PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

WELFARE REFORM BILL

Fifteenth Sitting

Tuesday 3 May 2011

(Morning)

CONTENTS

CLAUSES 50 to 59 agreed to.
CLAUSE 60 under consideration when the Committee adjourned till this day at Four o'clock.

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5·00

PBC (Bill 154) 2010 - 2012

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Saturday 7 May 2011

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: † Mr James Gray, Mr Mike Weir

† Baldwin, Harriett *(West Worcestershire)* (Con)
† Bebb, Guto *(Aberconwy)* (Con)
† Buck, Ms Karen *(Westminster North)* (Lab)
† Curran, Margaret *(Glasgow East)* (Lab)
† Elliott, Julie *(Sunderland Central)* (Lab)
† Ellison, Jane *(Battersea)* (Con)
Elphicke, Charlie *(Dover)* (Con)
† Fovargue, Yvonne *(Makerfield)* (Lab)
† Gilmore, Sheila *(Edinburgh East)* (Lab)
† Glen, John *(Salisbury)* (Con)
† Grayling, Chris *(Minister of State, Department for Work and Pensions)*
† Green, Kate *(Stretford and Urmston)* (Lab)
† Greenwood, Lilian *(Nottingham South)* (Lab)
† Hollingbery, George *(Meon Valley)* (Con)
† McVey, Esther *(Wirral West)* (Con)
† Miller, Maria *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Newton, Sarah *(Truro and Falmouth)* (Con)
Paisley, Ian *(North Antrim)* (DUP)
† Patel, Priti *(Witham)* (Con)
† Pearce, Teresa *(Erith and Thamesmead)* (Lab)
Sarwar, Anas *(Glasgow Central)* (Lab)
† Smith, Miss Chloe *(Norwich North)* (Con)
† Swales, Ian *(Redcar)* (LD)
† Timms, Stephen *(East Ham)* (Lab)
† Uppal, Paul *(Wolverhampton South West)* (Con)
† Willott, Jenny *(Cardiff Central)* (LD)

James Rhys, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 3 May 2011

[Mr James Gray *in the Chair*]

(Morning)

Welfare Reform Bill

Written evidence to be reported to the House

WR 56 Motor Neurone Disease Association
WR 57 London Councils

10.30 am

The Chair: I welcome the Committee back to another abbreviated parliamentary week. The Committee will not need reminding that we are not sitting on Thursday.

Clause 50

DUAL ENTITLEMENT

Question proposed, That the clause stand part of the Bill.

The Minister of State, Department for Work and Pensions (Chris Grayling): I welcome everyone back, and if I may digress for a moment, I remind colleagues that, because we are not sitting on Thursday, we intend to go late this evening if we need to, although we will see how we go. It is certainly not our intention to keep people unnecessarily late, and we always intended to debate the personal independence clauses next week. I want to make hon. Members on both sides of the Committee aware of that. Should we get to that point, with the Chair's good will, we will have a supper break at an appropriate time.

The Chair: We will have to see about that.

Chris Grayling: Clause 50 will amend a technical defect in section 1 of the Welfare Reform Act 2007, which provides that a person is not entitled to employment and support allowance if they are a member of a couple who are entitled to a joint-claim award of jobseeker's allowance. The purpose of the joint-claims provision is to ensure that both members of a couple are subject to JSA conditionality. However, there are circumstances in which a member of a joint-claim couple is entitled to JSA without meeting all the conditions of entitlement—for example, where one member is unable to work due to ill heath or disability. The JSA regulations set out such circumstances.

The policy intention is that such a person should be entitled to claim contributory ESA, as well as joint-claim JSA, but the Department has realised that the current provisions do not work as intended owing to a defect in the primary powers. The clause will rectify that by ensuring that such people can claim contributory ESA, which, of course, is payable at a higher rate, while being a member of a couple who are entitled to a joint claim for JSA.

The clause makes provision for cases in which contributory ESA has been paid to a claimant in this type of case before the measure comes into force, to regularise such payments. It is simply a technical change that restores the original and absolutely right policy intention of the previous Government and puts awards of benefits already made to claimants in such cases on to a proper legal footing. I hope that provides sufficient explanation for the Committee.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Clause 51

PERIOD OF ENTITLEMENT TO CONTRIBUTORY ALLOWANCE

Stephen Timms (East Ham) (Lab): I beg to move amendment 154, in clause 51, page 35, line 40, leave out '365 days' and insert

'a prescribed number of days, which must be at least 730,'.

The Chair: With this it will be convenient to discuss the following: amendment 155, in clause 51, page 35, line 40, after 'period', insert

'since the person was last in the Support Group'.

Amendment 156, in clause 51, page 36, line 14, at end insert—

'(c) does not include any days during the assessment phase, except in prescribed circumstances.'.

Amendment 157, in clause 51, page 36, line 11, leave out paragraph (a) and insert—

'(a) does not include any days occurring before the coming into force of this section.'.

Amendment 160, in clause 51, page 36, line 14, at end insert—

'(c) does not include days in which a claim in respect to Employment and Support Allowance is in the assessment phase.'.

Amendment 161, in clause 51, page 36, line 14, at end insert—

'(4) The period of days referred to in subsection (1) shall restart following any period in which a person is a member of the Support Group.'.

Amendment 163, in clause 52, page 36, line 21, leave out subsections (1), (2) and (3).

Amendment 164, in clause 52, page 36, line 30, leave out 'that condition' and insert

'the third condition set out in Part 1 of Schedule 1 to the Welfare Reform Act 2007 (youth)'.

Amendment 165, in clause 52, page 36, line 32, leave out '365 days' and insert 'a prescribed number of days, which must be at least 730'.

Amendment 166, in clause 52, page 36, line 32, after 'days', insert

'since the person was last in the Support Group'.

Amendment 167, in clause 52, page 36, line 34, leave out paragraph (a) and insert—

'(a) does not include any days occurring before the coming into force of this section;'.

Amendment 168, in clause 52, page 36, line 38, at end insert—

'(c) does not include any days during the assessment phase, except in prescribed circumstances.'.

Stephen Timms: I, too, welcome you, Mr Gray, back to the chairmanship of our Committee. I hope that you have enjoyed some street parties and festivities, or you might have attended a May day rally, I do not know.

The key amendment of the group is amendment 154, which, with amendment 165, addresses the limitation of contributory employment and support allowance to one year for people in the work-related activities group. The other amendments raise two important related issues, and I welcome the two amendments in the group that the hon. Member for Cardiff Central tabled to address the same issues.

Time-limiting contributory ESA is a major change to how the benefit's system works—no one should be under any illusion about that. The Government expect to save billions of pounds. This morning, I received a written answer from the Under-Secretary of State for Work and Pensions, the hon. Member for Basingstoke, which said that they will save more than £1 billion a year by 2014, as a result of the change. It was always assumed that national insurance meant that, if someone fell ill and was unable to work, they would receive their contributory benefit until they were better, but not anymore. Under the Bill, they will receive contributory benefits for a year and that is it. It is a very big change indeed.

Let me summarise the case that I want to put to the Committee. First, as with jobseeker's allowance, to be justified, any time limit should be greater than most people need to get off the benefit. Secondly, only a small minority of those who enter the work-related activity group leave ESA within a year. The Government have yet to tell us how many, but I suspect that the figure is probably less than 20%, so it is a small minority. Thirdly, as an absolute minimum, the Government should make the time limit amendable by regulations, rather than writing "365 days" in the Bill.

With amendments 154 and 165, I am not opposing the principle of time-limiting. The principle governing the design of ESA was work for those who are able to work and support for those who are not. When we introduced ESA—I was the responsible Minister when ESA came into effect—it distinguished for the first time between people who could reasonably be expected to get back to work, who were placed in the work-related activity group, and those who could not, who were placed in the support group. The latter will continue to receive contributory ESA for as long as they are incapable of work, if necessary until they receive their state pension. The change will not affect them, but it will affect people in the work-related activity group.

I agree that there is a persuasive logic in the case for people in the work-related activity group not being paid contributory benefits indefinitely. Since the 1980s, contributory jobseeker's allowance has not been paid indefinitely. JSA is paid for only six months, by which time we know that the vast majority of people find new jobs. I have rarely heard complaints that that arrangement is unreasonable.

Too many people have been stuck on incapacity benefit when they could have been working and whose health would be a lot better today if they had been working. I particularly enjoyed meeting a number of people who returned to work through the previous Government's pathways to work programme after long periods. One or two of them had been out of work on health grounds for 10 years, and some had been out of work for longer than that. Their enthusiasm for the improvement in their circumstances, particularly their health and general well-being, as a result of being in work was a tonic.

