



**Northern Ireland
Assembly**

**COMMITTEE FOR
SOCIAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

Welfare Reform Bill

25 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 Billy Armstrong
Mrs Mary Bradley
Mr Mickey Brady
Mr Jonathan Craig
Mr Alex Easton
Mr Tommy Gallagher
Mr David Hilditch
Ms Anna Lo
Mr Fra McCann

Witnesses:

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

The Chairperson (Mr Hamilton):

We commenced our clause-by-clause scrutiny of the Welfare Reform Bill on 20 May. During this scrutiny phase, members will again be asked to set out their final positions on each clause in the Bill. Where the majority of Committee members support an amendment, the Committee Clerk and the Bill Clerk will take away the proposal and draft the appropriate wording for consideration at a subsequent meeting. Members must clearly state their position during this scrutiny session if they wish to oppose a clause or do not feel that they are able to agree a clause.

In such cases, members will be asked to set out their opposition or their proposed amendment. Consideration of the clause in question may be deferred until the next meeting.

I remind everyone that the Department has not suggested any amendments to the Bill. In order to speed up the process and answer any queries that we may have about individual clauses, the Department's representatives have been invited to attend today. I ask Ms Anne McCleary, Ms Margaret Sisk and Mr Colm McLaughlin to come forward. They hardly need an introduction; they are better attenders than some members of the Committee.

The proceedings are being recorded by Hansard. We need a quick turnaround of the draft Hansard transcript; the suggestion is that that should happen by Friday 28 May. There is very little time. I am sure that it will be as enjoyable to read as it was to live it.

The report of the Examiner of Statutory Rules on the delegated powers of the Welfare Reform Bill has been received. The Examiner has highlighted clauses 16, 17 and 20, which make regulations subject to confirmatory resolution. The Examiner indicates that equivalent regulations in GB are subject to draft affirmative procedure, but that confirmatory resolution is more commonly used in Northern Ireland for parity measures. Anne, do you have any comments to make about the Examiner's report?

Ms Anne McCleary (Department for Social Development):

No. It is all very positive. We are content.

The Chairperson:

Do members have any comments? In light of the Examiner's report, are we happy to proceed? He highlighted clauses 16 and 17; do we want to go over that again, or are we happy to leave it? There is no real controversy.

The Law Centre has provided a copy of its suggested amendments to the Welfare Reform Bill. As clauses 1 to 17 have already been agreed, the Committee should perhaps consider the Law Centre's proposals in respect only of the well-being of children in clauses 19, 20, 23 and 27. Those proposals will be dealt with as the clauses in question are considered. If members are content we will proceed with the clause-by-clause scrutiny. Members have a table —

Mr Brady:

I am looking at the table of proposed amendments. Some of them apply to clauses that we have difficulties with, such as those that deal with “work for your benefit”. Can we still table amendments?

The Chairperson:

My understanding is that because the Committee has agreed clauses 1 to 17, we cannot open them up again. However, you are free to table amendments as an ordinary Member.

As I said before, you may draw the Bill Clerk’s attention to amendments that have been suggested by others and which you support. She and the Committee Clerk can help you to refine that into the appropriate jargon.

Mr Brady:

I just wanted to clarify that. I do not want to go over everything again.

The Chairperson:

I will not let you.

Mr Brady:

I take your point.

Clause 18 (Payments on account)

The Chairperson:

Clause 18 provides a regulation-making power to allow the Department to make a payment on account of benefit in a range of circumstances. Stakeholders welcomed the provision and suggested that the social fund also be amended to extend eligibility. No amendments have been suggested.

Ms McCleary:

I want to emphasise that the provisions in the clause are positive. The aim of the clause is to give the Department improved flexibility to address short-term hardship.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 18, subject to consequential amendment, agreed to.

Clause 19 (Loss of benefit provisions)

The Chairperson:

Clause 19 introduces a one-strike rule for benefit fraud, which will see benefit withdrawn for a four-week period. Stakeholders have made many critical comments about the extension of sanctions to benefit claimants. Witnesses suggested that sanctions are often not understood by claimants, are costly to administer, and are unnecessary given the low level of fraud in Northern Ireland. The Law Centre proposed that the clause be deleted. There are some suggested amendments at AI to AM in our table.

Ms McCleary:

It is important to stress that sanctions will only be applied as a last resort. There are hardship payments available so that families are not affected by the measure. The clause is intended to act as a deterrent and encourage people to act responsibly.

Mr Brady:

It is a double whammy. If you are prosecuted for fraud, you will be fined or, possibly, imprisoned. If there is an overpayment, not only are you fined but the overpayment is also recovered. Therefore, people are already punished, both in terms of having to pay the money back or being prosecuted and having to pay the money back. Why then should people also be sanctioned? They are still, by definition, entitled to the benefit. The clause is totally prescriptive.

Ms McCleary:

It is intended to act as a deterrent and as a reminder to people that they have to be responsible for their own actions.

Mr Brady:

With respect, if you are fined and prosecuted and have money deducted, is that not punishment enough to focus your mind on the fact that you may not want to repeat the offence?

Ms McCleary:

If someone comes before a criminal court for this kind of issue and sanctions have already been applied, it is up to the lawyers representing that person to make the point that the sanctions have been paid. Depending on the circumstances, the magistrate will consider that.

Mr Brady:

With respect, the magistrate might consider that, but my experience over the years has been that not only are people prosecuted but they may be imprisoned, they will certainly be fined and they will also have to pay the money back. The fact that there is a benefit sanction is not taken into account in any shape or form, in my experience. I imagine that that will continue to be the case.

People are being prosecuted and punished for what they have — allegedly — done wrong, so sanctioning them would mean that they were receiving three punishments. The Law Centre is making the point that you are implementing another regime of sanctions that will cost money, even though the person has already been punished. It strikes me that the measure is vindictive, although that might be the wrong word.

Ms McCleary:

I stress again that this is something that whoever is hearing any criminal action will look at and be aware of. I am afraid that this is another example of a situation in which parity has to apply; we cannot have people in Northern Ireland being treated differently to those in Great Britain.

Mr Brady:

With respect, judicial systems tend to treat people differently anyway. Much depends on who hears the case, and there are all sorts of other issues involved. When you say that the magistrates will take that into account, what is being implied there, and who explains all that to them?

Ms McCleary:

It is up to —

Mr Brady:

This is no criticism, but, in my experience, solicitors do not know very much about social security, nor do they want to. Also, there is no legal aid for appeals or prosecutions. In fact, in my experience, most people are advised to plead guilty, whatever the type of offence. If they do

not, and they are found guilty, the penalty tends to be two- or threefold more.

Ms McCleary:

I cannot comment on what somebody's adviser —

Mr Brady:

I can, because I have had many years of experience, and I assure you that that has been my experience. It seems to me that this is unnecessary.

Ms McCleary:

It is our belief that this is something that we need to do.

Mr F McCann:

I have dealt with some cases where families and single people have been refused hardship money for two or four weeks. I asked how people were expected to live, and they said that it was not their problem, because the claimants were being sanctioned.

We are all very concerned, and have been arguing at many different levels, about how you deal with crime. This is a classic example of someone having no money and having no other option but to turn to crime to survive. That needs to be taken into consideration. Taking into consideration what Mickey has said, as well, people do not always get hardship money. Once they leave the office, if they have no family, or if they have a family who also depend on benefits, it can create some difficult situations and circumstances.

Ms Margaret Sisk (Department for Social Development):

Presumably when the person who is charged with fraud offences appears in court, all those types of things are taken into account. I fully understand that there is clearly a difference of opinion here. Some people do not like the idea of applying sanctions for fraud. They are meant to be a deterrent, and, if people do not break the law, they will not suffer any consequences. If they do break the law, unfortunately, there will be a consequence.

