



Northern Ireland
Assembly

**COMMITTEE FOR
SOCIAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

Welfare Reform Bill

18 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)
Mrs Mary Bradley
Mr Mickey Brady
Mr Thomas Burns
Mr Jonathan Craig
Mr Alex Easton
Mr David Hilditch
Ms Anna Lo
Mr Fra McCann

Witnesses:

Ms Shirelle Stewart)	National Autistic Society Northern Ireland
Ms Regina Cox)	
Ms Paschal McKeown)	Mencap
Mr Paul McGowan)	
Ms Teresa Hazzard)	
Ms Anne McCleary)	Department for Social Development
Mr Colm McLaughlin)	
Ms Margaret Sisk)	

The Chairperson (Mr Hamilton):

Joining us to give evidence are Shirelle Stewart and Regina Cox, who are joint directors of the National Autistic Society Northern Ireland. You are very welcome. Members have a cover note from the Clerk and a copy of the National Autistic Society's paper. All the other papers are in the

Bill folder. I again issue a reminder about mobile phones, and I remind you that proceedings are being reported by Hansard as part of the evidence for our Bill report.

Ms Regina Cox (National Autistic Society Northern Ireland):

I thank the Committee for inviting the National Autistic Society Northern Ireland to present evidence on the Welfare Reform Bill. Our presentation will focus on three aspects of the Bill: “work for your benefit”; work-related activity; and sanctions. First, I will highlight some information and facts about autism and employment, so that the Committee understands the background to our comments.

As the Committee knows, autism is a lifelong developmental disability that affects how a person communicates with and relates to other people. It is also a spectrum condition. That means that while all people with autism share certain difficulties, their condition will affect them in different ways. Asperger’s syndrome is a form of autism. People with Asperger’s syndrome are often of average or above-average intelligence. They have fewer problems with speech, but may have difficulties with understanding and processing language.

Since it is a spectrum condition, the types of jobs that people can do and the types of support that they may need in the workplace will be different, and a person-centred approach is needed when providing jobs and accompanying support.

There are approximately 11,000 working-age adults in Northern Ireland who have an autistic spectrum disorder. That figure comes from applying the one-in-100 prevalence rate to the working-age population from the 2008 census. We do not have exact figures for the number of adults with autism in Northern Ireland, because they are not counted.

As a spectrum condition, autism encompasses people with a wide variety of abilities, including people with learning disabilities and individuals with postgraduate degrees. Although there are certain roles in which many people with autism choose to work, such as IT and clerical jobs, people with autism are employed in a wide variety of jobs.

Autism is a hidden disability, and many people with autism, especially those with Asperger’s syndrome, can appear to be very able yet face real difficulties in getting to appointments on their own, coping with a change to routine or performing well in interviews. The National Autistic

Society runs Prospects, which is a specialised employment consultancy for people who have Asperger's syndrome. It has been operating since 1994 and has four branches, in London, Glasgow, Sheffield and Manchester. Prospects consultants provide work-preparation training, assistance with job finding and ongoing workplace support to adults with Asperger's syndrome. They ensure that jobs are appropriate to the individual's skills and experience.

Prospects can also provide training and consultancy services to managers and their teams. We have produced a number of publications outlining best practice with regard to employing adults with autism. This experience means that we understand the types of support and adjustments that adults with autism require in accessing the workplace and keeping employment.

Ms Shirelle Stewart (National Autistic Society Northern Ireland):

The National Autistic Society Northern Ireland understands that "work for your benefit" and the work-related activity of the Welfare Reform Bill will be introduced in Northern Ireland only after the pilot schemes have been concluded in England and a full evaluation completed. However, the Bill being introduced to the Assembly allows for the introduction of "work for your benefit" and the work-related activity. The National Autistic Society Northern Ireland has a number of concerns with regard to the impact that those programmes will have on adults with autism.

As the Committee will know from our previous presentation on Don't Write Me Off, only 15% of adults with autism across the UK are in full-time work, but 79% of those on incapacity benefit want to work. We are concerned that some of the schemes being introduced through the Welfare Reform Bill do not come with the support that adults with autism will need.

"Work for your benefit" will require people to complete full-time mandatory work placements after the two-year point on jobseeker's allowance (JSA). We are worried that "work for your benefit" will disproportionately impact on people with autism, as they will be more likely to have been employed for two years without having moved into work, due to inadequate support at earlier stages in the jobseeker's regime.

We are aware of a number of cases where individuals with autism have attended more than 30 to 40 interviews for jobs that are well below their academic ability but have been unsuccessful due to their social and communication difficulties and a lack of understanding on the part of employers. "Work for your benefit" could cause considerable stress and anxiety for people with

autism, many of whom find change difficult and need support as they enter a new role. They may require adjustments in the workplace, and it is essential that employers and employees understand the nature of their disability. A scheme such as “work for your benefit” may cause people with autism a high degree of anxiety if the right support is not in place.

In order to prevent people being referred to “work for your benefit” if the scheme would actually worsen their prospects of moving into work, the Bill should contain a requirement for full assessment of claimants reaching the end of two years on JSA. That could ascertain why the person has not moved into work and should involve the individual concerned and provide them with an opportunity to talk about their experiences of looking for work. Following an assessment, it could then be determined whether “work for your benefit” is appropriate.

One of the other problems is that there are a large number of adults with autism who have not yet been diagnosed but who may find themselves on JSA and, therefore, be party to one of these schemes.

The National Autistic Society Northern Ireland also recommends that records be kept of JSA claimants with a disability who are required to take part in “work for your benefit”. The records should include information on different impairment groups. No one should be required to undertake the scheme if it actually worsens their chances of moving into work due to the stress and anxiety it causes.

There was a case of a young girl called Jenny, who presented to one of the committees. She had been on a work scheme, and she was diagnosed with a learning disability. She went on to receive a further diagnosis of high-functioning autism, but when she was on her work placement she was locked in a fridge by her colleagues, who thought that it was humorous. As a result, Jenny has not been able to work; even the thought of going to work causes her extreme anxiety. She ended up spending seven months in her bedroom as a result of the anxiety caused by that experience. That is why we are so concerned that if the support is not in place, or the right placement is not found, the anxiety caused to a person with autism will hinder their chance of entering the workplace.

The National Autistic Society Northern Ireland believes that measuring the numbers taking part in the scheme by impairment type and ensuring that providers are required to show how they

will support people with particular disabilities would make it possible to identify whether the scheme has had an adverse impact on any particular group.

To recap, we think that a full-time assessment should be undertaken of claimants reaching the end of two years on JSA; records should be kept of JSA claimants who have a disability, by impairment type, in order to monitor whether the scheme works for adults with autism; and specialist back-to-work support should be offered to all people with autism required to take part in “work for your benefit”. People with autism will need support in order to enter the workplace. There does not seem to be any provision in the Bill for that type of support to be offered. Providers should also be required to show how they will support people with particular disabilities.

Currently, employment and support allowance (ESA) claimants may opt to undertake work-related activity that is detailed in their action plan and aimed at progressing their move to work. The Bill proposes to give personal advisers the power to direct an individual to undertake a specific activity from their action plan. Not all advisers have a good understanding of autism, and we believe that this could result in people with autism being required to take part in mandatory work-related activity. Consequently, an individual could be mandated to undertake an activity that could cause them considerable stress and anxiety, facing sanctions if they fail to complete the specified action. Furthermore, there is little guidance as to what activities people might have to undertake as a work-related activity. The National Autistic Society Northern Ireland believes that claimants should have the right to have the direction to undertake a specified activity reconsidered by a third party. That is also one of the recommendations that Professor Gregg suggested.

