contracting-out of medical support services.

Ms Sisk:

Those are not decision-making services; they are advice-giving services.

Mr Brady:

They impact greatly on decision-making.

Ms Sisk:

That does not form part of the clause.

Ms Lo:

The legislation comes from DSD, so how does that clause cross over to DEL?

Ms Sisk:

The Bill covers mainly DSD functions, but that clause was also contained in the Welfare Reform Bill in GB, and the Department for Employment and Learning asked us to leave it in and carry the clause for it. It is for DEL to decide whether it ever intends to implement it. I understand that DEL wants it included just in case it needs it but that it does not currently have any intention to implement it. For a more definite answer on DEL's plan, if any, the Committee would need to take the matter up with that Department.

Ms Lo:

Obviously, you have continued discussions with DEL on that.

Ms Sisk:

A similar section exists in the Welfare Reform Act (Northern Ireland) 2007, which you will remember. That provision has not been exercised.

The Chairperson:

Clause 27 has been covered. Clauses 28 to 37 are straightforward and technical. Are members content to leave discussion on those and pursue any issues that may arise in writing with the Department?

Ms Ní Chuilín:

Some of those clauses will require amendments.

Ms Sisk:

We will be returning to the Committee to go through those clauses again anyway. There will be an opportunity to propose amendments then.

The Chairperson:

There are some issues with clause 29, so we will go through it. We will deal with the other clauses in writing or at a later stage.

Ms Sisk:

Clause 29 will allow for people over the age of 60 to have work-focused interviews. It has been included in the Bill following the raising of the state pension age from 60 to 65 for women and to allow for people in those circumstances to have work-focused interviews. The clause reflects the equalisation of the state pension age.

Mr Brady:

Will that be a mandatory requirement?

Ms Sisk:

Yes. People in that age group who are claiming benefits will be required to take part in a work-focused interview. If they are training —

Mr Brady:

A few years ago, people over the age of 50 did not even have to sign on.

Ms Sisk:

I know. However, taking part in a work-focused interview is as far as it goes at this stage.

The Chairperson:

Is there anything in the schedules that is not in the Bill?

Ms Sisk:

The four schedules to the Bill support the clauses that we have already gone through. There is nothing new or different in them.

The Chairperson:

Do members have any outstanding questions to ask? No?

That was a bit of a marathon session in the end, and I thank you for your time and patience.

Ms Sisk:

Do you want us to stay and deal with any issues that may arise from the evidence session with Gingerbread NI?

The Chairperson:

That would be great. We will take a short break now.

Kevin Higgins, the head of policy and research at Advice NI, joins us. Members have a copy of Advice NI's submission and all other relevant papers. The session is being recorded by Hansard, and I remind you all to switch off mobile phones.

I invite you to make your presentation. Given the commonality of responses to the Bill, the Clerk suggested that Kevin and Advice NI focus their oral evidence on "work for your benefit" schemes, community care grants and contracting-out issues.

Mr Kevin Higgins (Advice NI):

Thank you for inviting me to make a presentation. I will begin with some introductory points and then move on to the three areas of focus. First, in terms of parity with GB, Advice NI has noted that the necessary welfare reform legislation is out of step with that in GB, although possibly temporarily. However, we note that the social security system has not completely broken down and is still functioning normally. Therefore, in respect of timing, if not in respect of substance, events have shown that parity can be broken and that we can do things differently. In that context, Advice NI suggests that this piece of legislation be examined and amended to cater for circumstances that are unique to Northern Ireland, and the opportunity should be taken to adapt how things are done, rather than seek to break parity in respect of benefit types, benefit levels and the conditions attached to benefits.

Secondly, we believe that the primary purpose behind the Bill is to assist people on the journey from benefits to work. Many benefit recipients who will be affected by the proposals contained in the Bill can be categorised as those who are the hardest to help. They often represent the most vulnerable in society in terms of physical or mental ill health, education status, employment readiness, language barriers, and so on. As long as the reform agenda is interested only in removing people as a benefit statistic, applying benefit sanctions and being punitive, and so on, and not meaningfully trying to help people make a transition into employment, the hardest to help, who will be impacted by the proposals, will see themselves as being subjected to the proposals, rather than being eager participants.