Mr F McCann:

If someone breaks the law, they are brought to court. Is that not enough? If they get a heavy fine and they have to pay the money back, they are already being penalised.

Ms Sisk:

The idea is to relate it more clearly to benefit claims. This is something that, as a consequence, will impact on people's benefit. I am not going to be able to convince you, because clearly there is a difference of opinion here. It is as simple as that.

Mr F McCann:

You would think that it would be one or the other. If you are going to introduce sanctions, why not drop all legal proceedings against people, or vice versa? You cannot have it both ways.

Ms Sisk:

We cannot do that.

Ms Lo:

People are being punished twice, in many ways. If we follow the suggestion of the Law Centre and drop the clause, what will happen has nothing to do with parity. It is really —

Ms McCleary:

It is to do with parity. It means that someone in Northern Ireland would be treated differently to someone in Great Britain.

Ms Lo:

What will the consequences be for us?

Ms McCleary:

The consequences could be that the Treasury would look again at the consequences and take action on that.

Ms Lo:

So they are saying that we should deduct a certain amount of money this year from people who have been convicted, and we have to cough up.

Ms Sisk:

It is not possible to say what the Treasury's attitude is likely to be, but one would have to

consider that it will be looking for savings in the current climate, so you would not want to play fast and loose with the social security system. That is our concern. If people do not break the law and do not commit benefit fraud, they will not be sanctioned. It is as simple as that. If they break the law and commit fraud, they will be sanctioned.

Ms Lo:

But then it is dealt with by the court.

Ms Sisk:

That is already the case with the two strikes rule. All we are saying is that we will extend that to the first offence, to deter and stop people from committing fraud in the first place. At the minute, people are sanctioned after a second offence.

Ms Lo:

What happens to people when they have their money deducted? As Fra said, will they be pushed into further crime or robbery?

Ms Sisk:

There are hardship payments.

Mr F McCann:

However, there is a record of those not having been paid. You mentioned families, but I have dealt with single people who were refused hardship payments.

Ms Sisk:

If people can demonstrate hardship, they should be entitled to a hardship payment. Clearly, that is a matter for individual cases, Mr McCann. I cannot say anything about an individual case.

Ms Lo:

The hardship payment would be a lot less than the benefit to which they would be entitled.

Ms Sisk:

It would be less. Absolutely, yes.

Ms Lo:

How much are we talking about?

Ms Sisk:

I do not know how much a hardship payment would normally be. I am sorry; off the top of my head I cannot tell you.

Mr Brady:

The Law Centre seems to be making quite a sensible point. You have talked about parity, and about the Treasury looking to see whether the scheme will cost more. The Law Centre said:

“We therefore would query the cost-effectiveness of introducing a further sanctions regime in light of the apparent success of the current system.”

Ms Sisk:

That is about administrative cost-effectiveness, though, Mr Brady. We are talking about a programme, which is a separate issue altogether.

Mr Brady:

However, if you had a programme that would cost more, and you saved the Treasury money, would you not be doing the Treasury a favour?

Ms McCleary:

You would not get it back.

Ms Sisk:

The Law Centre is talking about administration, as in the cost of us administering the system. We are talking about benefit costs, which is a separate issue altogether. There would not be any saving of benefit costs by dropping the scheme.

Mr Brady:

Overall, however, you would be saving money without introducing a further regime.

Ms Sisk:

That is not part of social security. The administration of the social security system is paid for out

of the block. We are talking about social security money that does not come out of the block.

Mr Brady:

If the administrative money were saved, surely that could be put to other uses in the administrative system of the Social Security Agency.

Ms Sisk:

Well, yes, but —

Mr Brady:

Would that not make economic sense, apart from what is actually right and wrong in those situations?

Ms Sisk:

What we are saying is that there would be no saving. Dropping the scheme would not save any money in social security terms. In fact, it might cost us. The Law Centre is talking about the cost to the Social Security Agency of administering the scheme. What that would be, I do not know; it is hard to tell. So you could say that if we were not to go down that road administratively we might save money, but it would make no difference to the benefit system.

Mr Brady:

It would make a lot of difference to the person that you were punishing. Surely that is the issue.

Ms Sisk:

Clearly, there is not going to be a meeting of minds on the matter between our point of view and yours. We will not be able to persuade you of our situation.

Mr Brady:

By definition, in the term “welfare to work”, “welfare” implies something that is beneficial in general terms. We have a system that is not, in certain cases. You will always get serial offenders. I know that, and I am not defending that in any shape or form. However, the reality is that social security fraud here, much as it has been hyped up by the Department, is low.

Ms Sisk:

I agree with that. It is fairly low.

Mr Brady:

The amount of money that has been spent on targeting alleged fraudsters is not proportional to the amount of fraud that is committed. That is another issue, but one that needs to be highlighted.

Ms Sisk:

Well, that is for debate.

Ms McCleary:

I have just got some details here about how the hardship money works. The law divides the customers into two groups: customers who are in a vulnerable group, and other customers. “Vulnerable group” is a term used to describe people who are more likely to suffer hardship if jobseeker’s allowance (JSA) is not paid. Those customers are entitled to hardship payments in circumstances where other customers are not. The people who are classed under the current regulations as being in a vulnerable group are pregnant women, lone parents who are responsible for a child or young person, members of couples or polygamous marriages who are responsible for children or young people, customers who qualify for a disability premium, customers with certain long-term medical conditions, certain customers who provide care for disabled people, certain customers aged 16 or 17, and other customers under the age of 21.

That is the first group, and those who fall into those categories classed as vulnerable are entitled to hardship payments, as well as anyone else who can show or satisfy a decision-maker that they or their partner would experience hardship if they were not paid.

Mr Brady:

It is fairly straightforward that anyone who is between 21 and 25 and has no money to live on experiences hardship. The difficulty lies in convincing someone at the local office that you are going to be in hardship, and it can become purely arbitrary.

Ms McCleary:

There is discretion —

Mr Brady:

Discretion is arbitrary.

Ms McCleary:

There is also an appeals system. Certain groups are recognised as being more likely to be in hardship, and those are the groups that we have been talking about.

Mr Brady:

Sorry, with respect, you say that there is an appeals system, but appeals can take a long time. An appeal can take six to eight weeks, probably longer in most cases. What happens in the interim?

Ms McCleary:

I am told that you can also ask for a reconsideration.

Mr Brady:

That can take another two or three weeks. You are not convincing me.

The Chairperson:

There is clearly a difference of views on clause 19. I will put the Question.

Question put, That the Committee is content with the clause, subject to consequential amendment.

The Committee divided: Ayes 6; Noes 3.

AYES

Mr Armstrong, Mrs M Bradley, Mr Craig, Mr Easton, Mr Hamilton, Mr Hilditch..

NOES

Mr Brady, Mr F McCann, Ms Ní Chuilín.

Question accordingly agreed to.

Clause 19, subject to consequential amendment, agreed to.

The Chairperson:

Ms Anna Lo abstained.

Ms Lo:

What is the difference between abstaining and not voting?

The Chairperson:

One is actively not voting.

Mr Brady:

There are lazy abstentions.

The Committee Clerk:

It is just as in plenary sittings, when Members can choose to go into the Aye Lobby, the No Lobby, or both Lobbies to abstain, or they can stay in their places and not vote. Abstentions are recorded in the minutes.

The Chairperson:

Not voting is not recorded, which makes it look as though you were not here. At least with an abstention you were in attendance; you were interested enough to be here.

Clause 20 (Jobseeker's allowance: sanctions for violent conduct etc. in connection with claim)

The Chairperson:

This may be a similar issue. Let us keep the debate as focused as we can.