The Welfare Reform Bill includes several proposals to toughen the sanctions regime for JSA claimants. We have serious concerns about the use of sanctions, as we anticipate that they will have a disproportionately negative impact on people with autism. People with autism may miss an interview for a number of reasons, which could include difficulty in managing their mail, getting to appointments on their own, managing their time or coping with a change in routine, even if they appear very able. Alternatively, a person with autism may have limited social skills and be labeled “difficult” or “unco-operative”. Furthermore, some people may not understand the link between the actions that they are supposed to undertake to find work and the benefits that they receive. The National Autistic Society supports Professor Gregg’s recommendation to

introduce an early warning system whereby, rather than face a cut in their benefit following their first sanctionable action, claimants are sent a written warning detailing the consequences of further non-compliance.

The Chairperson:

Thank you both very much. Members have previously shown interest in a lot of those points and I am sure that they will want to ask questions.

Obviously, ESA forms a major part of the Bill. The last time we spoke with the society was in relation to the concerns that you have about ESA. The Committee has taken a long-standing interest in the problems that there were initially with the processing. Since our last meeting with you, we have visited James House and taken a close look at it. Some assurances were given by the Department that certain changes would be made. Have there been any? Getting rid of income support and moving everyone over to ESA is going to have a greater impact. Have you noticed any improvement in the whole system since we last met?

Ms Stewart:

A number of things have improved. The Department had originally talked about asking people, at certain parts of the process, whether they have a disability. We made a change to the script, but unfortunately the change still will not necessarily work for people with autism. We have responded to the Department with regard to that, and we are waiting to hear back. The Department has introduced the ability for advisers to inform people of their right to an advocate, if it is identified that the individuals have autism. It will signpost in that way, and that was a very welcome change. The Department has also given us a direct line to an adviser, which means that we can talk to someone directly and act as an advocate to help sort out claims.

By chance, I had a telephone call this morning from a mother about her 19-year-old son. They had been through the system of ESA, and their experience unfortunately highlights one of the issues that we were talking about. They went for the medical assessment, and the doctor felt that this young man was ready for work and probably should not be on ESA. The mother's problem is that her son has Asperger's syndrome. The doctor and her son got onto a shared topic of conversation, and her son came across as being extremely able. Because it was his choice of subject, he communicated fantastically well. Therefore, in that short period of time, according to the mother, the doctor did not fully understand the full implications of Asperger's syndrome and

how it would impact upon him in work — if work did not go according to his way, he would have particular problems controlling his behaviour. He also has some mental health difficulties.

Another problem the mother had is that they do not live in an area where he can access a specialised support service to help him. They live in Holywood. You can access a specialised support service through the Orchardville Society and the NOW Project, but only if you live in certain parts of Belfast. That case will probably go to tribunal, but it is an example of how the system does not work for people with autism. They cannot get the support that they need in order to access employment.

Mr F McCann:

Was the doctor supplied by the Department?

Ms Stewart:

Yes. He was supplied through the Department's work capability assessment.

Mr F McCann:

Do you find that, in cases like this, doctors are not trained up to identify the specialised needs?

Ms Stewart:

That is it. You need specialised training when looking at autism because it is a hidden disability. As we have said, on first meeting, people with Asperger's syndrome can appear fairly able and articulate, especially if they are speaking about a subject that is of interest to them. Sometimes, the problems of anxiety and depression are hidden; the individual's need to control the environment is often not explored. It takes a lot of specialist knowledge to understand those difficulties.

Ms Lo:

Has the issue of ESA continually asking for a sick line been resolved? People with autism have a condition, not an illness; they do not want to go to the doctor and ask for a sick line all the time.

Ms Stewart:

We have been told that that is going to be sorted. To be honest, I have no new evidence either

way to say that it has actually got worse, but the Department has said that, in certain cases, it will accept fit notes, as they are now called. However, we have a problem with fit notes, because a lot of emphasis is placed on doctors determining whether that person is actually fit for employment and to talk about what adjustments could be made, but we do not necessarily think that GPs have the adequate amount of training to do that. In fact, doctors in England were interviewed, and they suggested that they did not have adequate training to be able to confidently do that.

Mr Brady:

In my experience, people with autism are often misdiagnosed as having mental health problems. Doctors from medical support services are there to find out what is not wrong with you, not what is wrong with you. Unless they have fairly in-depth knowledge of those people, particularly adults of working age, it is difficult for them to come to any sort of impartial conclusion. Again, sometimes that evidence is not always forthcoming. Obviously, with disability living allowance, you get a copy of the GP's notes and the specialist reports, and you have a chance to go through them, but that does not happen with ESA. A lot of the new descriptors in the new format simply do not relate to people who have autism. That needs to be addressed.

You mentioned Professor Gregg's recommendation of an early warning system whereby people should be sent a written warning following the first sanctionable action rather than facing a cut in benefits, but, again, they will need somebody to interpret that. Therein lies the difficulty, because I assume that if they were aware of it in the first place, they would not have to send them out a written warning. There are inherent difficulties there. In the context of the Bill, the work-related activity and the "work for your benefit", those issues have simply not been addressed. It is a prescriptive piece of legislation, particularly in relation to certain groups who have particular difficulties.

Ms Stewart:

The Department has said that no one who has been identified as having autism will get their benefit cut until a safeguard visit had been made. Since we were told that, there has been no new evidence to suggest that that is not happening. However, if the safeguard were in place, it would help greatly.

Mr Brady:

Now they are talking about doing assessments over the phone rather than visiting. I am not sure

how that works. Is there a psychic on one end of the phone? It seems to be a totally ridiculous notion. Unfortunately, that is the kind of nonsense that we are expected to sit and listen to. It will be totally ineffective and cause more problems than it will solve. Therein lie issues that we need to address.

Ms Stewart:

We have also asked that any letters going out to people with autism were also in an easy-read format. That was one of the things that we had asked under Don't Write Me Off.

The Chairperson:

Understandably, in a lot of your written and oral evidence, you have stressed that you fear that some of the clauses in the bill relating to work-related activity and work-related benefit do not fit in with the lifestyle patterns of people with autism. In fact, it could lead to them falling into the trap of sanctions and the enhanced regime of sanctions. Without speaking for the Department, I suppose the response will be clause 24 of the Bill, the good cause clause.

Ms Lo:

Very good.

The Chairperson:

I am not going to say it again; my teeth will fall out.

On clause 24, the Bill's explanatory and financial memorandum makes it clear that in

“circumstances ... that constitute good cause for failing to undertake mandatory activities ... the claimant's physical or mental health or condition will always be considered.”

Mandatory activities could mean many things or could be narrowly defined. Have you looked at the clause and considered how it might fit in —

Ms Stewart:

I have not looked at it in great detail.

The Chairperson:

It is something that we will look at, not just for people with autism but for lone parents. There are many groups for whom the clause may offer some comfort.

Ms Stewart:

The problem is that people need to be asked about their disability. That does not necessarily happen. Unless the people in the benefits office know that an individual has a disability or has autism, that individual cannot apply. Safeguards must be in place.

Mr Brady:

It seems to me that the good cause clause is quite arbitrary, because a determination depends on the person who is making the decision. In my experience, it is not an objective process. In fact, it can often be subjective, and therein lies the difficulty. I am sceptical about the claim that sanctions will not be imposed. That may be the case initially, but somewhere down the road, probably in a relatively short time, sanctions will be imposed. That will cause huge problems, particularly for people who have autism. The Department can carve the clause in stone, but I will still be sceptical about it.

Ms Stewart:

The Welfare Reform Bill may get some people back into work, although it may not help those groups of people who are harder to place but who want to work and want the support services to help them into work. Many people with autism are willing to work and would like the supports to be in place to help them to get a job. Unfortunately, we do not have the mechanisms in Northern Ireland to provide those supports.

Mr Brady:

You made the point earlier that employers need to be aware of the person's condition and how it impacts on his or her ability to work. That is very important. We simply do not have the infrastructure in place here.

The Chairperson:

During last week's evidence sessions a witness told us that people who had been sanctioned sometimes did not know why they had been sanctioned. You have told us that people with autism have difficulty managing their mail, getting to appointments on time, managing their time or

coping with the change of routine that an appointment would cause. Those are the very reasons why those people might be sanctioned, and if they were sanctioned, they might not be able to deal with it. It is easy to see how, from start to finish, if the condition is not identified immediately, someone could reach the point at which he or she might be sanctioned quite severely.