This has a long history. In the 1980s, as unemployment rose inexorably to 3 million on two separate occasions, the then Government were desperate to get the headline numbers down. Jobcentre staff were given points for stopping people from getting on to unemployment benefits. I have spoken to people who worked in jobcentres at the time, and they told me how it worked. They earned those points if people went on to incapacity benefit. So large numbers of people whose health problems were not insuperable were dumped on to incapacity benefit and abandoned. Some of them are still on incapacity benefit, and even more stayed on incapacity benefit until they reached state pension age at some point between then and now. That was the period when the numbers on incapacity benefit mushroomed. It was a scandalous episode in the history of the welfare system.

Someone pointed out to me a particularly tendentious press release on the Conservative party website in the Minister's name. It claims that the new Government elected in 1997 did nothing about the issue. That is completely untrue. Pilots of the new deal for disabled people, which was the first attempt by any UK Government to help people on incapacity benefit into work, started in 1998, not long after the commencement of the new deal for young people. I know because I was the Minister responsible. It was a new area of endeavour for the state. Before that, the previous Government had made no effort at all.

Chris Grayling: I have two questions for the right hon. Gentleman. First, will he confirm to the Committee that the total number of people claiming incapacity benefit barely changed over the 13 years that Labour was in office and certainly over the period before the introduction of ESA? Secondly, will he confirm that during those 13 years, while he introduced assessment for new claimants, no assessment was carried out of those people who were existing incapacity benefit claimants, with a view to undertaking the return-to-work process that was carried out subsequently for new claimants?

The Chair: Order. That question ranges wide of the amendments, and perhaps in responding to it, the shadow Minister will bear that in mind.

Stephen Timms: I am grateful. I will respond briefly: the period in which the huge increase took place was, of course, during the previous Conservative Administration. I think the Minister is implicitly acknowledging that the number fell by a small amount under the previous Government. It was rising sharply in 1997 and then started to come down, thanks to the changes that we made. We built on the new deal for young people with pathways to work and with the creation of ESA. The result was a very dramatic improvement on the previous Government's record. The Minister is right that it took some time. It had not been tried at all before 1997 to help people out of work for health reasons. It took some experimentation to find out how to do it, and we therefore learned how to help those people. This Government have rightly attempted to build on that in setting up the Work programme.

[Stephen Timms]

I want to suggest to the Committee that, for people who can reasonably be expected, notwithstanding their health problems, to look for a job—of course, the work capability assessment for placing people in the work-related activity group needs to be right, and we do not seem to be quite there yet, although I welcome Professor Harrington's recommendation—it is perfectly reasonable, by analogy with contributory JSA, to limit the period for which contributory ESA is paid. The crucial question is the length of that period. The argument for time-limiting JSA has always been that the vast majority of job seekers return to work within six months of losing their job. To justify a time limit in ESA, we need to be satisfied that it is reasonable to expect people to return to work within that period and that most people will be able to do so.

What should the period be? One possibility is that contributory ESA should be paid for just six months, as with contributory JSA. I agree with the Government's decision not to do that. It would be quite wrong to allow only the same period in which contributory JSA is payable. ESA was designed to strike the right balance between providing adequate support on the one hand, recognising the significant barriers to work faced by many people with health problems, and on the other hand having high but realistic expectations of those who can plan for a return to work.

People with health problems often face very serious barriers to work, not only in doing a job but also in securing one in the first place, and it is right that we give people additional support in recognition of that. It would be completely unrealistic to build a system that expected people with health problems to get back to work within six months in the same way that jobseekers without health problems are expected to do.

I am glad that the Government are not expecting such people to return to work within six months, but I also want to suggest to the Committee that a year is not the right period either. That is crystal clear. If we are going to set a time limit to ESA, it is very important to set it at a duration that is fair, drawing on the evidence about what is a reasonable period in which people with health impairments can be expected to get back to work. The crucial question is whether it is reasonable to expect people in the work-related activity group to return to work within one year, and my answer is that it is not.

10.45 am

In a written parliamentary question, I asked

"the Secretary of State for Work and Pensions what the evidential basis is for his proposal that 12 months should be the maximum period for claimants in the work-related activity group to receive contributory employment and support allowance".

I received an answer from the Under-Secretary of State for Work and Pensions, the hon. Member for Basingstoke:

"The period of 12 months was chosen because it strikes the best balance between allowing people with longer-term conditions to adjust to their health condition and providing a level of access that is appropriate for contributory benefits. Around 60% of all those claiming ESA already come off this benefit within a year".—[*Official Report*, 31 January 2011; Vol. 522, c. 585-86W.]

That is an interesting statistic—60% of people back in work within a year. If it were true that the majority in the work-related activity group are back in work within a year, I would agree that that would give some kind of rationale for limiting contributory entitlement to a year. The Minister's claim, however, appears to be based on data on the Department for Work and Pensions website, which show that around 40% of those who were receiving ESA in May 2009 were still receiving it in May 2010—60%, therefore, were not. However, that includes people in the assessment phase, most of whose applications for ESA are unsuccessful. While in the assessment phase, people receive the JSA rate of benefit. If their application is unsuccessful, they will never go on to the higher rate of ESA, which is payable in either the work-related activity group, or the slightly higher one again, which is payable in the support group. In other words, such people never made it on to ESA, because they stayed on the JSA rate—while in the assessment period, they receive benefit at the JSA rate, and they never make it on to the higher rate payable to people who satisfy the work capability assessment. According to my calculations, in May 2010, about 60% of the total number of active ESA claims were in the assessment phase.

The proposals before us today will affect neither people in the assessment phase, nor in the support group; they will affect only those in the work-related activity group. The question that we need to answer, therefore, is not what proportion of those who applied for ESA are not receiving it 12 months later. The question must be what proportion of ESA claimants, who make it into the work-related activity group, leave the benefit and move into work within a year. After receiving the initial answer, I asked that question instead, and I received the following response from the Minister of State, Department for Work and Pensions, the right hon. Member for Epsom and Ewell:

"The information requested on those leaving employment support allowance (ESA) and moving into work is not available."—[*Official Report*, 17 March 2011; Vol. 525, c. 572W.]

I also tried asking what proportion of those people the Minister expected to enter work within a year. The response was:

"The Department does not forecast the number of people who we expect to find work."—[*Official Report*, 2 February 2011; Vol. 522, c. 831W.]

Therefore, the Minister is telling the House that he does not know how many of those who will be affected by this dramatic change can, in fact, be expected to be back in work within a year. If he has any further information to give to the Committee today, however, I would welcome it .

In order to work out for myself roughly how many claimants in the work-related activity group remained on the benefit after one year—recognising the limitations of the data that are available, given that this was only introduced in October 2008—I asked another question to find out

"what proportion of employment and support allowance claimants were in *(a)* the work-related activity group and *(b)* the support group in (i) February and (ii) May 2009."—[*Official Report*, 26 April 2011; Vol. 527, c. 232W.]

The answer, from the Under-Secretary this time, was:

"Information on the number and proportion of employment and support allowance (ESA) claimants by Phase/Stage of claim is not available for the periods February 2009 and May 2009."

The Minister, therefore, cannot tell us how many people will be affected by this change.

In such circumstances, I suggest to the Committee that we need to tread very carefully. Given the scale of the proposed change, we need to proceed with care and on the basis of evidence, and the evidence to support this change is simply not available. The data from pathways to work show that between 2005 and 2009 the annual proportion of Jobcentre Plus pathways customers who found work within one year ranged from 13% to 18%. In 2008-09, the proportion of provider-led pathways customers who found work within one year was 14%, and many of those people would have been on the benefit for a significant period before they got into pathways. The Government will no doubt tell us that the Work programme will be more successful, and I hope that it will. The opportunity is there to learn from, and build on, what happened in pathways.

If we look with great care at the assumptions that are built into the invitations to tender for the Work programme, we find an optimistic but not wholly unreasonable assumption for the rate of job conversion of people who are on ESA in the work-related activity group. That figure—I am grateful to those who dug this out from the Government's spreadsheets, which, I gather, required some technical cleverness—is 22%. The assumed job conversion rate for former incapacity benefit claimants who are in the work-related activity group is only 9%. The proportion of people in the work-related activity group, going on to the Work programme, whom the Government expect to be back at work within one year is 9% for some and 22% for others. It is certainly not the majority; it is a small proportion.