Clause 20 introduces sanctions for claimants of jobseeker's allowance who are convicted or cautioned for behaving violently towards or threatening violence to benefits staff. Provision for hardship payments and the right of appeal is also included. Stakeholders have made critical comments about the extension of sanctions to benefit claimants. Witnesses suggested that sanctions should not apply to the children or families of perpetrators.

The Examiner of Statutory Rules commented that the regulation-making powers in the equivalent clause in GB are subject to draft affirmative, rather than confirmatory, resolution. The Law Centre proposes the deletion of the clause, and there are suggested amendments at AO and AP in our table.

Ms McCleary:

We stress that violence is simply not acceptable, and it is not only this Department that recognises that. As I am sure the Committee is aware, GPs have the power to strike patients who have been violent towards them off their list, and such people can be banned from even setting foot in the surgery. We are not saying that people cannot come in but that there is an appropriate and proportionate sanction there.

Ms Ní Chuilín:

In the Health Committee, I and my party voted for zero tolerance of violent behaviour, either verbal or physical, towards health and social care staff. This is a slightly different matter because of the impact that the removal of benefits would have on families.

If claimants are violent, either physically or verbally, their claims still need to be dealt with in some way. The sanctions are punitive. I would not want any member of staff, regardless of where they work, to feel threatened or intimidated, but the approach in clause 20 is far too draconian. There must be some way of processing people's benefit, which does not necessarily mean that it has to be done on the premises. Such behaviour should go through the courts. The sanctions are a wee bit unnecessary.

Ms McCleary:

Such behaviour will go through the courts, if that is appropriate. We understand your concerns about family members, and children in particular, and as I said, the hardship criteria would be applied there.

Ms Ní Chuilín:

A claim can be processed online or on the telephone, unlike for healthcare. If one member commits a crime or is involved in violent behaviour, it will affect that person personally; it should not affect the rest of the family as much as this provision would. That is the difficulty.

Ms McCleary:

As we said about clause 19, hardship provisions are in place. This is about deterrence. We try to address the difficulties that sanctions cause to the claimant's family through hardship provisions. Small children and families specifically are in the prescribed group.

Ms Ní Chuilín:

Did the Department not consider any facility for the person's claim to be processed over the telephone, particularly if he or she has a family? If the family ends up having to go down the route of getting hardship payments, those can take up to eight weeks to process.

Ms Sisk:

That would not be a deterrent. The whole idea of sanctioning the benefit is for it to be a deterrent. If the person were still paid money, it would not have that impact.

Ms Ní Chuilín:

It is completely different from fraud.

Ms Sisk:

I do not disagree, but anyone who commits this type of offence will first have to have been prosecuted through the courts and found guilty of violent conduct. The point that Anne is making is that there is no reason that some form of sanction should not be applied to people who use violence against staff in benefit offices.

Ms Ní Chuilín:

That is not what I am arguing.

Ms Sisk:

There is a deterrent, or something similar, in other situations. We just want to send out the message that violence is acceptable in no circumstances.

Ms Ní Chuilín:

With your indulgence, Chairperson, I will tell you what will happen, Margaret. In my experience, a couple will let on to be separated in order to access benefits, simply because they cannot cope with the hassle. Not only will the partner rightly be prosecuted and penalised for his or her behaviour, which we totally support, but the family will be made to pay as well. I think that that is totally unfair.

I do understand what you are saying about a deterrent against fraud, but this is not the same. I thought that the Department might have come up with something to protect the families.

Ms Sisk:

There is protection for families.

Ms McCleary:

There is the welfare of the child provision.

Ms Sisk:

The benefit of the family is not impacted on — it the individual's benefit that will be sanctioned. The individual is sanctioned, but the other people in the family will still get their money.

Ms Ní Chuilín:

Eventually.

Ms Sisk:

No, they will get their benefits straight away. The only benefit that will be impacted on is the benefit of the individual who has been sanctioned. The benefit payable to the family will still be paid. The full amount payable to the family will be paid; the only benefit that will be sanctioned is that of the individual who has committed the offence. The individual is the only person who will be impacted on.

We have very little difficulty with this problem in jobs and benefits offices. It is not something that happens very often.

Ms Ní Chuilín:

It is usually in accident and emergency departments on Friday and Saturday nights.

Ms Sisk:

We do not expect sanctions to be used often, but they are in the legislation as a deterrent so that the message is sent out to claimants that such behaviour will not be tolerated.

Mrs M Bradley:

The Derry office does experience that type of behaviour. I know one member of staff who is still off work, having had a nervous breakdown owing to the abuse received. On one occasion, the

staff there threatened to come out all together and not serve people at all. We have to find some way in which to protect staff.

Ms McCleary:

Yes, we do.

Mr Brady:

I absolutely agree that violence should not be tolerated. I was a front line member of staff in a social security office for six and a half years, and, as such, I saw violent episodes. Such episodes were few and far between, but there were many and diverse reasons why people became violent. In some cases, although not many, people were provoked, and many had mental health problems that should have been noted and dealt with. I am not a psychiatrist, but even I know when someone has serious problems. Those problems should have been dealt with immediately rather than left hanging until the person had built up a head of steam.

There has been much talk about parity. The Law Centre made a good point when it said that the same sanctions do not apply to tax. If there is to be parity, there has to be equity across all offices that deal with the public.

I want to clarify an issue about the perpetrators of violence. Years ago, in cases involving someone with gambling or drink problems, wives and children were paid separately. However, owing to the way in which the system has developed, that has become rare, if it happens at all. If someone who is sanctioned is claiming for a partner, and the money is lumped together, how is the sanction for that individual worked out?

Ms Sisk:

The legislation sets out the amount that is payable to individuals, their partner and their children. The sanction would be worked out in accordance with that.

Mr Brady, I accept that tax offices are not affected. We have not got the wherewithal in Northern Ireland to legislate for tax, and it is arguable as to whether there should be a similar sanction.

Mr Brady:

I am just making a general point about parity. Comparing like with like is something that we are told about all the time. However, in this case, it does not happen.

It is a double whammy. If violent conduct, such as an assault against staff, is enough to warrant prosecution, perpetrators will be punished, and, depending on their record, there is a fair possibility that they will be imprisoned. Presumably, the families would end up having to claim anyhow. It seems as if there are instances that need to be looked at more carefully. Identifying hardship goes back to the arbitrary, discretionary approach that is dependent on whether the member of staff who is dealing with the case has any issues with the person involved.

Ms Sisk:

If a family with children was involved, I would be very surprised if there was any arbitrariness.

Mr Brady:

You may hope not, but it does happen.

Ms Sisk:

There is no way that a family would be penalised.

Mr Brady:

It happens.

Ms Sisk:

I cannot talk about individual circumstances, because I am not aware of them all. However, it is not something that should happen.

Mr Brady:

It should not happen.

Ms Sisk:

You raised the issue of people being provoked and people who have a mental illness. The courts take all that into account before a person can be convicted of an offence. The starting point is when a person is found guilty of violent conduct for which there is no excuse. We want to send

out the message that violence cannot be tolerated in any area of business, be it in social security offices or, as is already the case, in health centres and hospitals.

Mr Brady:

To continue the theme, at appeal, if someone has a record of behaving violently, that would be flagged up in the file and, in my experience, the Department will send down two clerks, or more, depending on how big and violent the person is. That would be flagged in the record. It seems as if that is a more sensible way of approaching the situation. Years ago, there were blacklists.

Ms Sisk:

Flags are still applied to the records of potentially violent people. As I said earlier, violence is not the sort of thing that we envisage happening very often, and, we hope, it will not. However, we want sanctions in place in case it is necessary to use them to give our staff the same protection as staff in the Department for Work and Pensions (DWP).