Ms Stewart:

An individual might not even notice what is happening until he or she has been through a number of steps in the process.

Mr F McCann:

I have a question about sanctions. Sanctions have been with us, in some shape or form, for a while now. Have you come across any instances in which people have been sanctioned?

Ms Stewart:

We are aware of sanctions having been applied over ESA. That is because we did quite a lot of research on that benefit. In the past, a number of people with quite severe autism and learning disabilities — a whole list of claimants — have been sanctioned and have had to apply to get ESA.

We have been back and forward to the Department on that issue and have been told that a safeguard will be built in. Therefore, someone with autism should not face sanctions under the system without first being visited. That is a new development, however, and we have not seen it in practice yet.

Mr Brady:

I have one final point to make. Obviously, the person who carries out the visit must be aware of the condition. That goes back to the need for staff to have initial training. There is no point in sending out somebody who knows absolutely nothing about the problem.

Ms Stewart:

Yes. The individuals who are dealing with people with autism need to be well trained. It is not only about autism awareness; there is a need for much more specialist training.

The Chairperson:

Members have no more questions. Shirelle and Regina, thank you for your time and your evidence.

Today's second evidence session on the Welfare Reform Bill is from Mencap in Northern Ireland. We are joined by Paschal McKeown, policy information manager; Paul McGowan, disability equality officer; and Teresa Hazzard, employment services manager. You are very welcome. Please switch off mobile phones, and I remind you that Hansard staff are recording the proceedings. You may begin with a brief presentation, and that will be followed by Committee members' questions.

Ms Paschal McKeown (Mencap in Northern Ireland):

Thank you for inviting Mencap in Northern Ireland to give evidence to the Committee. Paul McGowan, who is a disability equality officer, will talk about his journey into work, the support that made that happen and the awareness training that he delivers. Teresa Hazzard is an employment manager who has many years' experience of getting people into work. She will concentrate on the barriers and difficulties that people face and explain what some of the Bill's proposals might mean for people with a learning disability.

Most people with a learning disability want to work; it is not a population that does not want to do so. Many are able to find a job, so long as they get the extra support to do so, and become very valued employees.

For many people with a learning disability, the opportunity to work is not only about earning money but about gaining confidence, forming new relationships and friendships, having an opportunity to meet new people and becoming more independent. However, Mencap is concerned that the increase in focus on sanctions and conditionality masks the fact that most people with a learning disability do not get the opportunity to get into work.

The Bamford review drew attention to the very low numbers of people with a learning disability who are in work. Very little research has been gathered around the numbers of people with a learning disability who are in work. The review also drew attention to the difficulties and challenges that they face when trying to find and keep a job. Paul and Teresa will talk in more detail about the barriers that they face. The Bamford review also drew attention to the important

role that specialist organisations play in helping people with a learning disability to get into and stay in work.

We believe that the proposals outlined in the Welfare Reform Bill do not take account of the distinct needs and circumstances of people with a learning disability. Learning disability is not a mental illness, and we believe that specific reference should be made to learning disability in any proposals for welfare reform and in any evaluation of their implementation or impact.

Many people with a learning disability do not have full control over their lives and rely on others for assistance with everyday tasks, including understanding and responding to the complex world of benefits. Conditions placed on claimants should be reasonable, and claimants with a learning disability must get extra support, we believe, to help them understand what they are entitled to and what they have to do to meet any of the requirements. Anyone who is determining whether people with a learning disability have failed to comply with the conditions must take a holistic view, because the failure to become employed may have nothing to do with their unwillingness to work. It may be linked to the unavailability of the right support, the unwillingness of employers to give them a job, a lack of transport or any other barrier over which the individuals have no control.

Finally, I wish to draw attention to the barriers to work faced by family carers, who are often mothers. Their lifelong caring responsibilities, coupled with a lack of alternative care or support for their son or daughter with a learning disability — particularly when that young person has left school — severely limits their own ability to take up opportunities to work. The proposals should take account of the difficulties that family carers face throughout the lifetime of the person for whom they care and support.

I will now hand you over to Paul, who will talk about his personal journey into work.

Mr Paul McGowan (Mencap in Northern Ireland):

I went to Beechlawn School, and when I left in 1990, I joined a YTP scheme at Lisburn College of Further Education. I was there for three years, and while I was there I was promised the moon and the stars. I was told that I would come out at the end with some qualifications. I studied mechanicing, gardening, painting and decorating, and plastering. I liked all that, but it was not what I really wanted to do. When I left the college, I was unemployed for two years. Then I

went to the Dairy Farm Open Learning Centre, where I was asked what I would like to do. I said that I wanted to do retailing because my brother was in retail and liked it, and I liked the idea of it. The centre got me a work placement in Poundstretcher in the Kennedy Centre. I worked there for six months and achieved my NVQ level 1 in retailing. My placement was for a year, so, for the other six months, I worked in Rossi's ice cream parlour in the Westwood Centre, and, while there, I got my health and safety and food hygiene certificates. I left there in 1996 and got a job with the Northern Ireland Hospice on the Somerton Road in Belfast. I was a groundskeeper and tidied up outside, changed bulbs for people and took patients to the shops. I did that from 1996 to 2000.

In 2000, my mother passed away, and I left the hospice, as the job was a bit too hard for me. I was unemployed for a year, and then I got a part-time job working in the kitchen in Hillyard House in Castlewellan, which is where I live. I worked there for a year, preparing the food and doing the washing-up. However, I was working only 12 hours a week, so I needed another job. I got a job in Peacocks in Downpatrick and worked there from 2001 until 2003. I got my NVQ bronze and silver membership in customer service, which Peacocks helped me with. However, I was again working only 12 hours a week, because Hillyard House had closed down. I then saw a job advertisement for a cleaner in Tesco, so I applied for that. The only problem was that the job started at six o'clock in the morning. I had no means of transport to get me up and down the road, so I got up at 4.00 am, left the house at 4.30 am and walked the four miles from Castlewellan to Newcastle. Then I got the bus home at 8.30 am, got changed and went to my other job in Peacocks. I did that for six months.

Tesco saw how determined I was to work, so I was offered a job working 15 hours a week. That meant that I could leave Peacocks and keep to the one job in Tesco. I then saw an advertisement for Mencap's employment service, where someone comes out and to help people with their benefits, which applied to me as I was still working only 15 hours a week. I was asked what I was earning, got help to fill in the forms and was told that I was entitled to some benefits. My contract with Tesco was increased to 16 hours a week, and I have been there seven years now, since 16 April. However, while I was moving from one job to the other, I did not have much of a social life, so, through Mencap's employment service, I got put on to Greenhill YMCA, which is an outdoor pursuits centre in Newcastle. Through the club, I do pursuits such as canoeing, archery and bouldering.

I am also a member of the Gateway Club in Downpatrick. As a member, I was invited on to the minibus driver awareness scheme (MiDAS) to learn how to drive a minibus. I was helped through that and passed my test, so I can now drive a minibus.

I saw an advertisement for a disability equality officer post as part of Mencap's consultancy service. I went to my local job centre in Downpatrick and asked a lady who worked there for an application form. She looked at me and said that she did not think that I would be able to do the job. I must have argued with her for half an hour to try to convince her that I could do it. Owing to my involvement with Mencap, where I had sat on different committees, I knew what the job entailed. By the time that I received the form, the closing date had passed.

I waited another six months and another job came up. I went to a different job centre and the lady that I spoke to there was more helpful. She asked me what help I needed, to which I replied that I needed help to fill in the application form. She asked me whether I would need help to go to the interview, but I said that I would be fine to go to it on my own. We did a mock interview, which helped me. I went to the interview, and I will have been in the job for five years on 5 September.