Incidentally, the Work programme can last for longer than one year. If the benefit's duration is limited to a year, as the Bill proposes, many people will find that it stops while they are still on the Work programme. The DWP impact assessment also suggests that a high proportion of claimants are currently on the benefit for longer than a year:

"It is estimated that around 90 per cent of contributory ESA customers of duration greater than 3 months and in the work-related activity group will be affected by a one-year time limit."

According to the Government's own assessment, therefore, more than 90% will be affected. Interestingly, table 1 in the impact assessment is based on the average annual difference in the ESA contributory case load with and without time limiting. I have tabled a written question asking for the former as a percentage of the latter, and I have not yet received an answer.

We do not know for sure how many people in the work-related activity group enter work within one year. It is certainly not 60%, which is the figure in the written answer that I received, because that includes the large number of people who never really make it on to ESA at all. I have noted, for example, the figures from Macmillan:

"Three quarters (75%) of people with cancer placed in the ESA Work-Related Activity Group are still claiming ESA 12 months later. Almost two thirds (61%) still need the benefit 18 months after first claiming it."

There are particular worries about the effect of a one-year time limit on people who are recovering from cancer, and the Committee needs to weigh this issue carefully. Those worries are the reason why the chief executives of 30 cancer charities wrote an open letter to the Secretary of State last month, which stated that:

"proposals that ESA claimants who are expected to carry out work-focused activities will only receive the benefit for one year, without being means-tested, will hit cancer patients particularly hard…this proposal, rather than creating an incentive to work, will lead to many cancer patients losing their ESA simply because they have not recovered quickly enough."

Perhaps the Minister, in winding up the debate, will tell us how the Secretary of State has replied to those strongly worded pleas on the part of that large number of cancer charities.

In its briefing to the Committee, Macmillan Cancer Support addresses the following question:

"Why do cancer patients generally take longer than 12 months to get back to work?"

No one in the Committee will be surprised that its answer is that they

"can experience debilitating physical and psychological effects from cancer and its treatment, including severe pain, fatigue, nausea, fever and diarrhoea".

The briefing quotes the example of somebody called Chris from Worcester, who was diagnosed with lung cancer last June, and he said:

"My cancer has spread to my bones and I'm told it is incurable. I've had surgery and radiotherapy but have been told that to get ESA now I've got to do job focussed interviews to help get me back into work. I don't need a work ethic, I've had one all my life. I'm still in constant pain and feel tired all the time. I've paid into the system all my working life but the Government seems to expect me to be fit after a year, and if I'm not, take away my support. I've never claimed in my life. I've savings so I'm not going to starve if they take the £90/week benefit away from me but it'll make a hell of a difference…It'd really hurt if I lost this money, I'd be in the mire."

He is speaking for a significant number of people recovering from cancer, who will find themselves in that position under the proposals. Macmillan also gives an example of a typical patient with breast cancer:

"Jane, 34, is diagnosed with breast cancer and is told by her oncologist that she must undergo surgery immediately. She has worked full time for 10 years in a care home, but is unable to return to work following a mastectomy, reconstructive surgery and surgery to remove her lymph nodes. She is married with no children. After surgery Jane has to wait two months before she is ready to start adjuvant chemotherapy, which lasts for six months. Following her course of chemotherapy Jane has to wait five weeks before she is ready to undergo a course of radiotherapy, which lasts for five weeks.

Jane requires hormone treatment for five years following her initial treatment to reduce the risk of cancer recurrence. During the first two years of this treatment Jane gets frequent hot flushes and sweats that happen anywhere between 5 - 20 times per day and often disturb her sleep.

As a result of the surgery, chemotherapy and radiotherapy treatment Jane experiences severe, ongoing fatigue following treatment. Following completion of radiotherapy treatment Jane develops lymphoedema, which can cause significant swelling in her arm and hand and restricts her movement and ability to use her hand or lift heavy objects. Shortly after this Jane is diagnosed with depression and anxiety and requires treatment for this following the end of her cancer treatment. For two years following surgery, chemotherapy and radiotherapy treatment Jane experiences physical and psychological problems that affect her return to work."

That appears under the following heading:

"Example of how the proposal to time-limit contributory based ESA will affect someone with breast cancer".

Are we really saying that somebody in that position should lose all their benefit within one year? That is what the Bill will do.

My best guess, based on the scant data available, is that the proportion of people returning to work from the ESA work-related activity group within one year is in fact less than 20%. Under the proposal in the Bill, everybody will lose their contributory benefit within a year. That means that more than 80% of those availing themselves of their national insurance benefit will lose it before they get back into work. JSA was designed so that the vast majority will be back in work before their contributory allowance expires. The Bill proposes that, for people with health problems, their contributory benefit will stop before the great majority are back at work. The Minister may be able to suggest a figure other than 20%, but it is certainly not much more than that.

11 am

George Hollingbery (Meon Valley) (Con): The right hon. Gentleman makes an extremely persuasive case with a great deal of emotion, which all of us are bound to feel. However, I am also bound to ask the following question. Have his sources—his data miners, his staff—managed to ascertain how many people in receipt of ESA who are in the work-related activity group would still be there after two years, which I think is the suggestion in his amendment?

Stephen Timms: That is a very good question. The answer is that we do not know. ESA has not been in place for much longer than two years so it is not surprising that those data are not available. The hon. Gentleman is right. That is a difficulty, which I think needs to be reflected in what we put into the Bill. It might be possible to separate people into a group for whom one period was appropriate and others for whom a longer period was appropriate and to say, for example, that people suffering from cancer received their contributory benefit for a longer period than others. The Bill as it stands rules out a differentiated approach, which would allow a greater level of support for people suffering from cancer or from mental health problems. We have talked about those in Committee, too. The amendment would allow that differentiated approach to be taken.

The Committee needs to weigh this with care. At present—the hon. Gentleman put his name to an amendment about this—people who receive oral chemotherapy or radiotherapy for treatment of cancer are placed in the work-related activity group. But there is no way that they would get back to work within a year and nobody on the Committee would argue that they should. Yet even if they have been paying their national insurance contributions absolutely consistently for many years before suddenly, and probably without any warning, being struck down by cancer, they will, on the basis of this proposal, lose their national insurance benefit after one year, right in the middle of their chemo or radiotherapy. For some that loss of income in the middle of their treatment will be a catastrophe. We should not legislate to do that kind of thing to people who are suffering from cancer and there are some other impairments that I put in the same category.

What about people who have a bout of serious mental health problems? Many of them will be placed in the work-related activity group but could not possibly be ready to return to work within a year. Yet they will lose their contributory benefit completely, which will in many cases substantially add to their worries and perhaps worsen their anxiety and mental health problems. Is that how members of the Committee really want the welfare system to work?

Harriett Baldwin (West Worcestershire) (Con): Is it the right hon. Gentleman's understanding that those with a terminal illness, be that cancer or any other illness, will be assessed as going into the support group? Would he also agree that there are forms of cancer—I know this as there are members of my family who suffer from cancer—that are not terminal and can be completely under control?

Stephen Timms: The hon. Lady is absolutely right. Some cancers are officially designated as terminal. In the case that I mentioned earlier that Macmillan has drawn to our attention, the man called Chris, who described his cancer as incurable, is in the work-related activity group. He can realistically plan for a return to work on the basis that his cancer will be controlled. Cancer has a wide variety of effects on people and wide variety of severities. My point is that it is simply not plausible that many of those people can get back to work within a year, and the system should not be designed on the basis that they will.

The Government have not been able to say how many ESA claimants in the work-related activity group currently enter work within a year, but all the evidence that I have seen points in the same direction: one year is simply not long enough. If, as it appears, the vast majority of people cannot reasonably be expected to enter work within a year, it cannot be reasonable for us to penalise them for failing to do so, as the Bill currently proposes.

I am sure that Committee members have been heavily lobbied about these changes by disabled people, their families and friends, groups that support them and constituents. People have very serious concerns about this change, and there is a growing sense that the Government are not listening to them. I will read a few of the representations that I have received. The National Aids Trust said:

> "To set a time limit on receipt of the main out of work benefit for those whose capacity for work is limited by their HIV will leave many at risk of poverty. Many people living with HIV who are found eligible will face significant barriers to work that cannot be overcome within 12 months."

The Disability Benefits Consortium said:

> "It is wrong to penalise disabled people, whose condition means they are not fit for work, for not getting back to work within a year. Disabled people take different lengths of time to prepare for and find work, depending on their impairment, the personal barriers they face, and the availability of suitable jobs in their area."