Mr Brady:

I agree that staff need protection and I fully support that. However, the incidence of violence is relatively low, and the reasons for it sometimes differ.

Ms Sisk:

I agree entirely.

Mr Brady:

A catch-all sanction is not necessarily the best way in which to approach this. The courts are there for a purpose. Imposing sanctions and prosecuting somebody is a double whammy.

Mr F McCann:

As Carál said, any assault or any violent or verbal abuse against any member of staff needs to be dealt with quickly and sternly. That raises the issue of creating the double whammy of people being brought to court and having their benefits stopped. I have dealt with a number of people who would be on Mickey's blacklist. There is a mechanism for people to be barred from local offices, and, on a couple of occasions, I have brought people to sign on outside the office. I know that that happens regularly with a number of people at the office out of which I work.

Ongoing contact takes place with the community and political sectors to create a mechanism

to allow people who may have been violent, many of whom are chronic alcoholics or suffer from mental illness, to get their benefit. People who are violent in any office need to be dealt with, but if they are brought to court and sentenced to time in prison or fined, that should be sanction enough.

Ms Sisk:

The proposed sanction is to withhold the benefit for a week. That is not a hugely punitive sanction.

Mr F McCann:

The person could starve for a week.

The Chairperson:

I sense some dissent.

Question put, That the Committee is content with the clause, subject to consequential amendment.

The Committee divided: Ayes 6; Noes 3.

AYES

Mr Armstrong, Mrs M Bradley, Mr Craig, Mr Easton, Mr Hamilton, Mr Hilditch.

NOES

Mr Brady, Mr F McCann, Ms Ní Chuilín.

Question accordingly agreed to.

Clause 20, subject to consequential amendment, agreed to.

The Chairperson:

Anna Lo abstained from the vote.

Clause 21 (Repeal of sections 53 to 57 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000)

The Chairperson:

Clause 21 will repeal existing sections of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000. No amendments were suggested.

Ms Sisk:

Those sections cover a pilot exercise that was run in Great Britain that was proven not to work. The pilot did not offer good value for money, so it was repealed in Great Britain. That pilot exercise was not run in Northern Ireland, so we intend to repeal the sections in the 2000 Act. That shows that it can happen that some measures in legislation do not proceed; it not a foregone conclusion that they go ahead.

The Chairperson:

I will wait for any cynics in the room to raise anything.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 21, subject to consequential amendment, agreed to.

Clause 22(Period for which pilot schemes have effect etc.)

The Chairperson:

Clause 22 allows piloting of schemes to be extended from 24 months to 36 months. Again, no amendments were suggested.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 22, subject to consequential amendment, agreed to.

Clause 23(Exemption from jobseeking conditions for victims of domestic violence)

The Chairperson:

Clause 23 includes regulation-making powers to allow the Department to permit JSA claimants who are victims of domestic violence to receive benefit but be exempt from JSA conditions for a period of 13 weeks, in addition to current provisions of 11 weeks.

Stakeholders commented that benefit advisers should have less discretion in interpreting domestic violence and that there should be a general recognition of the impact of domestic violence on claimants. The Law Centre (NI) proposes a further extension of the exemption period beyond 13 weeks, and the Department has indicated previously that the 13-week period is

in addition to the 11-week period of exemption. Some suggested amendments along those lines are included in amendments AQ and AS in the table in the Committee Stage summary.

Ms McCleary:

There seems to have been misunderstandings about the clause. The Jobseeker's Allowance Regulations 1996 already make provision for a period of 11 weeks in connection with domestic emergencies. The proposed 13-week period will be in addition to that, meaning that the total period will be almost be six months, which is what many respondees felt to be appropriate.

The Chairperson:

Can you provide any further clarity on the meaning of "domestic violence"? Will only physical abuse be included or will psychological abuse also be included?

Ms McCleary:

It will include psychological abuse.

The Chairperson:

Will revised guidance be provided to benefits advisers?

Ms Sisk:

Yes. Guidance for staff will be produced.

Mr Colm McLaughlin (Department for Social Development):

The definition of "domestic violence" will be included in the regulations. That definition will include personal, financial and physical abuse, among other forms of abuse.

The Chairperson:

Therefore, that definition will not be prescriptive.

Ms Sisk:

It will be a pretty wide definition.

The Chairperson:

That covers most of the concerns raised in the evidence given to the Committee. Is the

Committee happy enough?

Ms Lo:

If someone has a fit note to say that they can return to work, apply for jobseeker's allowance or attend interviews, will that also be covered?

Ms McCleary:

Yes. It will be taken into account.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 23, subject to consequential amendment, agreed to.

Clause 24 (Good cause to comply with regulations etc.)

The Chairperson:

Clause 24 includes regulation-making powers to prescribe the circumstances in which claimants have good cause not to comply with mandatory activities such as JSA directions. Stakeholders commented that there should be less discretion for benefit advisers in interpreting good cause, and that good cause provisions should recognise mental health, learning disability, childcare arrangements and other caring responsibilities. One amendment was suggested, which is amendment AT in the table in the Committee Stage summary.

Anne, do you have anything to add, particularly if you have any clarity to add on the meaning of "good cause" and assurances on the revised guidance that will be given to benefits advisers? I am aware that you previously gave the Committee assurances that various conditions such as mental health and learning disabilities will be included. Do those assurances still apply?

Ms Sisk:

Yes.

The Chairperson:

Do Committee members want to raise any further issues?

Mr Brady:

The issue of “good cause” seems somewhat discretionary.

Ms Ní Chuilín:

Will it be set out in regulations?

Ms Sisk:

The Department promised that it and the Department for Employment and Learning (DEL) will examine the guidance given to staff to ensure that the definition of “good cause” is as broad as possible. The Minister will also give an assurance to that effect in his speech at Consideration Stage.

The Chairperson:

Must that definition necessarily be quite broad?

Ms McCleary:

Yes; otherwise, examples of good cause will be left out. It is possible to be too prescriptive.

Ms Ní Chuilín:

Are “just cause” and “good cause” the same thing?

Ms McCleary:

Yes.

Mr C McLaughlin:

If someone has left work, that would be termed as a “just cause” for leaving work. A “good cause” would apply if someone failed to attend a work-focused interview or to sign on every fortnight.

Ms Sisk:

Different terminology is used in different circumstances, but the situation is exactly the same.

Ms Ní Chuilín:

Will the Minister mention that at Consideration Stage?

Ms Sisk:

Yes.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 24, subject to consequential amendment, agreed to.

Clause 25 (Jobseekers' agreements and action plans: well-being of children)

The Chairperson:

Clause 25 requires advisers to take into account the well-being of children of claimants in devising a JSA action plan or agreement. Stakeholders commented that there should be further clarification on how that provision would be applied. An amendment was suggested, which is amendment AU in the table in the Committee Stage summary.

Anne, have you anything to add? How is the well-being of the child taken into account if sanctions are applied?

Ms McCleary:

If we accept any of the proposed amendments, we leave ourselves in too prescriptive a situation. It is better to leave the clause as it is, because that will give us the widest discretion to ensure that the well-being of the child is taken into account.

The Chairperson:

Do members want to raise anything?

Mr Brady:

The Law Centre's amendment is quite specific.

Ms Sisk:

The definition of "well-being" that the Law Centre (NI) suggests includes the considerations that we will use. However, we do not want these things set down in legislation. Once they are in

legislation, those are the only things that can be taken into account. There may well be other relevant situations, but we would be precluded from taking those into account.