As part of my job with Mencap, I do consultancy service work, which involves training employers who are going to employ someone with a learning disability. We provide disability awareness training to different organisations.

We provided training at doctors' surgeries. At one of the training sessions, I did not realise that a lady in the audience was a receptionist in my local doctor's surgery. Her attitude to me in the doctor's surgery after that was completely different, which shows that disability awareness training helped her and her colleagues.

We also give disability awareness training to Department for Employment and Learning (DEL) employers. At one training session, the lady who had refused to give me the application form was in the audience. *[Laughter.]*

The Chairperson:

I am sure that you gave her a hard time.

Mr McGowan:

I stuck her at the back of the room.

That shows that disability awareness training does help people.

Ms Teresa Hazzard (Mencap in Northern Ireland):

Unlike Paul, I have only been employed by Mencap for the past 20 years

Mr McGowan:

Shush, she is double-jobbing. *[Laughter.]*

Ms Hazzard:

Mencap's employment service in Northern Ireland has 20 years experience of supporting young people and adults with learning disabilities to prepare for, find and keep paid jobs. We continue to work in partnership with a wide range of specialist and mainstream education, training and employment organisations and programmes to remove the barriers to work for each person with a learning disability. That includes working to remove barriers and perceptions presented by employers through awareness, education, advice and guidance in the workplace.

Mencap's experience confirms that people with learning disabilities want to work and, with the right support, can and do work in Northern Ireland. Having learnt from that experience, Mencap is able to present evidence on the Welfare Reform Bill.

People with learning disabilities find it harder than others to learn, understand and communicate. They find it particularly difficult to transfer learning from one environment, be that a further education college or classroom, to another environment, such as the workplace. They may require additional time and support to put into practice in the workplace what has been taught in the classroom environment or in a formal training setting.

People with learning disabilities benefit most from on-job-site experiences, including practical support, coaching and mentoring to learn new skills and work tasks. They also benefit from having learning from those experiences reinforced by people who have an understanding and knowledge of learning disabilities and of how people with leaning disabilities learn best.

Any new arrangements must take account of the fact that, for some people with a learning disability, work-related activity and the development of employability skills will also include developing skills in decision-making, management of money, travelling independently and generally finding out more about the world of work.

The role of the family or carer is crucial. The new arrangements must also take account of the lifelong role that family carers play in supporting a young person or, indeed, an adult with a learning disability. The impact of participation in work-related activity is experienced not only by the individual with the learning disability but by his or her family carer. Many individuals are supported by carers at home to complete basic tasks that enable them to arrive at work, such as getting out of bed, getting dressed, getting fed and getting out on time.

Some individuals have great difficulty in planning and organising for themselves, and many family carers take on the basic functions that you and I take for granted every day. Owing to lack of training and support, many are unable to travel independently and safely to work-related activities. Those people rely heavily on carers, usually their mothers, to be available to support them in the tasks that we take for granted.

Mencap's employment service has seen a recent increase in lone parents caring for young people and adults with learning disabilities, and it can evidence the additional pressures and difficulties that those carers experience. The absence of alternative care and support provision, alongside the complexity of the impact of work on benefits, severely restricts and limits those carers' uptake of employment for career opportunities and paid-work opportunities.

In some instances, lone mothers, or, indeed, lone fathers, have to make decisions about their son or daughter's desire to work, based on their own need to work to provide for the family's basic needs. Therefore, some are unable to support their children's participation in work-related activity by transporting them to work or being there to get them out to work on time.

Evidence of compliance or non-compliance is of particular concern to Mencap. Mencap believes that the evidence required to show compliance needs to take account of the difficulties that many people with a learning disability face in understanding complex information or instructions. Many people may experience difficulty in communicating with individuals with whom they attend work-related interviews. That difficulty may arise because they are not

familiar with them, or the individuals are unable to use their preferred method of communication.

Many people with a learning disability may, as a result of limited life experiences, have limited skills in making informed choices and decisions for themselves. Those factors, combined with the desire to work and please others, the limited comprehension of information and perhaps poor memory skills, mean that many individuals with a learning disability may agree to undertake activities that they are unable to carry out without support. They may, therefore, be considered to be non-compliant and to warrant sanctions.

Lack of life experiences inhibits many individuals' ability to answer questions about their own strengths and limitations, and they may overestimate or underestimate their own capabilities. We ask the Committee to take account of the limited choices and autonomy that an individual may have, and the impact of that on compliance. A learning disability is very different from a mental health issue. It should be viewed separately, particularly in consideration of — I will try to get this right — the good cause clause.

Mencap encourages the Committee to ensure that specialist support, including advocacy and the production of information in an accessible format, is available to support the participation of people with learning disabilities in work-focused interviews. We also encourage all staff involved to undertake learning disability awareness training. As you heard from Paul, it is vital that people understand the people who sit before them.

Contracting out is another major concern for Mencap. Specialist organisations in Northern Ireland already provide support to help people with a learning disability to prepare for, enter and sustain employment. Many of those organisations continually struggle to obtain long-term sustainable funding for their work. Mencap recommends that the valuable expertise and knowledge of the voluntary sector be utilised in the development and delivery of the new arrangements contained in the Welfare Reform Bill.

Contracting arrangements must reflect the needs of all who have a desire to work and who may be furthest from the labour market. Mencap is also concerned, however, that a focus on payment by results militates against people with a learning disability from getting into work. People with a learning disability may be more expensive to support, may take longer to move into work and may require support for as long as they are in their workplace.

Mencap is involved with the enhanced support element provided for in DEL's Steps to Work programme, which targets those who have enhanced needs and specific barriers to work. In that programme, specialist providers work in partnership and alongside non-specialist providers to ensure that the support and enhanced needs of all claimants who may be furthest from the market are met. Mencap urges the Committee to monitor the extent to which the new arrangements are accessible to and benefit those with a learning disability who have a real desire to work and contribute to their communities. We also urge the Committee to ensure that the Bill reflects the enhanced support needs of those with learning disabilities in their search for employment.

The Chairperson:

Thank you all for your evidence, particularly Paul, who has a lengthy and impressive CV. Most people would struggle to get out of bed at six o'clock to go to work, never mind if they had to walk four miles to get there. I assume that it was harder on the way back, going up the hill. Thank you very much for that, and well done.

Mr Craig:

I thank you all for your presentation. I am very impressed, Paul. I wish that more people had the same determination to work and that everyone had the drive to go that far.

I noted with interest what you said about clause 3, Paschal. Your concerns are about parents with responsibility for looking after a child with learning disabilities. I understand where you are coming from, because it is a big issue, bigger than even the Welfare Reform Bill, and it creates all sorts of difficulties. Parents who look after their children who have learning difficulties subsidise the state to a huge extent.

Clause 3(2) will insert proposed new section 123(2B)(a) into the Social Security Contributions and Benefits (Northern Ireland) Act 1992. It states that regulations may make provision:

“as to circumstances in which one person is to be treated as responsible or not responsible for another”.

I do not like that word “may”, as I hate such ambiguities. I presume that you are not happy with “may”, but would you be content with regulations allowing for such situations, or would you prefer the Committee to recommend something more specific?

Ms McKeown:

The preference is for a change to the clause. That way, everyone will be clear about what is

happening. One problem that people face with the benefits system is a feeling of a lack of clarity about what people are entitled to, the process involved, and what they should do next. I was struck by Paul's talking about his journey, as it were, into work. He did not start off with benefits; they did not come until he came into contact with an organisation that asked him whether he was on those benefits. The clearer the entitlement and process is made, the better for everyone.

Mr Brady:

Thank you for the presentation. Has Mencap considered cloning Paul and sending him out to deliver disability awareness training?

Ms McKeown:

Many times.

Mr Brady:

What you said was impressive, Paul. You should be visiting every employer in the North at least once a year to give them disability awareness training.