In previous welfare reform consultations, Advice NI has argued that forced integration into the labour market will not work without associated significant increases in areas such as childcare. I know that that has been explored in detail already today by the Committee, but we believe that sufficient resources will have to be made available if welfare reform is to have any meaningful impact here.

There should be a firm focus on helping those who move from welfare to work to get and retain jobs over the longer term, so that there is not simply a revolving door in and out of schemes and back and forth onto benefits. There should also be a firm focus on supporting the hardest-to-help benefit recipients, who could well be left behind by welfare reform in a possible haste to meet targets as the labour market is swelled by new people, such as school leavers, university leavers and those who have recently been made redundant, who may well be seen to be more job ready. I will say more about the target regime in a minute. The people who need and could use the most support could well be left behind, although those are the people whom we should be focusing on.

With regard to targets, Advice NI is involved in systems thinking, which is an approach that fundamentally challenges the traditional view of the world in terms of top-down command-and-control management, measures related to budgets, productivity of staff and all of that traditional management routine. Systems thinking is about requiring senior managers to be willing to contemplate the possibility of changing the way that they think about management and about designing services that are specifically around the needs of the service user, rather than some top-down model of what they think should be the case. The systems thinking approach has been shown to result in improved customer service, because it is focused on the needs of the customer or the client. It leads to lower costs in administration and efficiency, and it has improved staff morale, because staff are able to deliver and do more meaningful work for the clients who are coming through the door. Advice NI believes that there is merit in rolling out that type of approach in the delivery mechanisms of welfare reform, as it will guarantee that service users will be at the heart of what is being done.

We agree with the Committee Clerk's help and guidance; we should focus on certain areas. I will move to the "work for your benefit" aspect of the Bill. Our concerns can be categorised under potential economic impact, and we explored that earlier today. There is also a concern around timing, and there is a potential for it to be a bureaucratic nightmare to administer. It has

the potential to be counterproductive and may not help people become any more job-ready.

There is a sense that claimants on these schemes might provide services on the cheap. For example, employers and service providers may source labour under a scheme with a view to exploiting the opportunity to reduce their overheads and staff costs and, importantly, boosting their profit margins.

Advice NI notes from the Programme for Government that growing the economy is the top priority. We, therefore, argue that there needs to be a careful analysis of the possible negative and detrimental impact of “work for your benefit” schemes on economic growth in Northern Ireland, particularly at this stage.

That leads me on to the issue of timing. A number of members today have said that there are few, if any, job placement opportunities in the current economic climate. The claimant count now stands at 55,900; I think that it increased by 300 over the past month. The expectation seems to be that growth will be static, and some commentators have said that we could fall back into recession. In a climate where employers are facing complete shutdown, it is difficult to see where opportunities for placements will arise. Perhaps I should have said “meaningful placements”, because it is important to make that distinction. We want something that is credible and meaningful for the participants in these schemes.

Advice NI is worried that participants will simply be channelled through a revolving door. We are concerned that claimants will, effectively, not be able to look for work while on these schemes, thereby making the schemes counterproductive because they deflect claimants from job-seeking and job-related activity. That is an area that should be addressed.

An industry could potentially develop around the administration of “work for your benefit” schemes. Advice NI notes the impact of “work for your benefit” schemes in the US, where it has been a real challenge to achieve high rates of participation in those programmes among claimants, because a significant percentage of welfare recipients are unable to participate at any given time. We are concerned that an industry may develop around the administration of such schemes, with the focus being shifted from where it should be, namely helping the people who should be helped.

We see in paragraphs (5), (6) and (7) of proposed new article 19A, and article 19B, the

potential around sanctions and good cause and the need for people who are responsible for making decisions, people who manage those who are making the decisions and people who quality check that work. Very shortly, an industry will develop around that.