The Kinship Care Alliance said:

> "Reducing contributory employment and support allowance entitlement to one year will penalise older people who have worked and paid their contributions but suffer declining health in later years."

The Committee must recognise that there are real concerns and that there is a real danger that if we get this wrong—I believe that the Bill currently does—many disadvantaged people with very serious health problems will suffer unfairly. It is our duty to ensure that any reform of ESA is consistent with the original aims of the benefit—both generous support and high expectations—rather than simply being a cost-cutting exercise.

Amendment 154 would remove the reference to time-limiting ESA to 365 days and state in its place that contributory ESA would be time-limited to a prescribed number of days, which should be at least 730. I hope that the hon. Member for Meon Valley will take the point that the amendment was deliberately designed to reflect the fact that we do not yet know precisely what the right period is.

I want to put a very serious request to the Minister: if there has been even an ounce of sincerity behind his oft-repeated homily about the books and bookcases, he must recognise that it is wrong for clause 51 to specify 365 days as the maximum period for receipt of contributory ESA. If he believes, as he has very frequently told us, that the right approach in the Bill is to include the framework in primary legislation and the detail in secondary legislation, he should at the very least remove clause 51(1) and clause 52(4), and replace the figure of 365 days with the power to make a regulation to set a limit.

I appeal directly to the Minister, solely on the basis of everything that he has told us in the past month about the basis for the Bill. Otherwise, it will take a new Act of Parliament to introduce an arrangement that reflects the evidence, as it develops, about what the right limit is. I suggest to him that not a single Committee member believes that someone in the middle of a course of cancer treatment after a year in the work-related activity group on ESA should lose their benefit just because they reach the end of the year.

There is no evidence to justify a one-year limit; it has been chosen simply as a cost-saving measure and is arbitrary. It was presumably dictated by the Treasury as a contribution to be taken from sick people towards over-hasty reduction of the deficit. The Minister could, however, at least keep faith with his own speeches if he imposed the one-year limit through secondary rather than primary legislation.

The Government have not yet been able to provide evidence about what the right maximum period is. To be fair to them, that is not too surprising, as the benefit has not been operating for very long. I do not think, however, that a limit could be justified unless we knew that a majority of those who enter the work-related activity group would be back in work within that period. Fewer than 25%, and probably fewer than 20%, of those who enter the work-related activity group can currently be expected to be back in work within a year.

The maximum period should not be less than two years. I expect that the majority of people who go into the work-related activity group will have a good chance of being back in work within two years, but, as the hon. Member for Meon Valley rightly pointed out, I do not have the data to substantiate that claim because they are not yet available. That is why amendment 154 would replace "365 days" with

"a prescribed number of days, which must be at least 730".

Amendment 165 would make the same change for youth eligibility for contributory ESA.

It is worth being clear about the kinds of people who now find themselves in the work-related activity group. I have mentioned people on oral chemotherapy and radiotherapy and people with quite serious mental health impairments, both of which the Committee has talked about already.

I have an example from the casebook of Sense. The person in question is a middle-aged man who has lived with a hearing loss since childhood. Sense says:

"He attended mainstream school and worked in the construction industry. Several years ago he started to lose much more of his hearing and then started to lose his sight and is now registered blind with light perception only. [He] communicates with others through speech but others must communicate very clearly with him in a controlled environment. His sight loss limits his ability to carry out day to day tasks and get around. In order to overcome the emotional and practical impact of his dual sensory impairment, [he] has required very significant support and time in order to adapt to his new situation. [He] is placed in the work-related activity group, as although he faces very significant challenges to reintegrate into the labour market, the impact of his impairment is not considered severe enough for him to be placed in the support group. It would be unrealistic to expect him to take part in work-related activity, as well as adapt to his new situation, within a one year time-limit. In [his] case he would need to re-train as the type of work for which is qualified is no longer accessible to him. This training would most likely include learning how to use accessible computer technology and/or other equipment, as well as the more general training appropriate to the kind of role he is looking for."

He is someone in the work-related activity group, and I do not complain about that. If he can realistically expect to return to work, it is right that he should be helped to do so, but that case raises an important point that I have not yet touched on.

For a significant number of those who enter the work-related activity group, getting back into work will require some retraining. By the time many of them have embarked on and completed a course, there is no way that they can be back at work within a year. Here is an example from Mind:

"Tom suffers from Obsessive Compulsive Disorder… and depression, and is almost entirely housebound. His condition leads him to perform daily rituals in which he constantly checks that electronic appliances are turned off and doors and windows are shut and locked. He is compelled to clean the surfaces in his home time and time again. These rituals take up several hours of his day and keep him up for most of the night. As a result he has very poor sleeping habits and a number of related health problems. Tom experiences extreme anxiety when he has to meet new people, particularly if he has to meet them outside of his home. This"—

understandably—

"makes attending benefit appointments, back-to-work programme appointments, and other appointments almost impossible, and he will not be able to work until he has overcome his condition. Tom currently receives support from his local Community Mental Health Team 3 times a week in his home. Although he is making progress, he is aware that a full time job in a location that he is unfamiliar with is quite some way in the future."

He will not be there within a year.

If I understand the provision, people who have already been on contributory benefit for a year or more will have their benefit taken away immediately because the one-year maximum period will have already been spent. There is no transitional protection.

11.15 am

Chris Grayling: Will the right hon. Gentleman tell the Committee the overall household income in the case that he has just read out?

Stephen Timms: I do not know the answer.

Chris Grayling: Will the right hon. Gentleman give way?

Stephen Timms: I will come directly to respond to that point, because Tom will possibly be entitled to a means-related benefit. I will gladly give way to the Minister.

Chris Grayling: I simply wanted to ask the right hon. Gentleman whether he can be certain that he is not describing someone with a partner on a substantial income.

Stephen Timms: I cannot be certain of that at all because I do not have that information. As I read on, the next paragraph of my speech says, right on cue, that it could be suggested that I am exaggerating the problems that will be caused to people losing their contributory benefit, because if they have no other resources, they will still get their means-tested benefit. The Disability Benefits Consortium points out:

"The impact of the Government's current proposals will be devastating. Any person whose partner earns as little as £149 per week, or whose partner works just 24 hours or more per week, will lose all of their ESA despite having worked and paid into the system before becoming ill."

Therefore, the Minister is right; Tom might have a very well-paid partner and be in comfortable circumstances, so he will have no worries, but he might equally have a partner earning £149 per week. If so, he will lose everything—all his support—one year after entering the work-related activity group.

Kate Green (Stretford and Urmston) (Lab): Does my right hon. Friend agree that this is another example of a couple penalty built into the Government's welfare reform proposals?

Stephen Timms: My hon. Friend is right. It is surprising when the Conservative party told us so frequently before the election that they did not agree with couple penalties, but here yet another one is being introduced. We might add that anybody with £16,000 in the bank will also get nothing once their contributory benefit stops.

Many people run into health problems having done the right thing—worked and paid into the national insurance fund for many years, and perhaps saved conscientiously as well. Under the proposals, a significant number of people who suffered a health catastrophe a year ago, such as being struck down with cancer or mental illness, will be hit by a financial catastrophe, which is quite likely to be slap bang in the middle of their course of treatment. To lose all income because your partner brings in £7,500 a year or because your family has savings of £16,000 before there has been a realistic chance of getting back to work will mean financial catastrophe for many. We should not pass legislation that has that effect.

When I asked the Secretary of State how many pathways to work participants entered work within two years, the Minister, the right hon. Member for Epsom and Ewell, responded that the available data made it very difficult to answer the question:

"jobs are counted only where they start within 91 days of a customer's last contact with JCP. Jobs occurring after this period are not counted…The mandatory activity takes on average around nine months from Pathways start. This means that the majority of jobs recorded within this data are obtained within one year and therefore the average time it takes a Pathways customer to find work may appear lower than would otherwise be expected."—[*Official Report*, 4 February 2011; Vol. 522, c. 1021W.]

Our information shows that one year is not enough time and, as the hon. Member for Meon Valley correctly points out, does not allow us to say with certainty that two years is enough. That is why amendment 158, which is in the next group, calls for independent annual monitoring of how the picture unfolds. If we were in government, we would not want a limit of less than two years on contributory ESA, but we would certainly want to monitor the impact of the policy very carefully. We would be open to extending it, if, once the evidence became available, it was clear that two years was not enough. The reference in the amendment to a prescribed period is to allow us to extend the time limit easily if necessary without a fresh Act of Parliament, which will be required under the Bill.

Amendments 155 and 166 specify that time limit should apply only

"since the last person was in the support group".