Mencap seems to be seeking good family and infrastructure support. Paul was able to draw benefits because he had contact with Mencap. For people who do not have learning disabilities, the benefits system is extremely complex, and the Bill will make it even more complex, as much as we have been told that it will simplify the system. There have been all sorts of papers, particularly from with the Tories, about dynamic benefits, and that is quite scary.

You are very clear that the support infrastructure needs to be in place. However, you also refer to the disability awareness training that staff need to have. We are back to visits or telephone applications or whatever, and, unless they have that support, the person may not be able to articulate clearly how they are going to be affected. Obviously, you think that that staff training is necessary. Schemes such as this cannot really be introduced unless staff have proper training. We are talking about social security staff and DEL staff who are doing an extremely good job. However, they are under extreme pressure with the current system, and the introduction of this scheme will put them under even more undue pressure, along with taking on board all the other issues that we have talked about.

Ms McKeown:

That is true. However, most people with a learning disability are not in contact with any services. In particular, people who have less severe learning disabilities are not in contact with, or are not known to, social services. Therefore, our traditional routes of identifying someone with a learning disability may not be there. Most people with a learning disability will not be easy to identify because they will not come with an organisation that serves people with a learning disability. That is why skilling up the administration around it actually helps people to work their way through the system and to understand learning disability better. They also understand the problems that people may face and the adjustments that can be made so that the system is accessible. That is why that end is incredibly important.

Mr Brady:

There are so many specific issues. I have a case where a person with learning disabilities lives independently in a flat, and his mother does everything for him. She shops, buys his clothes and all the rest of it. He is getting disability living allowance because he needs constant supervision: he could not survive without his mother, even though he is trying to live independently. That money is being put into the bank. The Department is now saying that he has too much capital and that he did not tell the Department about it, and his mother is saying that the Department gave it to them. The Department is now deciding when they should spend the money, how long they have to spend it and, indeed, what it should be spent on. That is happening more and more often, and there are issues around that. If that person had the choice, he would probably try to get a job; he has tried in the past. It is a point well made, because that is part of the ongoing difficulty that the Bill will present.

Ms Hazzard:

I know of a case that has recently come to our door. It involves a young man who we supported to find employment 16 years ago, and who has worked with the same employer for 15 of those years. He was made redundant last summer because the company closed down due to the economic recession. The young man has now come back to the employment service. He has no independent travelling skills, and he lives in a very rural community with his parents, who are both over 70 years of age. His father, who is the driver for the family, is extremely ill. During the 15 years of his employment, he accessed the access to work scheme and the fares to work scheme, which meant that he paid 25% of his taxi fares to and from work and the Government paid the remaining 75%. He worked in manufacturing and was a labourer in the manufacturing

environment. Those jobs have long since gone, so we need to retrain him.

Mencap works in partnership with corporate employers under the Northern Ireland WorkRight scheme, and a 16-hours-a-week job opportunity has come up with a major retailing outlet. However, our difficulty is that that young man has no means of transport to get him to participate in the six- to eight-week trial, which would produce a paid job at the end of the trial. That young man is stuck in a rut. We do not have the money to provide a taxi for him, and the Department is clear that the preparation for him going into work does not include paying for a taxi. Therefore, there is a major difficulty with the system.

Mr Brady:

In a few short years we have gone from severe disablement allowance, specifically aimed at young people who, it was accepted, would never “work” in the normal sense, to ESA, which is telling people that they have to work. It does not matter what their particular problems are. There is no doubt that, eventually, people will be pushed in that direction. It is very magnanimous to say that you will do this, that and the other, but, ultimately, the bottom line is that the scheme is intended to get people off the unemployment register. People need to be aware of the fact that it is all about targets and numbers, as opposed to being about people.

Ms Hazzard:

That is what we are trying to highlight. Under the Bill, people with learning disabilities will not enable large contractors to meet their targets.

Mr Brady:

Between 1979 and 1989, the Tory Government changed the way they worked out employment figures 22 times. It is all about massaging numbers.

Ms Hazzard:

I have the dilemma that this young man wishes to work and I have no method of getting him to and from work. Under the regulations, he could be deemed as not participating in work-related activity where there is a real opportunity waiting for him and nothing supporting him to take it.

Mr Brady:

Back to sanctions, possibly.

The Chairperson:

In a perverse way, Mickey is glad to see a Tory Government, because he can dust down all of his old criticisms from the 1980s.

Mr Brady:

God forbid. David Cameron does not come any way close to Margaret Thatcher in any respect.

The Chairperson:

I have started something now. That is the end of that. In seriousness, we will forward that evidence to the Committee for Employment and Learning. What you said is, understandably, concerning.

Mr Burns:

It was marvellous to hear someone such as Paul give such a good presentation, and I congratulate him on it. He was able to explain about his jobs and how he had got on throughout his career. That was absolutely brilliant, Paul, and well done. It is about instilling people with the confidence to feel that they can get a job or change jobs. Unfortunately, people get down so easily, the confidence is knocked out of them and it is so difficult. We agree about the difficulties with getting people placed into work. *[Inaudible]* unemployed and staying at home, that would be a great way forward, and I agree with everything that has been said.

The Chairperson:

You mentioned your concerns about contracting out, and you are not the first witnesses to have said that. You work with groups of people who, at times, are hard to help. Have you or your sister organisations any experience of contracting out having a negative impact on hard-to-help groups?

Ms McKeown:

Mencap covers England, Wales and Northern Ireland, and the experience of colleagues in employment services in England is that contracting out has started to squeeze out what they call niche providers. In fact, people with a learning disability are not being well served by those big contracts. We have seen that starting to happen in England.

The Chairperson:

Thank you for coming along and providing evidence. It is much appreciated.

We move swiftly on to the briefing from the Department for Social Development (DSD). I welcome Anne McCleary, Margaret Sisk and Colm McLaughlin. Thank you for being so patient and for going through all the evidence with us.

Ms Anne McCleary (Department for Social Development):

It has been an interesting experience.

The Chairperson:

We talked before about bringing you back to go over some of the points that were raised. Therefore, perhaps you can go through some of the various issues and then members can pick up on what you say or mention anything that may be on their minds.

Ms McCleary:

I will take no more than 10 minutes to go through a number of points that have been raised during the evidence sessions. I start by restating the two main policy intentions behind the Bill. The first is the simplification of benefits and the second is to help the unemployed to move closer to the workplace. That is the background.

A number of issues have been picked up on by various groups over the past few days, the first of which is to do with parity. I agree with the Chairman about gambling with the social security budget. I do not want to rehearse those arguments except to say that Les Allamby may be correct about the lack of legal definition in the Northern Ireland Act 1998. However, the reality is that if Northern Ireland breaks parity, it will have to fund that break, including the cost of the benefits and any attendant administration costs.

For example, if the Department for Work and Pensions (DWP) completes the move away from income support, it will remove the IT system that goes with that. If we do not follow suit, DSD will have to do that manually or create a new IT system purely for Northern Ireland. Doing that, and paying for it, would be no small task. All that money would have to come out of the Northern Ireland block grant at the expense of hospitals, schools, roads and so on. Fundamentally, we cannot expect the Treasury to fund a system in which a benefit claimant in

Newcastle, County Down — with apologies to Paul, who lives near Newcastle — is treated differently over their conditions and rates than someone in Newcastle-upon-Tyne.

As the Committee is aware, the Minister has had discussions with the previous Minister for Work and Pensions about the need for operational flexibility. Those discussions were not about breaches but about the flexibilities that are afforded to pockets of unemployment and deprivation in GB, as well as in Northern Ireland.

The second issue is “work for your benefit”. I emphasise that, in the current economic climate, it is even more important to prepare the unemployed for work. The scheme is about work experience, so displacement and national minimum wage issues are not relevant, although we appreciate the Committee’s concerns about those issues and about exploitation. We will study the result of the GB pilot very closely, although, ultimately, the programme’s form and content will be for the Department for Employment and Learning (DEL) to decide.