We believe that legislative provision is clearly being made in that part of the Bill in terms of a lack of claimant participation. We wish to see similar legislative provision focusing on the schemes themselves, ensuring that they deliver for participants by helping them on that journey from benefits to work. There is a very obvious gap in the Bill. The focus is on enforcing punitive sanctions if people do not engage. However, the question is what people are being asked to engage in and whether those schemes are the most effective way of helping and supporting people to move from benefits to work. We are mainly concerned that those people will not become more work-ready unless the schemes provide an element of real, effective training and support, particularly in addressing barriers such as mental health, physical health, literacy and numeracy, and help them on that journey. Again, there is scope to tighten that up.

We suggest additional wording that aims to create a greater balance and actually refocuses attention on the participants and the schemes. We want those schemes to be as effective as possible, not futile paper-pushing bureaucratic exercises that do little good for the participants' morale or that of the staff. Of course, resources will be required, and disproportionately more resources will be needed to help those people who face the additional barriers and the longest journey.

We proposed two amendments to clause 1. First:

“Each and every scheme will have a cost-benefit analysis — highlighting administration costs — aimed at ensuring that resources are targeted on individual claimants.”

That is to get a sense of the potential development of resources being deflected from the industry, and what will be of benefit to the person. Also, the schemes should:

“clearly specify the support, training and education opportunities available to help people on the scheme become more job ready”.

That is aimed at tightening up the arrangements, focusing on the schemes and trying to make them as effective as possible.

That is all that I wanted to say about the “work for your benefit” schemes. I could continue, or we could pause there.

The Chairperson:

It may be useful to pause.

Mr Brady:

It appears that neither you nor Advice NI is particularly happy with the Bill. It seems to me that welfare reform should reform a scheme that is not doing what it should be doing. I do not want to put you on the spot, but do you think that there is anything in the Bill that suggests that it is innovative and that it will be beneficial to the clients that it is designed to help? It seems to me that large parts of the Bill are not designed to do so. It seems to be more concerned with saving money and resources than helping the people at the bottom.

You talked about management taking an innovative approach; that is absolutely necessary. The other thing, it seems to me, is that in terms of the outcomes and how they might be managed, there are not ultimately going to be people who will benefit in great numbers, which is what the scheme is presumably designed to do.

There is another, more general point about parity. What you are really saying, and what the Committee has been saying, for instance, about disability living allowance is that although we may not be able to change the regulations, we can ask for the administration to be tailored to suit the needs of people here and not to be comparable to areas of Britain that we are not comparable to. Maybe I do want to put you on the spot.

Mr Higgins:

We want to see a balance between the punitive and the sanctioning in the Bill, and we want to get a sense that there is some real help and support for people. I do not think that we are getting a real sense of that from the Bill. Parts of the Bill — the proposed new articles 19A(5), 19A(6), 19A(7) and so on — go into a bit of detail about how sanctions and good cause will be administered. That is all on the negative side — what if you do not turn up, and all of that. There is no detail on the schemes themselves. What can a participant expect to get out of them?

Advice NI tries to speak up for those who are more vulnerable and do not have a voice. I do not think that the balance is there. In order to get that balance we want a sense right through the implementation of it. Evidence was given earlier that we are passing something through now and we have to wait for more detail on the flesh of it, but I would also like to get a sense of the

management ethos. Are we going to do something differently here? We are in a whole new world of efficiencies and so on.

We have a model of the systems thinking approach, which puts the person at the heart. Services must be built around the individual rather than have some top-down, command-and-control model that some consultant thinks is the right way to do it. There is an opportunity for those in the highest positions to step up to the plate here.

You asked about outcomes. It is important for anyone who is going to be channelled into these schemes — how are the outcomes going to be measured so that it can lead to something meaningful?