In the guidance, we will set out the types of consideration that we want the decision-makers to take account of. That is what GB will do as well. The definition is lifted from the Children Act 2004. We will use the same considerations, but we will allow for other things to be considered as well. Therefore, we are not going against what the Law Centre (NI) says but simply do not want to be prescriptive in the Bill, because to do so would fetter the decision-maker's discretion.

Mr Brady:

Your suggestion is more aspirational than —

Ms Sisk:

No. Our suggestion will allow for more things to be taken into account than what the Law Centre (NI) sets down.

Mr Brady:

You will find that if a mechanism is not specified, we are back to relying on the Department's discretion.

Ms Sisk:

The mechanisms will be specified in the guidance, but there will also be scope for additional factors. That is all that we are saying.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 25, subject to consequential amendment, agreed to.

Clause 26 (Contracting out functions under Jobseekers (Northern Ireland) Order 1995)

The Chairperson:

Clause 26 provides a general provision to allow DSD and DEL to contract out certain jobseeker

functions.

Stakeholders commented that contracting out would require robust monitoring, and might lead to additional administrative costs and a loss of service for hard-to-help or rural groups. There are some suggested amendments, which can be found at amendments AW to AZ in the table in the Committee Stage summary.

Does the Department want to add anything, particularly about the controls that DWP uses for contracted-out organisations or third parties?

Ms McCleary:

First, we are not planning to contract anything out. Any contracting out is in the DEL sphere rather than in ours. As we said in an earlier evidence session, contracts in situations such as this will presumably be subject to monitoring.

The Chairperson:

DEL has contracted out aspects of business in the past.

Ms Sisk:

There is a similar provision in the Welfare Reform Act (Northern Ireland) 2007, but DEL has not yet used it. DEL has asked that this clause be left in the Bill, in case at any point it decides that there are aspects of its business that it wishes to contract out. As far as I am aware, it has no plans to contract out.

Mr Brady:

I am wary of contracting out because of the sensitive nature of the business. Take HR Connect, which you may know a great deal more about than I do. It is a disaster, in the sense that all sorts of problems have occurred. Other Committee members have also had problems with HR Connect. It has taken over human resources in the Civil Service, and it has not proved to be successful.

Ms Sisk:

As Anne said, DSD has no intention of contracting out any of its functions.

Mr Brady:

What about support services?

Ms Sisk:

What we are talking about here are the services that impact on benefit decision-making. We have no intention of doing anything like that. I do not know whether DEL has such an intention. Sir Reg Empey is due to appear in front of the Committee for Employment and Learning in the not-too-distant future. Perhaps you can take that up with him and see whether he has any plans. I think that that is a fail-safe measure, just in case.

The Chairperson:

Are Members content with the clause? The power exists to contract out services, but the Department has no intention of doing it.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 26, subject to consequential amendment, agreed to.

The Chairperson:

It is 2.55 pm, and I know that some members have their names down to ask questions to the Minister of Justice at 3.00 pm, and that a question for urgent oral answer has been tabled for immediately after Question Time. However, rather than break right now, I wish to jump to clauses 30 to 36, which are minor and technical clauses that make reference to the new arrangements for the payment of child maintenance. No amendments were suggested during evidence sessions.

Question, That the Committee is content with the clauses, subject to consequential amendment, put and agreed to.

Clauses 30 to 36, subject to consequential amendment, agreed to.

Committee suspended for Question Time.

On resuming —

The Chairperson:

Welcome back. We seem to have lost about half of the Committee, but it may prove to be for the

best.

Clause 27 (Attendance in connection with jobseeker's allowance: sanctions)

The Chairperson:

Clause 27 introduces a sanction for JSA claimants who fail to attend mandatory interviews and the closure of claims where claimants fail to make contact. Stakeholders commented that these sanctions would particularly and unfairly target claimants with certain mental illnesses and would also unfairly affect the families of claimants. The Law Centre proposed an amendment that would allow claimants 21 days, rather than five days, to set out good cause for missing an appointment. There are some suggested amendments at BA and BB in our table. Does the Department have anything to add, particularly in respect of good cause?

Ms Sisk:

The Law Centre's amendment is based on a misunderstanding of what the clause is all about. The clause proposes that where someone misses their interview and then turns up within five days without demonstrating good cause, they will be sanctioned. If they stay away for longer than five days, their claim will be closed down, as happens at the minute. Therefore, extending the length of time to allow them to demonstrate good cause would not be of any benefit to them at all.

The clause is aimed at serial non-attenders. Mr McCann talked about situations in which somebody could fail to attend on one occasion by mistake. That is not the sort of situation that we have in mind. This is aimed at serial non-attenders, the idea being that people who are trying to get into work get into the habit of being at places at a time when they are expected to be there. When a person is working, that is something that they are expected to do.

Therefore, as I said, the amendment that has been proposed by the Law Centre is based on a misunderstanding of the clause. It would not achieve what the Law Centre intends it to achieve. At present, if someone does not attend, their benefit claim is closed down, and they lose benefit until the claim is reopened. That creates bureaucracy. We are saying that the claim would not be closed down; instead, they would lose benefit until the claim is opened up again.

Mr Brady:

Is the Law Centre not saying, essentially, that five days is not long enough, say, in the case of an

emergency? That is the point that it is making.

Ms Sisk:

We are not saying that someone has five days to demonstrate good cause: we are saying that if that person does not turn up within five days, their claim will be closed down anyway, which is what happens at present. The Law Centre suggests that there should be 21 days in which to demonstrate good cause — all that would happen is that the claim would be closed.

Mr Brady:

I take your point. However, we then need to look at changing the fact that the case is closed down after five days.

Ms Sisk:

Exactly. Therefore, the amendment that the Law Centre has suggested will not achieve what it wants it to achieve.

The Chairperson:

They are losing their money after five days.

Mr Brady:

You are suggesting another amendment —

Ms Sisk:

I am not suggesting any amendment at all. *[Laughter.]*

Mr Brady:

But you have given us —

Mr F McCann:

You have steered us in the right direction.

The Chairperson:

You have given us an idea.

Ms Sisk:

What I am saying is —

Mr Brady:

We are not trying to put words into your mouth.

Ms Sisk:

The individual will not actually lose much more than he or she would now. At present, their claim is closed down until they turn up again. We are saying that, under clause 27, we will not actually close down that person's claim; we will keep it open. However, there will be a sanction of a week for not turning up at the right time.

Mr Brady:

The case will not be closed.

Ms Sisk:

The case will not be closed. Therefore, we are actually removing bureaucracy.

Mr Brady:

God forbid.

Ms Sisk:

There you are.

Mr F McCann:

As you said, I have raised this at previous meetings. I still have a serious problem with sanctions when someone forgets, which happens to us all. I dealt with the case of someone who was on disability living allowance. The reason that he gave for missing his interview was not accepted as good cause. He was fined.

Ms Sisk:

His benefit will have been sanctioned.

Mr F McCann:

It is the same thing as a fine. I tried to pursue it and asked about a hardship payment. It was not paid. In another case, I asked whether someone could appeal. I was told that the person could appeal, but that by the time that the appeal came through, his money would be back on again. Therefore, he still lost money.

Is there a set number of days, right across all offices? I have heard that some offices operate a week, some two weeks, and others longer. There is no set way to deal with this across all the offices.

Ms Sisk:

At present, people are required to attend fortnightly. If they do not attend within five days of their appointments, their claims are closed down. That is what happens. Members will always be able to tell us about situations when things do not seem to have worked fairly. However, good cause is taken into account. Therefore, if people have good reason for not being able to turn up on time and satisfy conditions, that should be taken into account. As I keep on saying, I cannot talk about individual cases.

Mr F McCann:

I appreciate that.