Northern Ireland has too many people who are second- and third-generation unemployed. It is crucial that unemployment not be seen to be the norm, and that children in particular do not simply live in a situation where they accept poverty as inevitable. Research shows that work is good for all of us, financially, psychologically and socially. We do not want any child to grow up without that aspiration.

As with many of the Bill’s proposals, there will be flexibility, in that we expect the programme to be tailored to the individual and their circumstances, whether that relates to caring or childcare responsibilities or to mental health or learning issues.

The fourth issue is to do with work-related activity. Concerns have been voiced about issues around childcare, lone parents, those with mental health or learning difficulties and the over-60s. As I said, the Bill recognises the need for individual circumstances to be taken into account by allowing personal advisers and decision-makers to exercise judgement about suitable work-related activity. That gives the personal adviser or decision-maker the flexibility to take into account, for example, the lack of affordable, available childcare. We have discussed this with our colleagues in DWP and are agreed that there are adequate operational flexibilities that take account of differing circumstances in Birmingham, Belfast or wherever. To try to prescribe for every eventuality would be both impossible and unnecessary.

On the issue of lone parents, the Minister has given numerous assurances about the recognition that Northern Ireland does not have available and affordable childcare in all circumstances. However, if a lone parent does have childcare, it is surely beneficial for the parent and the child if the parent is helped to move closer to the workplace, depending on individual circumstances. The well-being of the child must be taken into account when drawing up a job plan, and in practice it will be a part of all decisions that involve parents. Some evidence was given to the Committee that was not entirely correct; to be clear, lone parents with a child under seven will not be required to work. They will be required to take part in work-related activity, which could be a number of different things. However, that activity will definitely not be work.

The next area is income support. Various respondents were concerned about the lack of detail on that proposal. As we explained, the Department must create the power first before it begins work on the regulations, and the regulations will have to go through this Committee. Again, I stress that personal advisors and decision-makers will take individual circumstances, such as whether an individual is a lone parent or a carer, into account. DWP is moving towards the abolition of income support, and, as Les Allamby said, it would be an exceptionally clear breach of parity if we were to do otherwise. In relation to the contribution requirements, we agree with what Les said about parity. There is no question that that would also be a major parity issue.

We do not know yet how the proposals on community care grants will work in practice. However, it is fair to say that procurement practice has changed dramatically since the times that various respondents described. All contracts are now detailed and prescriptive in terms of quality, timing and value for money. They also include rigorous monitoring.

Sanctions have been another big issue, and I must stress that they are about both deterrence and responsibility. It is important that parity is observed, but, at the risk of repeating myself, there will be flexibility in the exercise of judgement by the personal adviser and the decision-maker. There is also a raft of safeguards such as the decision monitoring service, audits, training and procedural guidance, which will ensure that judgements are properly exercised. Respondents were also rightly concerned that families of applicants should not be penalised. Family circumstances will be part of the consideration, and there are hardship provisions to ensure that the family is not affected or prejudiced. The bottom line is that we all must accept responsibility for the consequences of our actions, and that includes benefit recipients.

There was a general acceptance of the proposals on domestic violence, but again some of the information provided to the Committee was misleading, unfortunately. The 13-week period caused some concern, and a number of respondents said that it should be extended to up to six months. However, the proposed 13-week period is in addition to the existing 11-week provision. Therefore, we are already talking about a 24-week period, which is almost the six months that everybody was asking for.

We need the general flexibility that is contained in the “good cause” clause. It is crucial to the Bill. It is not necessary to go into specific references to, for example, mental health issues, as there will be general flexibility.

To sum up, the Department cannot deviate from the proposals enacted in the Welfare Reform Act 2009, as the full cost of any variance would have to come from the Northern Ireland block. However, there is enough flexibility in the operation of the proposals to take local variances and individual circumstances into account. None of the respondents raised issues that were not raised by others during the passage through Westminster of the 2009 Act, and the same assurances that were given then also apply here.

The Chairperson:

Thank you. That was a comprehensive and useful presentation. Will you provide the Committee with a copy of that? It will be useful for clause-by-clause scrutiny of the Bill.

Ms McCleary:

That is fine.

The Chairperson:

Clause 25 refers to the well-being of children. The well-being of the child must be considered when jobseeker’s agreements and action plans are being delivered. What is the possible flexibility, notwithstanding all your other comments about parity and my own concerns about breaches? I think that this is one of the clauses that were added in the House of Lords to target issues in relation to children. The Committee has heard a lot of evidence about not just children but people with learning disabilities, carers, people with autism — lots of other vulnerable groups. The argument for considering children’s well-being could be equally applied to those groups. What flexibility exists to amend the Bill to include —

Ms McCleary:

Unfortunately, we do not believe that there is any flexibility.

The Chairperson:

Just on the basis that that is what is in the GB legislation?

Ms McCleary:

We have spoken to colleagues in DWP specifically about that clause. We believe that if the clause were amended, it would be regarded as a breach of parity. It is important to remember that there is already flexibility in respect of the work of personal advisers and decision-makers. They will always take this into account throughout; there is that discretion. We are saying two things: first, we do not think that we can change the clause; and, secondly, we do not think that it is really necessary.

The Chairperson:

I am not criticising the clause as it stands, because it is a good clause.

Ms McCleary:

You just want it to be a bit better.

The Chairperson:

We want to improve on what is already quite good. It is about taking children into account. There is not even parity in respect of childcare provision here, so we are already at a disadvantage. This clause, as good as it is, still puts us at a bit of a disadvantage. Hopefully, that will be taken into account.

Ms McCleary:

It will. The Minister has given numerous assurances about that. The various respondents have confessed that lone parents have not been penalised in those circumstances.

Mr Brady:

I am really disappointed; I thought that you were going to tell us today that you had ripped up the whole thing.

Ms McCleary:

I am sorry; that was plan A. Plan B is —

Mr Brady:

Deep down in your heart, I am sure that you would love to do that.

You compared Newcastle, County Down, with Newcastle-upon-Tyne. I know Newcastle-upon-Tyne very well. It is a deprived area that has been badly treated, so maybe that is not a good comparison to make.

Ms McCleary:

I think that, to be honest —

Mr Brady:

I am glad to hear that we are still, to use an expression that was used in the Chamber today, as British as Finchley. That is reassuring for me, I have to say.

Parity has already been breached in other areas. We do not have council tax; we have rates. I just wonder whether any comparative costings have ever been carried out between the administration of council tax and the administration of rates. Parity is all about the block grant and money: the subvention for social security, in particular. A lot of the stuff that we are talking about is how benefits are administered, how it impacts on people here, and how the Department enacts the legislation to apply here.

The Law Centre said that income support cannot be abolished unless there is something in place that has been tried and tested. The old supplementary benefit, which goes back to 1948, was originally designed as a safety net. However, it was found to be more than that, because it encompassed so many different people.

You talked about second- and third-generation unemployment; why have they been unemployed? Historically there has been high unemployment in my constituency going back as far as partition.

Ms McCleary:

That makes it even more important that we help people, particularly children, in those areas.

Mr Brady:

The retail industry has changed that in many ways. We had the third highest unemployment rate in western Europe at one time. We are now down to around 4% or 5% from 25% or 26%, even with the recession. That can work, but it takes a long time.

Again, there is the minimum wage. Some people are on working tax credit, which is not really the answer because of the problems that it has caused. You referred to lone parents. I mentioned that in the Chamber and the Minister, Margaret Ritchie, said that we do not deal with working tax credit. That was not the point that I was trying to make. I was trying to make the point that you cannot access childcare unless it is with a registered childminder. They are few and far between, certainly in my constituency. The question about parity is how it is enacted and how it impacts here. We have hugely different circumstances, not just for childcare provision, but for all sorts of other things.

Ms McCleary:

That is why it is important that we are not prescriptive. Various people who have given evidence to the Committee said that we should be prescriptive, but the problem with that is we leave something out or cause more difficulty. It has been deliberately left the way it is so that we have flexibility. That will mean that all sorts of circumstances can be taken into account.