The purpose of that is to ensure that people with fluctuating conditions are protected properly. Amendment 155 has the same effect as amendment 161, tabled by the hon. Member for Cardiff Central. I welcome that amendment, too.

The time limit proposed by the Government will have severe consequences for people with fluctuating conditions. As the Bill stands, any time will count towards the 12-month limit, regardless of whether it is continuous. A good example would be somebody with cancer who spends 10 months in the work-related activity group and then moves into the support group as a result of a deterioration in their condition, which would not be a particularly unusual development. If they then recover and re-enter the work-related activity group they will have just two months to find work before having their benefit cut.

Priti Patel (Witham) (Con): I am interested in the right hon. Gentleman's points, particularly about the one-year and two-year time limits. Clearly, there would be some significant costs to this policy. Does he have the cost total of the policy? Where would the money come from?

Stephen Timms: I do indeed have those figures. I have them because the Minister answered a question from me this morning. Sadly, I do not think I have them to hand, but I will get to them before I sit down. The hon. Lady makes a perfectly fair point about how all this will be paid for. I now have the figures in front of me, so perhaps I should read them into the record. The Government expect to save £1.1 billion in 2014-15 as a result of placing a one-year time limit on contributory employment and support allowance. With a two-year limit the saving would be £650 million, a difference of £450 million. That is the saving that would not accrue under our proposal.

However, the Government should not legislate to take that money away from people who could not possibly have expected to get back to work within a year of entering the work-related activity group. Of course the Government can take money away from sick people.

They can take money away from poor people. They can take money away from people in very, very difficult circumstances. I suggest to the hon. Lady that one group they should not take money away from are people who are in the middle of their cancer treatment.

Priti Patel: I thank the right hon. Gentleman for that response. May I reiterate my question? If he were in the Minister's shoes right now, where would that money come from?

Stephen Timms: If I were in the Minister's shoes now and we had a Labour Government, we would not be reducing the deficit at the pace and on the scale of this Government. It is too far and too fast. I am afraid that people suffering from cancer are among the victims of the policy that the Government have adopted.

George Hollingbery: Coming at the same problem from a different angle, apart from the amount and how affordable it is, I have never quite got to grips as a new Member, or even as a politician at all, with the contributory principle. I understand insurance and I understand exactly how that pays out and the terms of the contract I am entering into. At the risk of angering my Whip slightly, could I ask the shadow Minister to take me briefly through where he thinks it is reasonable for contributions to start and stop, for what they should and should not pay, and how long these things can last?

Stephen Timms: I think that some of my hon. Friends might want to contribute to the discussion that the hon. Gentleman has started. It is an important issue that is right at the heart of the Bill's approach. I suggest, if I can narrow the context slightly to this part of the Bill—

The Chair: That is a good idea.

Stephen Timms: Indeed. Someone who paid their national insurance contributions should expect to be able to receive their contributory benefit for a period within which it would be reasonable to expect them to return to work. I do not argue that they should expect to carry on receiving benefit for ever. That is how incapacity benefit has worked, and I am not suggesting we should stick with that. However, if the contributory principle means anything, they should receive their contributory allowance for a long enough period for it to be reasonable to expect them to get back to work. That is rather how it works with JSA. They get contributory JSA for six months—I think that more than 90% of people who receive it are back at work within that period. I am not suggesting that the figure should even necessarily be 90%, but most people should surely be expected to be back in work before the contributory benefit ends.

George Hollingbery: The reason why I bring up that clearly very wide issue is to focus it back on the amendment. The right hon. Gentleman characterises the policy as taking £640 million away from people who can ill afford it. However, a good proportion of those people can afford it. That is the source of the tension between the contributory principle, the assets and what people currently have.

Stephen Timms: I can see that there is a tension there, but I want to stand firmly behind the contributory principle. If people have paid their contributions conscientiously, in many cases, for many years, they should be entitled to expect the system to support them for at least long enough for them to have a reasonable chance to get back into work. Of course, it is perfectly possible to take an entirely different view and say that only those who are destitute should get any money. As we have said, under the proposal, people whose partner earns £7,500 a year will get absolutely nothing as a result of their incapacity through ill health. That is not how the system should work. If they have paid in, they should be able to expect the system to support them for a reasonable period, which must be long enough for the majority to get back into work.

There may be a philosophical difference here across the Committee. When I was first in the Minister's shoes, Conservative Members used to press me about standing by the contributory principle. A school that has long been present in the Conservative party takes the view that if one has paid in, one should be able to expect support. I do not know how big that school is these days, but if we are now in a world where Conservative Members think that people should get money only if they are destitute, I regret that. I much preferred the one-nation Conservatism about which we used to hear a good deal.

George Hollingbery: I absolutely agree that that school of thought still exists and I hope that many of us share those views. However, the right hon. Gentleman portrays what I am saying in a slightly evil light. I agree that a year is perfectly acceptable, but I am slightly less sure about two years. That is the point that I am probing.

Stephen Timms: The hon. Gentleman has lost me. Is he saying that he does not support one year?

George Hollingbery: No, I apologise—I did indeed confuse the Committee. I am saying that I am very comfortable with the year, and I would love to imagine that we could afford two years. I am interested in probing the right balance between the two. The right hon. Gentleman makes a very persuasive case about how long it takes to get back into employment and I understand that. However, that is not quite enough for me. There is a contract between the state and the individual, which I do not quite understand—that is why I asked my original question.

Stephen Timms: I wonder whether the hon. Gentleman would accept that somebody in the middle of their cancer treatment a year into their receipt of contributory ESA should not suddenly find themselves having that financial support withdrawn. That is surely unreasonable. I simply ask members of the Committee to weigh up what in reality we are doing in this clause. I think that he and many other members of the Committee will find themselves very uncomfortable about the consequences of what he will shortly no doubt vote through.

At this point, I particularly want to draw attention to the worry about people with fluctuating conditions. If somebody who is in the work-related activity group goes into the support group, because the first period

[Stephen Timms]

that they spent in the work-related activity group will count against them, when they come out, they will have only a couple of months to find work before their benefit is cut. I sense that the hon. Member for Meon Valley is not the only Government Member who is uncomfortable about legislating to have that effect on people with cancer.

11.30 am

Amendments 157 and 167 specify that the time limit will begin only after the section has come into force. As the Bill stands, anybody who was placed in the work-related activity group last month or earlier, and who stays on the benefit continuously, will lose their contributory benefit as soon as the legislation comes into effect in April 2012, because their year will by then have been used up. Surely, it is important that people are at least given enough time and information to prepare for losing such a large amount of money. The Disability Benefits Consortium makes a helpful point in its contribution:

"The proposal to time-limit contributory based ESA will require a comprehensive and detailed communication plan to explain the changes to disabled people. This will be very difficult to implement clearly and effectively before the Bill has received Royal Assent."

However, by the time Royal Assent is obtained, which I think will be in the autumn, it will be only a few months before people start to lose their money. The amendment helps to prevent that alarming and worrying state of affairs. If the Minister does not agree with our proposal, we need to be told how the Department will ensure that claimants are aware of the changes in good time before they take effect in April next year.

Amendments 156 and 168 specify that the period of the time limit should

"not include any days during the assessment phase, except in prescribed circumstances."

The assessment period is the initial 13 weeks of the claim, before the claimant knows whether their application will be successful or whether they will be placed in the support group. As we know, most applicants will be unsuccessful. I am pleased that amendment 160, which the hon. Member for Cardiff Central tabled, has the same effect as ours.

There are several reasons why those days should not be included in the time-limited period. First, the claimant will not know, at that point, what requirements will be placed on them and whether a time limit will apply. They may well expect, at that stage, to be placed in the support group rather than in the work-related activity group. To be told after three months in assessment that they will receive only nine months of contributory benefit would be unreasonable even if we took the view that a year was a reasonable period. People should at least be given the full period, rather than a reduced period to secure employment.

Secondly, during this period claimants receive a reduced amount of ESA rather than the full amount—it is equivalent, I believe, to the rate of JSA for that period—so without the amendment, they will not even get the full amount of ESA for a full year. It will start only after the assessment has finished, and will last only until 12 months after the application for benefit was made.

Thirdly, I would welcome some explanation from the Government about how the limit will apply to people who are placed in the work-related activity group only after appeal. At the moment, people who appeal remain in the assessment phase while their case is being considered. If they win the appeal, will they be entitled to receive ESA for the full period of the time limit? If somebody wins their appeal after 10 months in the assessment phase, for example—we know that appeals are taking a long time in many such circumstances—it does not seem fair that they should be given only two months at the full rate, during which time they would be expected to secure a job. Perhaps I have misunderstood the Government's intentions—I hope I have—but if the Minister could explain to us how people who go through an appeal process are going to be treated under this arrangement, I would be grateful.