Ms Sisk:

Clearly, as I said to you before, if there is a pattern in some offices of things not appearing to work according to plan, we in the Department would like to know about it and to look at whether there is a situation. Perhaps the decision-makers need guidance from the Department's decision-making service. It could be something that simple.

The impact of this clause will not be that much more than what already exists. It is intended to relieve bureaucracy. What will happen is that if someone does not turn up at the right time and comes back to the office within five days, without being able to demonstrate good cause, they will be sanctioned. It is not actually the case that someone has five days to demonstrate good cause. That is not what the clause says. Therefore, the Law Centre has misunderstood the clause.

Mr Brady:

You talked about the sanctions affecting the person, but not necessarily their dependants.

Ms Sisk:

That is right. That would be exactly the same —

Mr Brady:

Will that be made clear?

Ms Sisk:

Yes.

Mr Brady:

The other thing that I want to clarify is whether cases will be closed after five days. Will people be given the opportunity —

Ms Sisk:

No, cases will be closed after five days. If somebody does not turn up within five days, as is the case at the minute, their benefit will be closed down until they come back and reclaim. They will not be sanctioned, because they will have to wait —

Mr Brady:

They put in a fresh claim.

Ms Sisk:

Yes.

Mr Brady:

But that fresh claim could take —

Ms Sisk:

However long it takes to decide.

Mr Brady:

Therefore, in many cases the sanction will, in effect, be more than a week or two weeks.

Ms Sisk:

Yes, but that is exactly the same as the situation at the minute. We are not proposing any changes to it.

Mr Brady:

I know, but that does not necessarily make it right.

Ms Sisk:

I am not suggesting that you would think that.

Mr Brady:

The other thing is the whole issue around good cause and using discretion.

Ms Sisk:

As I think we have said —

Mr Brady:

There is local office variation

Ms Sisk:

It really has to be discretionary to give people the opportunity to take account of what an individual is telling them about their particular circumstances. It will never be possible to be prescriptive in legislation, because, if you are, you reduce the ability of decision-makers to take account of an individual's circumstances.

Mr Brady:

I do not disagree with that, but say you have a genuine case in which someone says that they forgot. It comes down to that person's credibility and whether the interviewing officer believes them. Sometimes, that is very difficult. I take your point about serial and repeat offenders. For someone who does not sign on or attend because they think that they will get paid anyway, it does not work like that, and people catch on very quickly. Therefore, the incidence will be small.

Ms Sisk:

I agree entirely; you are right. We are talking here about repetitive offenders. Somebody who fails to attend —

Mr Brady:

It is difficult to have sympathy for people who simply do not bother to turn up. I am not defending anybody. To get benefit, you have to fulfil an obligation.

Ms Sisk:

That is all that we are talking about. There could be circumstances in which claims are continually being closed down and reopened, which, administratively, is extremely expensive and not cost-effective.

Mr Brady:

I go back to the point about closing claims down, which is more prescriptive, because people can make a fresh claim. They are not sanctioned, but it can take a few weeks.

Ms Sisk:

Again, that is a case of people not satisfying the conditions for the receipt of their benefit. If they do not turn up —

Mr Brady:

We are back to good cause.

Ms Sisk:

Well, yes, they can claim good cause, and we will take that into account.

Mr Brady:

We could be at this for a long time.

Ms Sisk:

I know. We seem to have been here a couple of times already.

Mr Brady:

It is déjà vu all over again.

Ms Sisk:

I should have thought of that one.

The Chairperson:

That is just today.

Mr Craig:

I do not have much sympathy for people who deliberately do this — I call them serial late offenders. I have always made a point of being on time for things. Are sanctions and the impact of not turning up made clear to people when they apply? It must be made clear up front that if they miss two appointments, they have five days to show good cause or else the benefit is gone. If that is made clear, they do not have a leg to stand on.

Ms Sisk:

You are right. When you apply for benefits, all the conditions are set down, so there is no excuse for not realising what is required. People are expected to turn up once a fortnight. That is basically it, so it is difficult for someone to explain how they can continually forget to turn up. It is difficult to have sympathy.

Mr Craig:

Unless there are medical reasons.

Ms Sisk:

In which case, that is a good cause.

Mr Brady:

When you sign on, you are given a document. Nobody actually says “this is the way it is going to be.” It is quite a long and complex document, so, unless you are used to such documents, it can be confusing. Obviously, I agree with Jonathan about people who just cannot be bothered to turn up. However, the difficulty is getting that message across within that document.

Ms Sisk:

I think that someone who demonstrated that they did not understand the documentation would constitute good cause. However, they would have to be able to demonstrate that they did not understand the requirements.

Ms McCleary:

For whatever reason.

Mr Brady:

I think that that argument has been taken up by the Autistic Society.

Ms McCleary:

Yes.

Ms Sisk:

Yes, and that would certainly be classified as good cause.

Ms McCleary:

All learning disabilities.

Mr Brady:

Such people may be articulate to a certain degree without being able to fully comprehend, and there is a subtle difference.

Ms Sisk:

I understand that. The people in the jobs and benefits offices tend to know their customer base, and on a lot of occasions they are aware of those with genuinely good reasons, particularly people with any sort of disability that would make it difficult for them to understand the requirements.

Mr Brady:

In fairness, the staff are under tremendous pressure.

Ms Sisk:

Yes, that is true.

Mr Brady:

That is one of the difficulties.

Ms Sisk:

Clause 27 is one of the things that will relieve that, because they will not have to continue to action cases over and over again.

The Chairperson:

Is there agreement on the clause?

Mr Brady:

I would like to look at the other option, but I am not sure how we can get around closing the claims down.

Ms Sisk:

Again, that would be a parity situation, and it would require an amendment, because the Bill does not cover that at all.

Mr Brady:

It could be in the form of an amendment.

Ms Sisk:

An amendment to that effect could be put down, but that would be a break of parity because it would create different conditions here from those for other people across the UK.

Mr Brady:

I can feel the thunderbolt already.

Ms Sisk:

Yes, you can hear us saying —

The Chairperson:

We are going to be struck down here.

Ms Sisk:

You would expect nothing else.

The Chairperson:

Do you want to divide on this now, so you can vote against it and then decide what else you want to do?

Mr Brady:

Yes, do that.

Question put, That the Committee is content with the clause, subject to consequential amendment.

The Committee divided: Ayes 4; Noes 2.

AYES

Mr Armstrong, Mr Craig, Mr Easton, Mr Hamilton.

NOES

Mr Brady, Mr F McCann.

Question accordingly agreed to.

Clause 27, subject to consequential amendment, agreed to.

Clause 28 (Social security information and employment or training information)

The Chairperson:

Clause 28 broadens the scope of information-sharing provisions relating to social security and employment matters. No amendments were suggested. I have nothing to add.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 28, subject to consequential amendment, agreed to.

Clause 29 (Persons under pensionable age to take part in work-focused interviews etc.)

The Chairperson:

In line with the increase in state pension age, clause 29 introduces a requirement for people aged 60 to 65 to undertake work-focused interviews. Stakeholders commented that, given the economic crisis, the provision was inappropriate. However, no amendments were suggested.

Ms McCleary:

There may well be those to whom this provision will apply who will want to take part in work-focused interviews because they wish to continue to work. The requirement is not particularly onerous. They will not have to attend work-focused interviews terribly frequently — they will be conducted quarterly on a sliding scale.

The Chairperson:

Quarterly? Right.

Mr Brady:

People who want to work when they reach that age will probably look for work themselves. I question why they should be put into a category in the current economic crisis, which is likely to last for a while. It is not that long ago that people aged 50 did not have to sign on. We have now gone full circle, and the economic situation is a lot worse than it was 10 or 15 years ago.