We are always talking about particular situations in relation to lone parents, but there are other situations with carers and people who live in rural areas. There is a whole raft of issues that need to be taken into account. The fact that we have not been prescriptive enables us to take those issues and others into account.

Mr Brady:

The question is how flexible is “flexible”. Decisions are made by individuals within the Department on the ground and in front line services. Unfortunately, there has been so much local office variation over the years that, unless there is a uniform standard or strategy put in place, it is not going to work.

Ms McCleary:

We are working very hard. Advice has been given to the personal advisers and the decision-makers. We also have an organisation within the Department, the decision-maker service, which supervises and ensures that the decision-makers are doing what they ought to be doing. An audit service also comes in and looks at what is going on. We constantly monitor the rate of appeals. We do all of that to ensure that the decision-makers are getting it right as far as possible. Obviously, we aspire to get the decisions right first time — I am sure that you would not disagree with that.

Mr Brady:

Absolutely.

Ms McCleary:

It would be nice to be able to get decisions right the first time, but life is real, and that is not necessarily going to happen all the time. However, that is what we aspire to.

Mr Brady:

I think it is fair to say that it will get more real for a lot of people when this legislation is introduced. Finally, are the like of the Autism Society and Mencap involved in staff training and efforts to improve it? Do they have any input into that training?

Ms McCleary:

The National Autistic Society has been in close contact with Social Security Agency colleagues. I am not going to give evidence today about how much it has been involved.

Mr Brady:

My suggestion is that they should be directly involved in staff training, because they are the people who are best qualified to deliver.

Ms McCleary:

I will certainly take that comment back.

Mr Brady:

It is the same with domestic violence and Women's Aid. Domestic violence is not just physical,

it is psychological.

Ms McCleary:

I accept that.

Mr Brady:

I do not want to go on ad nauseam, but it is the old “déjà vu all over again” scenario, with respect, because I have heard most of this before. There is nothing really innovative or new, it is all about targets and sorting out the unemployment figures.

Ms McCleary:

It is about helping people to move back.

Mr Brady:

That is what it should be about.

Ms McCleary:

That is certainly what our intention is.

Mr Brady:

I mean no disrespect to people here —

Ms McCleary:

I appreciate that.

Mr Brady:

I am talking in general terms. We are talking about policies, and God knows what is going to happen in the next couple of weeks.

Ms McCleary:

I do not think that anyone here knows.

Mr Brady:

We really could be ripping the Bill up.

Ms McCleary:

Who knows?

The Chairperson:

We are behind the times. This legislation could be last year's.

Mr Brady:

It could well be.

Mr Craig:

I share some of those sentiments. We have been here almost too long. I am starting to understand the language.

The Chairperson:

We are predicting it.

Mr Craig:

We are predicting it, and it is becoming quite frightening.

Clause 3 deals with lone parents. I understand exactly where Mencap is coming from. We are back to discussing the language that being used. You used the term "flexibility" when, quite frankly, in proposed new section 123(2B) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 into the Social Security Contributions and Benefits (Northern Ireland) Act 1992, which can be found under clause 3(2), if the words "regulations may make provision" were changed to "regulations will make provision", many of the fears would be allayed. I understand the fears that people have. There will be no provision for parents with learning-disabled children. That is a genuine fear that parents have, and I understand that fear, because, in some respects, I have the same fear. Whether it is done deliberately or inadvertently, someone will ultimately rule that people are not entitled to benefits, purely because they do not understand the circumstances or situations of the parents or, more importantly, of the learning-disabled children. You are saying that regulations may be made around that, and I can interpret that in one of two ways: if you can be bothered, you will make regulations, or if you cannot be bothered, you will not. I do not like that ambiguity. Do you agree or disagree with that?

Ms McCleary:

The reason for the use of the word “may” is a purely technical one. It is used because it is creating a regulation-making power. It is a legal matter. That is why the word is there in the first place. The clause is about lone parents. It does not address the issue that you and the representatives of Mencap think that it does.

Ms Margaret Sisk (Department for Social Development):

It specifically states that lone parents who have children under one will not have to take part in work-focused activity. That is what clause 3 is all about.

Mr Craig:

However, proposed new subsection (2B) is not specifically about that.

Ms Sisk:

It is to do with lone parents with children under one. Clause 3 is there to abolish the requirement for them to take part in work-focused interviews, either on jobseeker’s allowance or on employment and support allowance. I think that the thing —

Mr Craig:

If I read it correctly, Mencap is 100% right: a specific clause is needed.

Ms Sisk:

I am not entirely sure. I would be inclined to think that the clause about which the Chairman was talking, about having to take account of the well-being of the child, would cover that sort of situation.

Mr Craig:

You are leaving ambiguity in there.

Ms McCleary:

It is discretionary.

Ms Sisk:

There is also a specific requirement where a parent who has a disabled child and is in receipt of

disability living allowance is not required to satisfy the jobseeker's allowance conditions. Many safeguards are already built into legislation, not necessarily into this Bill, that cover the situation in which a parent has a learning-disabled or a physically disabled child.

The Chairperson:

We can come back to that issue. There may be other safeguards outside of this piece of legislation that might allay fears.

Mr Brady:

I want to clarify something. You said that lone parents with a child under seven will not have to work but will have to undertake work-related activity. Currently, that is fairly nebulous as regards time, but surely that will impact on parents' childcare.

Ms McCleary:

If it will impact on their childcare, and if they do not have available and affordable childcare, they will not have to do anything.

Mr Brady:

With respect, then what is the point of including the provision in the legislation? Childcare is a huge issue. In most cases, lone parents will probably not have it, because there are plenty of extremely expensive crèches about, and registered childminders are quite rare, certainly in my constituency. Does flexibility come in again? Who makes the valued judgement?

Ms McCleary:

The judgement is made by whoever is dealing with that person. Numerous assurances about that have been given in the House and elsewhere.

Ms Sisk:

The parent has the final say. If the parent tells the personal adviser that he or she does not have access to affordable and suitable childcare, his or her word will not be challenged.

Mr Brady:

A lone parent who is on benefit will not have access to affordable childcare.

Ms Sisk:

The lone parent may have. I know that you are saying that there are situations in which working tax credits are not paid in cases in which family members are prepared to undertake childcare, but it is possible that a family member, such as a grandparent, will be prepared to take charge of the child. Therefore, there are circumstances in which a lone parent may have access to childcare. We are saying that parents who say that they have not got access to childcare will not be required to take part in any activity.

Mr Brady:

The granny only has to say that she does not want to look after the child.

Ms Sisk:

Yes.

Ms McCleary:

The work-related activity may not require lone parents to be out of the house. The work-related activity may involve compiling a CV, or such like.

Mr Brady:

Only if they have the wherewithal to do that.

Ms McCleary:

Yes. I am simply using a CV as an example and that work-related activity does not have to be something that is done outside of the home.

Mr Brady:

I do not want to get into the nuts and bolts, but it requires a degree of skill.

Ms McCleary:

I understand that. I accept what you say about CVs.

Mr Colm McLaughlin (Department for Social Development):

The work-related activity can be arranged around school hours, Mr Brady. Therefore, a lone parent can restrict his or her hours of work-related activity around school hours.

Mr Brady:

The problems with different primary schools and different classes at different times came up last week.

Mr C McLaughlin:

Different patterns of school hours are taken into account.

Mr Brady:

That is encouraging.

Ms McCleary:

I am glad to hear that.

The Chairperson:

He is softening.

Ms Sisk:

We are finishing on a positive note.

Mr F McCann:

I will have to speak to him when we get out. *[Laughter.]*

It may have been asked already, but I have a question on the pilot schemes that are going on. Given some of the difficulties associated with running pilot schemes, has the Department considered operating pilot schemes here in order to collect more accurate information?