All the amendments that I have outlined so far apply to both adult contributory ESA and youth contributory ESA. The final couple of amendments in this group are intended to remove the abolition of contributory ESA for young people. I must say that I am shocked and dismayed to find clause 52 in the Bill. It is possible that I have missed something, and if I have I would be grateful if the Minister could point it out, but we all understand that contributory benefit depends on the payment of national insurance contributions—a discussion that I have just had with the hon. Member for Meon Valley. That is quite right, but it has long been accepted by Governments of both parties that there should be one significant exception: young people who have been disabled from birth or have had heath problems from childhood, and who, as a result, have never had the opportunity to work, pay contributions, and obtain contributory benefit in the conventional way.

The ESA maintained the long-established rule that applies to incapacity benefit—a rule that, as far as I know, dates back to the establishment of the benefit by the previous Conservative Government—that children disabled from birth can qualify for contributory benefit on the basis of the condition relating to youth to which clause 52 refers, rather than by paying contributions, which they clearly cannot do if their disability means that they cannot work.

Clause 52, however, summarily abolishes that provision. That greatly undermines a long-established arrangement that was entirely uncontentious, as far as I was aware. When I took Welfare Reform Bills through the House, no one ever said to me that we should remove the arrangements for supporting adults who have been disabled since birth or childhood. The clause abolishes the provision that the system has long made for young people who are disabled or incapacitated from birth or childhood. I find it very hard to understand what justification there could be for that attack on the incomes of those who are surely—we would all agree—among the most disadvantaged of all, as it is literally impossible for them to work.

People who have been disabled since birth, or early in life, should not be penalised for having been unable to make national insurance contributions, and should not be unable to receive contributory ESA. The Child Poverty Action Group has set out examples of how youth ESA currently assists

"young disabled people who have been temporarily in and out of local authority care or moved areas, as it provides a secure, independent income".

It also assists

"young disabled people who have built up savings to be used for an adapted car, disability equipment, deposit on a property or future care needs",

and

"young disabled people who may be vulnerable to forming unsuitable relationships, or may avoid forming a suitable relationship due to fears about losing an independent income".

I find it very hard to understand the Government's justification for abolishing ESA for those people. It would be unreasonably punitive. I hope that they will not do so, and will agree to the amendments.

I have taken some time in speaking to the amendments, but I think it is right for the Committee to weigh them very carefully before proceeding. As it stands, the Bill will add financial catastrophe to the hardships endured by cancer sufferers who are receiving treatment, people overcoming mental health problems and their families, and others. Those are people who have always worked hard, paid their dues, and done the right thing in the belief that national insurance would protect them if things went wrong. The Bill will mean that in future, that protection will be there for just 365 days. I press the Minister, in particular, to reflect on all the speeches that he has given the Committee about books and bookcases. At the very least, as a matter of good faith, I urge him to take the maximum period for receipt of contributory ESA out of the Bill and to make that a matter for regulation.

Jenny Willott (Cardiff Central) (LD): As the right hon. Gentleman has said, there are two amendments in my name. They are both probing amendments and I do not intend to press them to a Division, but they make important points and I would be grateful for the Minister's response. Amendment 161 is about restarting the time period for the limit on contributory ESA each time somebody goes into the support group, and amendment 160 is about excluding the assessment period from that time limit. Many of the arguments have been made by the right hon. Member for East Ham, so I do not intend to keep the Committee long.

I would like the assessment period to be removed from the time limit. For that 13-week period—when it is 13 weeks—the amount of benefit that an individual receives is significantly lower than the amount that they would receive in the work-related activity group. At that point, they do not know whether they will go into the work-related activity group or into the support group, so it seems unfair to count that time towards their time limit if they move into the work-related activity group later on. Excluding the assessment period from the calculation would, as the right hon. Gentleman has said, make the issue of people who appeal a decision when they do not get passed to enter the work-related activity group much clearer.

It can take an extremely long time for an appeal to take place, and people are on a very low rate of benefit while they wait for that to happen, as the right hon. Gentleman mentioned. About three weeks ago, a constituent came to see me who, for a number of reasons, has been waiting for his appeal for over a year. For the whole of that period, he has been receiving the assessment-phase rate of employment support allowance. There are a number of concerns. If the measures were implemented, he would, if he was moved into the work-related activity group on appeal, effectively never have received the work-related activity group rate, and by then, he would no longer be eligible for it; the whole period would have been spent on the assessment-phase rate, which is significantly lower. He would not have benefited at all from the fact that he has paid his contributions—he would not have received that extra amount.

There are other questions, too. Would my constituent have to pay back anything that he received after 12 months, should it take longer than that to have his appeal granted? Although such issues will probably affect only a small number of people, they are worrying for them, and I would be grateful if the Minister would let us know whether the Department has looked at ways to ensure that the assessment period is removed.

I understand that there are concerns about deducting the period from the beginning, because people might abuse the system by moving in and out of an assessment phase to enable them to keep their contributory benefit for longer. However, it may be possible to add at the end of the period the time that people spent in the assessment period at the beginning. If there was three months spent in the assessment period, the time-limited period could be extended by three months, so people would effectively get 12 months on the benefit. There are ways to limit the amount of potential abuse, if that is something that the Department is concerned about, and it would make the system fairer for those affected. Otherwise, people might feel that the system is treating them extremely unfairly.

My second amendment is about restarting the limit whenever somebody went into the support group. As the right hon. Gentleman said, that would be fairer to those with fluctuating conditions. I understand why the Government do not want to make it possible for someone to move on to jobseeker's allowance or something similar for a period of time in order to restart their one-year contributory ESA payments—I see that the Government are trying to get around that issue. However, for somebody who is moving into the support group from the work-related activity group, the scenario is completely different.

To go into the support group, a person must have a very serious medical condition, and such a person is clearly in a different position from somebody who is moving on to jobseeker's allowance and then back into the work-related activity group. As the right hon. Gentleman highlighted, somebody with a fluctuating condition that is periodically getting worse could move into the support group, and when they finally recover and move back into the work-related activity group, they could have little or none of their allocation left. They could, therefore, end up losing all their benefits just when they are starting to recover.

11.45 am

We acknowledge that those who have just come out of the support group and into the work-related activity group are not yet work-ready, but are working towards being work-ready. However, if people lose their benefits within a short period of leaving the support group, it could put their recovery back and make it more difficult to return to work. By definition, the fact that they have recently been in a support group means that they are the furthest away from the job market, and have a long distance to go before they are well enough to find work. Resetting the time period whenever somebody goes into

the support group would be fairer to the most vulnerable who have severe medical conditions and need that extra protection.

I hope that the Minister can take those points into account when looking at the proposals. I am not a big fan of the proposal to time-limit ESA, but there are ways that we could make it a fairer system, so that we do not penalise those who have the most serious medical need and ensure that those who are stuck in an appeals process, for example, do not end up being penalised as well. The measures will be controversial: people do not like the prospect of the time limit. There are ways that the Government could make it fairer, and I hope that the Minister will take them into account.

Sheila Gilmore (Edinburgh East) (Lab): One question we have to ask is: what sort of people are harmed by the proposals? What effect do they have on households? It is easy to raise the straw man of the person with the rich spouse, and to suggest that it is somehow unfair for such people to get benefits for extended periods. However, most of those who would be affected by the measures are not unduly well off. They are most likely to be the kind of people who have worked and contributed, often for many years, and who are likely to be older, given the age prevalence of many illnesses. It is older people in their 40s and 50s who have had the most opportunity to be a couple in dual employment. Perhaps the child-caring partner has gone back to work at a later stage in life, or perhaps they were able to build up savings. Those savings may not be hugely extensive.

I do not consider savings of £6,000-plus—that is the amount at which we begin to eliminate any means-tested ESA—as being particularly excessive. Many people have built up those savings to give them some protection against things that can happen—to the home, for instance. I live in a city of many old, stone-built buildings. The council wants to keep them in good repair and has a system of slapping statutory notices on buildings from time to time to ensure that they are. I have constituents who have received bills for such repairs ranging from £5,000 to £26,000 in the year that I have been in this House. That is the sort of contingency for which people may have wanted to save. Other reasons for saving are retirement or to guard against future illness. I would contend that the people whom we are talking about are not necessarily particularly well off; they have been careful and have made savings, or they are a couple who have both worked, but are not necessarily on high earnings.