Mr Brady:

You mentioned lone parents in rural areas particularly. Although childcare provision is a huge issue, a lot of lone parents in rural areas are isolated because of the lack of public transport or of transport in general. That is another issue that has not been addressed in childcare provision. My point is that, even if childcare provision is available, the parent has to balance the cost of that against taking a job that pays minimum wage and how much that is going to cost. Then there is transport — all of those things have to be factored in. Is that good or just cause for not going in to the scheme?

Mr Higgins:

I got a sense from the discussion earlier that some of these things might be issues for DEL. However, they will ultimately land at the desk of a decision-maker in the Social Security Agency. Therefore, there is a join, so there will be issues around consistency. A personal adviser or someone on the front line in DEL could make one decision and somebody else in Newry could make a different decision, which could feed back to the decision-maker in the Social Security Agency and lead to inconsistencies.

Ms Lo:

I agree with you. A lot of us have concerns about whether this is part of a political agenda with Labour wanting to be seen to be doing something about getting people out of unemployment and into the job market. We may be creating more jobs for civil servants to administer the new system rather than helping those who need help to get jobs.

I agree that we need to be more person-centred and help people in a meaningful way through training, support and mentoring, rather than imposing sanctions and pushing people into jobs that are not meaningful. If they come in and out of whatever the system is without gaining anything, in many ways they are further stigmatised and disheartened rather than helped.

The Chairperson:

Do you want to move on to community care grants?

Mr Higgins:

I will talk about contracting out first if that is OK.

The Chairperson:

That is fine.

Mr Higgins:

It is all interwoven, of course; some of my points about contracting out relate to what we have been talking about.

We can see scope for contracting out third-party provision; it is embedded throughout the legislation, particularly in pages 3, 7, 32 and 33. Advice NI is concerned that, depending on the resource allocations attached to any contract, contractual requirements might incentivise providers to focus on targets, which would be detrimental to the well-being of clients. An immediate implication of that would be that the easiest to help would be the first to be helped, because that would look good on monitoring reports and they would require less support and, by extension, fewer resources.

Traditional contractual arrangements and traditional command-and-control performance measuring could warp and distort activity and direct it away from those who need it most. Again, we advocate the introduction of a systems thinking approach to ensure that procurement and contracts mitigate that risk. For example, Advice NI advocates the involvement of service users and potential service providers at the design and commissioning stages of any contract, as well as at the delivery stage. That inclusive approach should enable a more robust and effective approach, utilising the expertise, skills and experience of all stakeholders. These are issues related to

resources and the potential cherry-picking of clients, helping the easiest to help rather than the hardest.

Advice NI is concerned about accountability. Social security benefit claimants are, in the main, used to working with Civil Service staff. Any withdrawal from direct provision, replaced by third-party involvement, might serve to blur and confuse claimants. That could leave claimants susceptible to unethical work practices, as the third-party providers might be more concerned with achieving their targets than providing a high-quality service for claimants. Claimants might feel unable to oppose or complain about any such approach by a third-party provider in case their benefit was jeopardised. We already have a sense that there are quite punitive measures and sanctions and so on, and there is an issue around all of that.

Although services may be contracted out, Departments must retain ultimate responsibility for the overall effectiveness of any service. There should be a strategy for robustly monitoring and evaluating the performance of providers, and that must include effective and independent mechanisms for garnering the views of service users.

Due to the vulnerable nature of the client group, contracts must place heavy reliance on the quality of the service to be provided, as opposed to the price. There must be sufficient resources within contractual arrangements to ensure that work can be carried out not only to a required minimum specification but to the highest standard possible. We believe that vulnerable clients should get no less.

Here we reach an additional part of the contracting debate. If a contract is subject to competitive tendering and the price is a factor in any decision on whether to engage a third-party provider, the price will automatically be driven down. Therefore, reduced resources will be available to the provider to provide the service, and there will be a reduction in the support available. The chance of the service being as effective as it could be is reduced.