Ms Sisk:

We are on the point of putting together a response to that issue. That was one of the questions that the Committee had asked us. The legislation provides for pilot schemes, so, legislatively, it is perfectly feasible to run pilot schemes here. The only point that I will add is that it would be up to DEL to do that, because it is that Department that would have to run the pilot schemes. Therefore, it would depend on the availability of resources in DEL. From DSD's point of view, there is nothing to prevent pilot schemes from being run, and we would be quite happy for them to be run.

Mr F McCann:

I know that you said that the Minister had given guarantees, but Ministers move on, as we have seen over the past week.

Ms Sisk:

She had given guarantees around lone parents. I am inclined to think that her successor will subscribe to the same guarantees. I will be very surprised if he does not.

Mr Brady:

Do not be surprised if he does not.

Ms Sisk:

Oh, I think that he will.

The Chairperson:

It is going to get personal. Anna, please bring some sanity back to the meeting.

Ms Lo:

I wanted to ask whether we will pilot here, but Fra has already done so. Les Allamby from the Law Centre (NI) told the Committee last week that so much of the Bill is based on uncertainties and is on a wing and a prayer — I love that phrase. He also said that much of it is dependent on the outcome of the pilot schemes in England.

Ms Sisk:

We have spoken to DEL about that, and it has not ruled out undertaking a pilot scheme here. However, DEL would prefer to let the pilot schemes in Britain start before it takes a view. Much will depend on the availability of resources, because pilots cost money to run. It will depend on whether DEL has the finances to do it, because money is getting tighter all around the place.

Ms Lo:

How similar do you think the “work for your benefit” schemes will be to the old ACE scheme, which did not work?

Ms Sisk:

We have no idea. It is entirely a matter for the Department for Employment and Learning to decide what the most suitable type of scheme will be.

Ms Lo:

Will it be the same?

Ms McCleary:

Not necessarily, but we do not know.

The Chairperson:

When you see the regulations for any scheme, come back to the Committee.

Ms Sisk:

Yes, we will. They will be confirmatory regulations, so the Committee will have to see them, if the schemes are to be put in place.

Ms Lo:

ACE schemes only got people in to do up people's houses, paint the walls and church halls.

Ms Sisk:

The whole point of the schemes is to improve the ability of the long-term unemployed to find work. They must also contain a training element. It is not like a work experience — training and support is also available. That is all that we know about them at this stage, because it will be a matter for DEL.

Mr Easton:

I fully understand breach of parity. However, are you saying that we cannot change even a dot of the Bill? Is breach of parity that restrictive?

Ms McCleary:

It depends whether — *[Laughter.]*

Ms Sisk:

I was going to be flippant and say that it depends where the dot is. However, that would not be fair.

I will try to avoid using towns that people know, so let us use Belfast as an example. We are saying that someone who claims benefit in Belfast has the same entitlement to the same benefits as someone in London, Edinburgh or Cardiff does, under exactly the same conditions. That is the important point. Therefore, to change conditionality would be an issue. To change clause 25 would alter conditionality in the Bill.

One thing that we certainly can do in that regard is to ensure that guidance is available to staff makes it clear that they must take that matters into consideration; for example, when someone has a mental illness. To a certain extent, that is also covered in clause 24. Chairman, you mentioned good cause. That is dealt with in clause 24, which states that the person's physical or mental condition must be taken into account.

The Chairperson:

I apologise for cutting across Alex's question. You mention clause 24 in that context. The Bill's explanatory and financial memorandum refers to "failing to undertake mandatory activities". What does that mean?

Ms Sisk:

That means anything at all. For example, someone could be required to draw up an action plan, take part in work-related activity or go to work. It is any requirement that is placed on a person by a personal adviser. Therefore, it could be anything that a person is required to do under the legislation.

Ms McCleary:

It covers everything.

Ms Sisk:

We believe that that is a sufficient safeguard.

The Chairperson:

Alex, do you have anything to add?

Mr Easton:

No, I just look forward to the Bill's not being passed.

The Chairperson:

Can the Committee, therefore, be assured that guidance that will be issued to advisers will make it clear that they must take into account requirements other than those that are in the Bill?

Ms Sisk:

There will be a great deal more detail in the regulations. We must bear that in mind. The Bill is very much a framework. When regulations are introduced on work-related activity and "work for your benefit" schemes, there will be much more detail. That detail can be built into guidance, as I said. Certainly, one thing that we will do is go away and look at guidance that is available to decision-makers in our Department, and then ask DEL to have a look at the guidance to personal advisers to ensure that those matters are flagged up to be taken into account.

Nobody wants to put conditions on people who are clearly not capable of satisfying those conditions. That is to nobody's benefit. Nobody wants to force people who suffer from learning disabilities or physical disabilities of any form to do things that clearly will not be conducive to their well-being. That is in nobody's interest at all.

The Chairperson:

It defeats the purpose of the Bill.

Ms Sisk:

Yes. It absolutely defeats its purpose.

Mr F McCann:

As we have heard from certain groups, it is quite obvious that that happens regularly.

Ms Sisk:

That is absolutely not our intention, Mr McCann. I assure you that that is not the Department's policy.

Mr F McCann:

One difficulty is that many people to whom we have spoken say that it is a problem in the Department.

Ms Sisk:

If people have examples of that, it is the sort of matter that should be raised with the Department and the Minister for Social Development so that we can determine whether there is an issue that needs to be tackled and whether some offices do not follow the guidance that Anne has discussed.

Ms McCleary:

Poor decisions can be made in a couple of cases, and those cases will gain undue attention or notoriety simply because someone happens to know about them. We do not hear about the many thousands of cases in which decision-makers have acted properly, have done what they ought to have done and have taken all those matters into account.

Ms Sisk:

Somebody said in evidence that hard cases cannot be legislated for. We must be careful. We have to legislate for the generality. As Anne said, some cases can easily gain disproportionate notice because people have taken wrong decisions. As she said, inevitably, nobody hears about the thousands of cases that go through in which people get their benefits on time, in the correct way, and are treated with respect and dignity. You tend to hear about cases in which things have gone wrong.

Ms McCleary:

Good news is not news.

The Chairperson:

We know that. *[Laughter.]*

Mary, tell us some good news.

Mrs M Bradley:

The Bill proposes many changes to the way in which benefits are paid. Will proper training be given to decision-makers, and will groups such as Mencap be involved in it?

Mc McCleary:

Yes, I can see no reason why that —

Ms Sisk:

That will be a decision for the agency and for DEL, but we can take away —

Mrs M Bradley:

That can be an important factor, because such groups can recognise things that an ordinary person in an office might not recognise.

Ms McCleary:

Stakeholder groups are likely to be involved already, but I simply do not know.

Mr Brady:

As you said, it is a framework document, and regulations will follow. However, if the Bill becomes a fait accompli and the legislation goes through, surely you can then include whatever regulations that you want.

Ms Sisk:

Not really, Mr Brady. The Bill will give the Department the power to make regulations, but, in almost all cases, we will still have to come back to the Committee and the Assembly with regulations, and if you do not like them, you will be able to stop them there and then. All the Bill does is give the Department the power to come forward with regulations. If the power is not put in place, we cannot make regulations. However, the time to look at all those things will be when the details are added. At the minute, it is very much skeleton legislation.

Mr Brady:

The whole thing is predicated on parity. We can argue about regulations until we are blue in the face, but the framework, or enabling, legislation is going through, so now is the time to nail those issues down.

Ms Sisk:

To be fair, we would also argue that introducing regulations is a parity issue. However, at this stage, because we have not seen the regulations, we cannot answer questions about points of

detail. When you see those details, you may even be reassured.

Mr Brady:

I look forward to it.

The Chairperson:

He will argue over the dot.

Thank you. That was very useful. Finally, will you confirm that you will be issuing new guidance to advisers to take account of childcare, caring responsibilities, mental illness, learning disabilities and domestic violence?

Ms Sisk:

Absolutely. We will make sure that our colleagues in DEL and the Social Security Agency get the guidance, and that it is in order. In addition, as requested, Anne McCleary will let you have a copy of her notes.

The Chairperson:

Thank you.