Harriett Baldwin: I am fascinated by the hon. Lady's examples, but in the case of means-testing, is it her understanding that the rate of withdrawal is £1 a week for every £250 of savings over £6,000? Does she agree that that would work out as a £52 return on £250, which is an interest rate of 20.8%? Does she know anywhere where we could get such a good rate of return on our investments?

Sheila Gilmore: A lot of people who are currently losing various benefits because of savings are finding that the opposite is the case. We have to think about people who, in the case that we are considering, are ill. Most people would accept that accidents and illness produce additional costs. They also mean the end, at least for a period—perhaps not forever—to some of the ways of making future provision. When people lose their employment because they are unfit to work, they lose not just their earnings, which may be significant, but the opportunity to contribute to a pension scheme or a savings scheme that they may have set up. At the same time, expenses may increase.

The expenses may relate directly to the illness; people may have to use their heating system more, because instead of being out at work for much of the day, they are at home recuperating. Many people remark on how much their energy bills go up by when they retire, but it is a serious consideration when people are unwell, too. There may be attendances at a hospital that is at some distance. There may be special diets. There is a host of additional expenses that can be incurred, as well as the loss of earnings. It is a double whammy—a loss of earnings and of the potential to build up savings, together with additional expenses. Before people have had the opportunity to fully recover, the loss of the benefit kicks in because of their savings or their partner's income.

People may have savings, and that is why they are ineligible for the income-related benefits, but the important point is that if they use up those savings during that period when things are very expensive, their future is badly affected. It is not just that they are using up that money in the here and now; those future savings that they might have had to assist them through later life will simply not be there. That may mean that they have to make greater claims in future.

The day-to-day costs of people who are out of work due to illness will not necessarily be reduced. I suggest that they will increase. Such people will almost certainly still be paying rent or a mortgage or have other household outgoings like that. If they had thought they were going to be ill, those outgoings might have been lower, but having undertaken those commitments, they still have to meet them when illness strikes. If they cannot, they may have even further problems. Do they borrow further to meet those commitments? Do they exhaust their savings to do that?

We are talking about people at a particularly vulnerable time in their lives. None of us knows when illness might strike. Those of us who have been fortunate tend to think that it will never happen to us. I have met many constituents who made exactly that point: "I never expected it to happen to me, and here I am in this situation." I do not have the figures on this, and the number of people affected in different age groups, but I suspect that many will be older, and their opportunity to rebuild savings that are exhausted while they are recovering from illness will be much more limited than those for younger people.

Some of this strikes at the heart of the differences. I pick up, and it may go beyond the scope of the amendments—

The Chair: I would not do that if I were you.

Sheila Gilmore: The points have already been touched on. It is worth considering what benefits are about, what a contributory system is about and how one gets buy-in from a community to a system. There is a great danger in going down a road which says, over and over again, "Well, if people have a bit of money, they shouldn't

be eligible for benefit, because they don't need it." Where do we go from there? If we are rich enough, we do not need the health service. If we are rich enough, we do not need schools. Lo and behold, we could be on a very different road.

There are profound differences between members of the Committee about how they view social security benefits. I hope that we will continue to have that debate, and we will no doubt resume it on Third Reading.

Chris Grayling: I have listened carefully to the contributions, and I will make specific responses to some of the issues raised in a moment. However, we spent the past few minutes with an elephant in the room, which has received virtually no attention. While I have the highest regard for the right hon. Member for East Ham, he cannot entirely escape responsibility for that elephant, because, under the previous Administration, he spent a period as Chief Secretary to the Treasury, who is responsible for establishing levels of public spending.

If one were a Martian, coming down and listening to this debate, one would not appreciate the nature of the financial inheritance that the Government received a year ago. There was the biggest deficit in our peacetime history. There was a Budget plan that, had we implemented it, would have led to national debt continuing to rise by the end of this Parliament—it did not even seek to bring that rise under control—and to the debt being passed to the next generation. It was not by choice that we made changes to child benefit. It was not by choice that we have made changes—

The Chair: Order. The Minister has made the general point about the deficit, which he believes that he inherited. It may now be sensible to return to the amendments that we are discussing this morning.

Chris Grayling: I will not list further the difficult decisions that we have had to take except to say that, most fundamentally, this is one of the difficult decisions that we have to take as a result of the need to get to grips with the deficit.

Stephen Timms: If the measure is for deficit reduction, and therefore temporary, why is 365 days written in the Bill, rather than a regulation?

Chris Grayling: With respect to the right hon. Gentleman, it is necessary to bring down public spending on a sustained basis. It is not a one-year programme. We are dealing with an unsustainable level of public spending in this country. It must be brought down to a lower level. We have had to take difficult, challenging and ongoing decisions about how we bring down the level of spending to one that we can afford, and this is one of them.

Kate Green: Does the Minister accept that, in terms of long-term spending on people on employment and support allowance, the other measures that the Government are introducing around the Work programme, for example, and the ongoing implementation of a better work capability assessment will themselves bring down that public spending over time?

The Chair: Order. We are ranging very wide here. Will the Minister restrain himself to discussing the amendments?

Chris Grayling: Indeed I will. The argument about the time limit and what the amendments seek to do is important. I accept that the right hon. Member for East Ham has acknowledged the need for a time limit. He is aware that the reason why we have made the 12-month decision certainly has a strong financial dimension to it. Part of the reason is to do with the fact that we have a huge financial challenge to deal with. The difference between the provisions in the amendments and those that we have introduced in the Bill and in the spending review, which took place last year, is approximately £1.2 billion over the spending review period. That is the difference between the 12-month and two-year time limits. There is also an additional £200 million cost in the spending review period for some of the other measures that the right hon. Gentleman proposes in the amendments.

The right hon. Gentleman says—as he is entitled to do, although we challenge his view—that the previous Government would simply not have reduced the deficit at the same rate. I do not think that that is a valid or acceptable argument, and it would not have left us in a position to restore the credibility that we need in the financial markets. His proposals will, of course, be scrutinised in the context of the external scrutiny that will take place over the course of this Parliament as to whether his party is fit to return to office again. I know my own view on that subject.

The Chair: But not in the context of amendment 154.

Chris Grayling: In our view, it is extremely important that we hold the line on this difficult issue and do not accept the right hon. Gentleman's amendments. We do not believe that financially we can do so. We also believe that his approach in the amendments is misguided in the overall financial context that the nation faces.

12 pm

The right hon. Gentleman has made an extensive argument for the 12-month time limit and about health conditions. I start from a different perspective. We have time limits in the contributory system—currently, we have a six-month time limit on contributory jobseeker's allowance—because we are dealing here with people who have an alternative means of support, either through their savings or the income of another person in the household. It is a long-standing principle of our contributory system and the JSA system that we allow those who have paid in to draw back out money for a period of time, but that there is a limit to the amount that they can draw out again. There has been an enormous inconsistency between JSA and ESA and its predecessors, in that somebody who manages to get themselves on to our sickness benefits is there indefinitely, whereas somebody who is on JSA is there only temporarily. That creates a perverse incentive in the system.

Guto Bebb (Aberconwy) (Con): My right hon. Friend makes extremely important points at this juncture, but why have we gone for a year? Is there any evidence from the Department that could reassure me that that is based on the issues facing the claimants, or is it purely a financial demand?

Chris Grayling: We have not made a decision on the basis of an estimate of the amount of time that it takes an individual to recover from a health condition. That

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is not, in my view, the principle on which the system is based. We are paying support, and will continue to do so, to those who have no other financial means of it. However, if they have an alternative financial means of support, there will be a limit to the amount of time that they can draw extra funding from their contributions. In reality, we estimate that about 60% of those caught up by the new time limit will continue to receive ESA on an income-related basis. Of course, that support is there, and many people will receive other forms of support as well, through universal credit, the housing element, and some of the disability support that is in place. If they have a partner working full time, working tax credit may be paid in addition because of the changes to the household income. There is a variety of different ways in which people on low income can receive financial support from the state. However, we are saying that in principle there should be a time limit for the receipt of ESA.

We could simply have taken the view that the six-month time limit is an accepted part of the jobseeker's system and that it should be replicated across the benefit system. That is effectively a pay back. When people pay their national insurance contributions, they pay towards a variety of different support that they may receive. The national insurance system will provide people with ongoing support if they find themselves with no further means of it. For our income-related benefits, that support will always be there. People also contribute, of course, to the money that they receive through the state pension after they retire. With JSA, we say that people who have paid contributions are entitled to support even if they have other means of it, such as substantial amounts of money in the bank or a partner earning a good income. They will receive for six months a series of support payments in recognition of contributions that they have made.