Ms McCleary:

The provision may assist those who may want to retrain in another area or to do something different.

Mr Brady:

I am not sure that employers will be seeking applicants aged 60 or over.

Ms McCleary:

There is legislation against age discrimination.

Mr Brady:

Some of that legislation, particularly European stuff, has turned out to militate against older people rather than achieving positive discrimination. I am thinking of lifelong learning and the equalisation of college fees, which led to older people being discriminated against because they

had to pay the same amount as younger people when, in fact, they were on cheaper courses. There are a lot of issues around that; it is not as straightforward as it may initially appear.

Ms Sisk:

I think you will find that, through time, because the population is ageing and there are fewer young people looking for employment, older people will find it easier. The other thing that is a strong possibility — and it has been signalled in the Queen’s Speech today — is that the default retirement age will be extended beyond 65.

Mr Brady:

[Inaudible.]

Ms Sisk:

I know.

Mr Brady:

As a member of that ageing population, I may talk to you about it after next May.

The Chairperson:

You will have a work-focused interview.

Ms Sisk:

Yes, indeed.

Mr Brady:

A work-focused convention.

Question, That the Committee is content with the clause, subject to consequential amendment, put and agreed to.

Clause 29, subject to consequential amendment, agreed to.

The Chairperson:

We have done clauses 30 to 36.

Clause 37, subject to consequential amendment, agreed to.

Schedules 1 to 4, subject to consequential amendment, agreed to.

The Chairperson:

Further amendments to the Bill have been proposed; amendments BC and BD in our table. Amendment BC proposes that a pilot scheme for the automatic payment of pension credit be undertaken.

Ms Sisk:

We are not proposing to run a pilot scheme here for pension credit. I think that Britain is running a very short pilot involving 2,000 people to see whether sufficient information is held by DWP to allow it to pay pension credit to individuals without a claim. If that is successful and DWP decides that it should be rolled out then clearly in Northern Ireland we will do exactly the same thing. There is no real benefit to us in running a pilot because you are talking about a tiny number of people, and it would probably not prove anything much. That is why we did not see the need to run a pilot scheme here. It would not be cost-effective, but if DWP find that it is of benefit then there is no question but that it will be rolled out in Northern Ireland.

The Chairperson:

What proportion of the overall number does 2,000 constitute? It sounds like a small number.

Ms Sisk:

It is a tiny number of people. I am sure that there are hundreds of thousands of people getting pension credit. If we were to take something like a fortieth of that it would amount to less than 100 people in Northern Ireland. It really would be of no particular benefit to us at all.

Mr Brady:

Logically, why not have a pilot scheme that includes more people? One of the big issues that has been going on for years is that pension credit is not being claimed. There is between £1 million and £1.9 million of pension credit unclaimed here every week. It is much more urgent here than it is in Britain, and therefore it seems sensible to me to raise people's awareness of the benefit. That money goes back to the Treasury.

Ms Sisk:

It is not that it goes back to the Treasury; it just does not come here in the first place. There would be no benefit to us in running a pilot, because DWP will decide whether or not it is going to do this. If we ran a pilot and came up with an answer, we could not put legislation in place that would allow us to do it. The legislation would have to be put in place by DWP, so it is that Department that needs to prove that it works.

Mr Brady:

That is not the point. The point of the pilot is to raise awareness among people that they may be entitled to pension credit.

Ms Sisk:

I am not sure that that is the point of the pilot.

Ms McCleary:

I do not think it is about raising awareness.

Mr Brady:

It is about paying people who are entitled; that is the issue.

Ms McCleary:

Yes, without their having to go through the process.

Mr Brady:

So whether it is DWP or the Social Security Agency here, people who are entitled to the benefit would be getting that benefit. It is not deviating from something that is not already there. The problem here is that the number of people who are not getting the benefit to which they are entitled is much higher proportionately than it is in Britain. It seems a sensible suggestion from Age NI that a pilot scheme could be beneficial.

Ms Sisk:

I still come back to my point that, in order for this to be put into place as a permanent solution to the problem, DWP will have to make the decision, and the evidence used will have to be its evidence. Anything that we did would have no bearing on that.

Mr Brady:

I understand that. The permanent solution, surely, is making sure that people who are legally entitled to the benefit do, in fact, get it.

Ms Sisk:

Yes.

Mr Brady:

That is the solution. This is simply running a pilot to make sure that people who are entitled to the benefit get it.

Ms Sisk:

The idea of the pilot is to see whether DWP holds sufficient information to allow it to make correct decisions on pension credit, because it is possible that payments will be made to people who are not entitled.

Mr Brady:

[Inaudible.]

Ms Sisk:

We do not want a situation to arise in which money would have to be recovered from some people. The purpose of the pilot is to see whether an automatic scheme would work. We do not see there being any benefit to us in running pilot schemes, because we cannot influence the final decision. The final decision will have to be made by DWP. If DWP decides that this is a good, workable thing and does not disadvantage anybody in any way, it will be rolled out in Northern Ireland; there will not be a problem.

Mr Brady:

You are saying that they may or may not have the information. In a number of European countries, people automatically get their pension and other entitlements when they reach pensionable age. The excuse used in Britain is that they do not have enough postcode information, and that is nonsense.

Ms Sisk:

That is not entirely true. Pension credits also —

Mr Brady:

They do have the information. I rang up about a television licence on one occasion, and all I had to do was give them my postcode; I did not have to give my name, address or anything else. They could have told me what I had for my breakfast just from my postcode.

Ms Sisk:

Pension credit is a means-tested benefit, so information about people's income, savings and capital is required. It is to check on that —

Mr Brady:

There is no difference, because, at the moment, you are acting on the information that people tell you. They could have £20,000 in a shoebox under the bed and not tell you about it.

Ms Sisk:

That is correct.

Mr Brady:

You will have that information through their bank accounts and obviously —

Ms Sisk:

We cannot access people's bank accounts. They would have to have told us.

Mr Brady:

You would have to have the information to access.

Ms Sisk:

That is right.

Mr Brady:

It used to be that the claimants had to give you their permission, and if you did not get permission, you would not do anything because you did not have enough information. You now

have access, once you have the information.

Ms Sisk:

Yes, but the purpose of the pilot in GB is to check whether they hold that information. If they can show that DWP holds enough information, without people having to fill in claim forms, this will be rolled out, and there will be no need for a pilot in Northern Ireland. It will be rolled out automatically. There is no benefit to our running a pilot, because we cannot influence DWP's final decision. It is DWP who will have to make the decision. That is the reason for there being no pilot here.

The Chairperson:

Mickey's points are valid, and everybody will accept that trying to increase the uptake of pension credits should be a priority.

Ms Sisk:

Absolutely.

The Chairperson:

Do we accept the Department's point that that it is not meritorious for us to go ahead and run a pilot of something that might differentiate from a pilot that has been going on over there and about which we can do nothing?

Mr Brady:

With respect, Alex made the point last week about parity. If there is to be parity, why are they having a pilot scheme and we are not?

Ms McCleary:

Their pilot scheme will apply to us.

The Chairperson:

It is the same with "work for your benefit" as well.

Mr Brady:

I agree that there should be a "work for your benefit" pilot scheme here, because parity is like

with like. Why is there a pilot scheme there? Two and a half years has been mentioned — the legislation will be place. Irrespective of what happens with the pilot scheme, do we honestly think that they will change the legislation to take that into account?

Ms Sisk:

Are we talking about “work for your benefit”? I am lost.

Ms McCleary:

The point to remember is that the pilot is not about increasing awareness of the benefit; it is about making sure that the system has enough information to allow us to do it automatically. That does not need to have Northern Ireland-specific information. It is about whether there is information on the system GB-wide or UK-wide, rather than worrying only about issues specific to Northern Ireland.