I will pause at this stage and pose a question about how a Department can pass information to third-party providers. I speak with some knowledge on this, because Advice NI has been engaged in some Social Security Agency benefit-uptake work. With a view to trying to make that exercise more effective, we recommended that the agency share client details with the advice sector. We could then approach clients in a slightly less officious manner and perhaps increase

benefit uptake. However, the agency consistently told us that information cannot be passed to the advice sector because of data protection issues and so on. Therefore, an underlying issue concerns how that problem can be overcome in relation to contracting out in general terms in the Bill and passing information and client details on to third parties. That is worthy of greater exploration.

Moves towards third-party delivery must ensure equality of access, particularly in rural areas. I am reminded of the ongoing exercise on the outsourcing of medical support services. It is important, because client groups may not have the means to travel and compensate for providers' lack of geographical coverage across any particular geographical area. That is why we suggested the wording that we did in our written response:

“Before any function is ‘contracted out’ there should be an analysis of the resources required to perform that function”.

The intention behind that additional wording is to try to ensure that need does not become the victim of financial expediency, that services are not provided by third parties on the cheap and that they are not forced to provide services on the cheap.

“Contractors must conduct annual satisfaction surveys with a specified number of ‘service recipients’”.

Again, the intention is to ensure that the needs of service users are built into the heart of the process and flow back to the Departments involved.

“The relevant Government Departments must robustly monitor and evaluate the performance of providers, including garnering the views of service users”.

The intention here is to ensure that Departments take ultimate hands-on responsibility and do not wash their hands of the situation. They must not just pass everything across to third-party providers, and there is still a sense of ownership and responsibility there.

We have already heard that there is the potential for a lack of clarity in the minds of claimants because a third-party provider, DEL, the Social Security Agency and the Department are all involved. Somebody needs to grip hold of this and take responsibility.

The Chairperson:

We are under a bit of pressure to retain a quorum. Will you move on to community care grants?

Mr Higgins:

The first point in relation to community care grants is the timing of the Bill. Members will be aware that there is a consultation out at the moment called ‘Social Fund Reform: Debt, Credit and Low-Income Households’. Page 8 of that document consults on:

“contracting with major suppliers to provide a range of goods and services for people to access instead of cash grants.” At the very least, there is a sense of putting the cart before the horse because we are legislating to do something when, in another document, we are consulting on whether to do it. That is an issue for exploration.

Aside from that, the Government frequently says that financial inclusion is a high priority. Advice NI fails to see how the proposal to award goods and services in kind promotes financial inclusion and helps people to take control of their financial management. Depending on the process, on which there is no detail, this could well further marginalise, exclude and stigmatise claimants.

Restrictions on the resources that are available to third-party providers of goods and services could well drive down the quality of the services and goods that are provided — I am reminded of the Spanish cookers and so on — as providers strive to win a contract to provide those goods and services at the least cost. Procurement exercises drive down costs, but could potentially lead to the provision of poor quality goods and services. Of course, the provision of poor quality goods and services would feed back into the issue of stigma through obtaining the substandard good or service.

Earlier, points were made about how to reduce bureaucracy and so on, but scarce resources could well be deflected towards the development of contracts, how contracts are overseen, and the administration and monitoring of third-party provision. I cannot help thinking that staff will have to be appointed to manage all of that, and that other people will have to manage those people. There could be issues around all of that. We know what the budget for the social fund and community care grants is. We want to keep a very close eye on that to ensure that that budget is maintained at the very least, even if we go through the exercise of procurement for community care grants.

Mr Brady:

The social fund in Newry is administered through Armagh. That raises the whole issue about whether to contract with somebody in Armagh or someone in Newry. There are inherent problems, unless, as was mentioned, there is a Six County-wide contractor.

Mr Higgins:

Clients may not care where it is administered, but they will want it to be very much accessible to them, so that they can get it where and when they need it.

The Chairperson:

There is nothing else at this stage. Thank you very much for your evidence and your time with us today. It is much appreciated. There is quite a lot in your paper in addition to what you have highlighted, so I appreciate that. Those views, and those of other contributors, will be taken into account when we do our clause-by-clause scrutiny and look to propose amendments to the Bill. Thank you very much for your time.