The Chairperson:

If it works over there, the same information is held here. We do not have to run a pilot.

Ms Sisk:

That is correct. We will go straight to it, without holding a pilot.

Mr Brady:

I thought that we were here to worry specifically about what happens in the North.

Ms Sisk:

On this specific issue, it is DWP-led.

Mr Brady:

It is not Social Security Agency-led?

The Chairperson:

Members might be looking for assurance. If the pilot scheme in GB works and gets the go-ahead from DWP, we will not have a pilot. Is that correct?

Ms Sisk:

That is correct. The scheme will be rolled out here.

Mr Brady:

Just because it might not work over there does not mean that it will not work here.

Ms Sisk:

If it does not work there, it will not work. The pilot in GB will be looking at whether there is sufficient information to make accurate benefit decisions. The same conditions apply in Northern Ireland as apply in Great Britain: that is the point of parity.

The Chairperson:

Before Tommy Gallagher speaks and makes an early impression on the Committee, I want to welcome him here. This is his first meeting, and he is replacing Thomas Burns, whom we wish well and thank for his contributions.

Mr Gallagher:

I apologise for not being present for the start of the meeting, but the Health Committee was meeting, and the meeting went on longer than expected. I have come late to the discussion, and I am picking up on what is being said about tax credits and whether something that works in Great Britain will work here. Tax credits do not work for cross-border workers. In fact, the tax credit system is very complicated. I want to say that for the attention of the departmental officials. It is difficult and chaotic, but it may be more of a North/South issue. I am not saying that you are deliberately trying to sweep something aside, but I do not agree with such a broad statement that if something works in Great Britain, it will work here, because it does not work for cross-border workers.

Ms McCleary:

There are some cross-border workers in Great Britain, because we heard about some people who commute to France, for instance. It is a tax credit issue.

Ms Sisk:

Tax credits are not the responsibility of DSD; they are the responsibility of the Treasury. I know that there have been many complaints about tax credits. Unfortunately, or fortunately, we have no control over those.

The Chairperson:

You never know: you might get it yet.

Ms Sisk:

We have enough problems.

The Chairperson:

The points that have been made are valid and have been taken on board. Given the assurance that we have had that it will work here if it works in Great Britain, and, if it does work in Great Britain, it will be rolled out here automatically. Are members content not to pursue the new clause?

Members indicated assent.

Ms Sisk:

If it helps, we could have the Minister make a commitment at Consideration Stage that there will be an automatic roll-out.

The Chairperson:

That would be helpful. We are happy not to pursue amendment BC at this stage.

Amendment BD proposes an exemption from work-related conditionality provisions for all lone parents with children in receipt of disability living allowance (DLA).

Ms McCleary:

We have talked about parity in relation to that.

Ms Sisk:

Parents of children who are in receipt of the middle or higher rate of DLA are exempt from work-related activity. We are talking, therefore, only about the parents of children who are in receipt of the lower rate of DLA. The conditions around their well-being, which we have spoken about, would have to be taken into account. There are quite a lot of safeguards built into the legislation to enable that to be taken into account.

As Colm said, work-related activity can amount to something in the region of one activity

every three months. We are not talking about placing onerous burdens on parents, even if they do have to undertake activity, which they will not have to do in every case anyway.

Mr Brady:

Lone parents with children who get DLA do so because they meet the required criterion, which is that the children require care and attention that is substantially in excess of what should be required for a child of that age. Even undertaking one activity every three months is putting parents under undue pressure, because they are bound to have difficulties.

Ms Sisk:

We talked earlier about the well-being of a child. The decision-maker and the personal adviser will have to take into account all the caveats that are set down. The fact that a lone parent is dealing with a disabled child, even if the parent is not in receipt of the middle or higher rate, is one of the things that will have to be considered. There are sufficient safeguards already built into the legislation that cover all of that.

Mr Brady:

The Committee produced a report on DLA, relating to the administration and inconsistency of it. Many children are not getting DLA or are not getting the middle or high rate, when they should be on a higher rate because of the inconsistency of the system. By definition, it is a medically based benefit. Unfortunately, in many cases the medical evidence available is not taken into account.

Ms Sisk:

Even if they are not receiving what you consider to be the correct rate of DLA, their well-being would still have to be taken account of, with all the caveats that are set down in that regard applying.

Mr Brady:

What about children who have been turned down for DLA and are appealing that decision?

Ms Sisk:

Even if they are not disabled at all, their well-being must be taken into account. All the same things have to be considered, regardless of the situation in which the child is in.

Mr Brady:

It is discretionary.

The Chairperson:

The needs of a child in receipt of DLA are effectively going to be childcare-related needs. We have heard in previous evidence sessions that if a mother says that she has to look after a child because there is no one else to do it, that is not tested but is accepted as a valid reason.

Mr Brady:

It is childcare provision.

The Chairperson:

That is not childcare in the way in which one would necessarily think of it.

Ms Sisk:

They would require a higher level of childcare because their child is disabled. We have also said that the mother's word is taken for that. The personal adviser will not challenge her or ask her to show evidence to prove it. A personal adviser will take her word for it. In our view, there are quite sufficient and stringent safeguards already built into the legislation.

Mr Brady:

It comes back to the degree of training that staff receive.

Ms Sisk:

We have asked DEL to give us a note about that, and we will come back to you on it.

Mr Brady:

If safeguards were built into that —

Ms Sisk:

Extra safeguards will be built in as a result of clause 25. That clause will actually increase the level of safeguards that are built in.

The Chairperson:

Those assurances are there. Are members happy not to pursue that amendment?

Members indicated assent.

The Chairperson:

Finally, the Law Centre (NI) has proposed an additional amendment in respect of the well-being of children. We have spoken about that just now and previously. The Law Centre (NI) proposes that a new clause be added that requires the Department to have statutory regard for the well-being of children in the discharge of all the clauses. “Well-being” means appropriate childcare, physical, mental, emotional, educational and social factors. I think that you spoke about that earlier.

Ms Sisk:

Yes, we did. We said that our intention is that all that be included in guidance. We could go further.

Mr Brady:

I really think that that is necessary. It is all right to say that it is discretionary at the moment and that it will not happen, but in my experience over the years, if something is put in place, it is put in there for a purpose. The whole feel-good factor is eroded as time goes on and different targets are set. The Bill was put in place by another Government to the one that we have now.

Ms Sisk:

I would be very surprised if the new Government attacked that element.

Mr Brady:

I would not be surprised about anything.

Ms Sisk:

When the UK Bill was going through Parliament, the Conservatives were actually less draconian about it than Labour. We can have the Minister say that safeguards will be built into guidance; there is no difficulty in doing that. He will give quite a lot of assurances at Consideration Stage.

Mr Brady:

I will sleep soundly tonight.

Ms Sisk:

I am glad to hear that.

The Chairperson:

Are members content not to pursue that amendment given those assurances?

Members indicated assent.

Question, That the Committee is content with the long title, put and agreed to.

Long title agreed to.

The Chairperson:

Subject to assurances that have been requested and promised, there are no other consequential amendments. Is the Committee content with the Welfare Reform Bill?

Mr Brady:

We will probably be looking at amendments.

Question put, That the Committee is content with the Welfare Reform Bill as drafted.

The Committee divided: Ayes 5; Noes 2.

AYES

Mr Armstrong, Mr Craig, Mr Easton, Mr Hamilton, Mr Hilditch.

NOES

Mr Brady, Mr F McCann.

Question accordingly agreed to.

The Chairperson:

Tommy Gallagher abstained.

Thank you, Anne, Margaret and Colm, for all of your help during the past two weeks, which

seemed like an eternity.