We could equally have said that that is an appropriate length of time for ESA. This is not a question about how long it takes people to recover and get into a job. The right hon. Member for East Ham made reference to a training course. It is not the case that our benefits system is there to support people where there are extended training courses. That has never been the case.

Stephen Timms: Surely the Minister accepts that it is appropriate for people whose circumstances have changed because they have a health problem to seek retraining to help them to get back into work, and that it is reasonable for people to look to the welfare system to support them while they do so?

Chris Grayling: The right hon. Gentleman knows that that has never been the case. Why would it be any different for someone who has been in work in a particular profession for 25 years, has lost their job and cannot get a job in the same area? He knows that the welfare state does not make extended benefit payments to people undertaking a long-term training course. It provides for people who receive short-term training support during their job search; it does not provide long-term ongoing support for an extended training course.

Stephen Timms: Can the Minister tell the Committee what proportion of those who go into the work-related activity group he expects to be back in work within one year?

Chris Grayling: At the moment, we do not have a specific answer to that, but I return to the point that this is not about recovery times. It is not about a decision that 12 months is an appropriate time for recovery. These are people who have other means of financial support, so what we have sought to do in difficult times financially, and by taking tough decisions, is to say, "Right, we need to start to replicate in the ESA system the kind of approach we take in the JSA system." We have decided to set a 12-month time limit rather than a six-month time limit in recognition of the fact that if people face a health challenge it make take longer to sort out their affairs and may even take longer than the two year period. This is one of the tough decisions we need to take in government. We form a view and try to achieve a sensible balance. It is not based on an estimate of a typical recovery time, but on the principle that these are people who have other means of financial support. In around 60% of cases we expect people to need additional financial support through the income-based system, which they will of course receive.

However, the 40% who fall outside the support mechanism that would exist for their equivalent on JSA are expected, as the system has always provided, to live off their other means. They may not qualify for income-related JSA if, for example, they have capital of £16,000 or more. I would say to the hon. Member for Edinburgh East that of course people put aside money for a rainy day, to deal with challenges to their lives or with the unexpected. It is surely not unreasonable for the state to expect people to use some of that money when faced with that kind of challenge. If they have a partner who works full time—the definition is for 24 hours a week or more—they are expected to live off that alternative income. However, that is not necessarily the only income they will receive. Depending on their circumstances, they may be eligible for support for mortgage interest, for housing benefit, for working tax credit, and for other forms of state support.

Had we listened to the right hon. Gentleman, we might imagine that these are people for whom state support will disappear in a puff of smoke: there will be no other alternative. The answer is that of course there are other alternatives. We provide support for people on low household incomes in various different ways. We will improve the system with the introduction of universal credit. However, the reality is that these are people who have alternative means of support. We have made a decision to mirror the situation for JSA, but in recognition of the fact that people with health issues need longer to sort out their affairs, we have given a 12-month rather than a six-month time limit. This is not related to recovery times or to estimates of how long it takes to get over cancer. It is about the individual and the household's financial circumstances and whether they have other means to support themselves.

A range of support will be provided to people who are in the work-related activity group. For example, one of the early decisions we made in designing the Work programme was that there is a danger that some people in the WRAG will fall through the net of the Work programme because they will move off ESA(C), and there will not be a corresponding benefit saving to enable us to fund the AME/DEL switch in the Work programme. We have made specific provision in the budgeting for the Work programme for those people to

volunteer if they choose to do so and continue to receive the specialist support through the Work programme that they would not otherwise receive because of the introduction of this measure.

We will continue to provide support for people in the work-related activity group through Jobcentre Plus. There is no reason why anybody should fall through the net of back-to-work support as a result of the measure, and we have been careful to ensure that that does not happen. The right hon. Gentleman made a number of other points. He and my hon. Friend the Member for Cardiff Central mentioned the assessment phase. The work capability assessment typically takes place after 13 weeks and determines whether someone is entitled to ESA and, if so, to which group they are allocated.

We have to be careful. I am genuinely concerned about the way in which the assessment phase is being used. Having looked over the shoulder of Jobcentre Plus employees to see the work they are doing with people at that stage, I have seen one or two highly suspect claims. Now that the Work programme contracting is out of the way and we have started the ESA migration, one of the things I intend to do is look carefully at the way in which we operate those first 13 weeks. As my hon. Friend will have seen in the figures published last week, a disturbing number of cases, almost 40% of claims, stop just before—

Sheila Gilmore: Has the Minister been able to provide a detailed follow-up, or does he plan to provide one, on what happens to the often quoted 40% of people? The implication in many press releases and statements is that all such people are cheats who have withdrawn their claim at the last minute because they realise that they are about to be rumbled. That might be the case, I do not know. There is no clear follow-up. Some people may have genuinely recovered and gone back to work.

Chris Grayling: Let us be fair. I do not regard all of those people as cheats by a long chalk. Some claims in that mix, however, are questionable. We need to do a lot of work on that, and I intend that work to be done over the next few months. So there will be more information for the hon. Lady in due course.

I want to look carefully at the assessment phase. I do not intend to make changes to the provisions in the Bill, but many aspects of the process will be made through regulations. I intend to look carefully at how the assessment phase works. I do not want to create a perverse incentive to claim and reclaim so that people can stay in the assessment phase.

My hon. Friend the Member for Cardiff Central made a sensible point about appeals. Even with the time limit, there is no question of anyone losing financially. If their appeal is successful they will receive a backdated payment to cover the whole period. If the appeal takes more than 12 months—heaven forbid that that should continue to be the case—there will be a full back payment; if it is midway through the 12 month process, there will be a payment in arrears and a payment going forward, so nobody who appeals successfully will lose out financially.

Jenny Willott: I understand the Minister's concern about the assessment period, but if the entitlement period starts at the end of the assessment period, it would not affect a claim made by someone who is reapplying over and over again. It would not matter if it is a bogus claim and they are not entitled to ESA, because they would never reach the work-related activity group.

The Chair: Interventions are meant to be brief.

Jenny Willott: Whether or not someone keeps reapplying, that is different from whether it is fair for the assessment phase to be included in the time limit.

Chris Grayling: I will look again at the issues that my hon. Friend has raised. She has made some sensible points and I will get back to her.

Likewise, my starting point is that I do not want people moving into and out of the support group, because the implication would be that we have got the decision-making process wrong. Professor Harrington's work on fluctuating conditions will create a stronger and more robust system.

On the issues raised by my hon. Friend, my worry is that her amendments would create an incentive to try to get back into the support group, which would move people in the wrong way. Somebody in the WRAG will have a financial incentive to try to get back into the support group, whereas we want to help them to move back towards the workplace. I am happy to make a commitment to go away and look at the issue that she has raised and to come back to her. She has made some thoughtful contributions, and we should take the time to look closely at what she is suggesting. There is certainly time to see if the points that she has raised have any implications for the way in which the Bill is put together. I am happy to give her an undertaking to do so. Some of those points were raised by the right hon. Gentleman.

12.15 pm

Stephen Timms: Indeed they were. The Minister has referred to regulations, which brings us back to the point about books and bookcases. Why is the figure of 365 days written into this clause?

Chris Grayling: I was coming to that. This is the way in which our contributory system has worked. The six-month limit for JSA is written into the Jobseekers Act 1995, and we are simply replicating that situation in this Bill for ESA provision. It is standard practice, and it is the right thing to do. This is a clear, long-term decision by this Government, which we do not intend to vary. A future Government may choose to reverse the decision, but it is absolutely consistent with the way in which the other half of our contributory system works. It is clearly open to a future Government to adopt a different view, but whereas in most cases we need the flexibility to adjust, this is a clear, long-term decision about how we should operate our contributory system.

I want to address the other point that the right hon. Gentleman has raised, which concerned young people. It seems to be an oddity that a young person with a disability or a health challenge, regardless of their circumstances, should automatically be able to migrate to contributory ESA even if they have never worked. This may not have been debated hotly in the past, but it is strange if somebody who reaches the age of 18 can

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simply enter the contributory system without ever having contributed. Such young people have access to income-based ESA, which provides them with the same level of support as contributory ESA, so we are not telling them that there is no support for them.

Across the board, for those who need financial support, none of these measures takes away that financial support. It is important to stress and to restress that. In all the cases that the right hon. Gentleman has set out, and in all the cases that have been brought to us, if those people have no other means of financial support, the support that we provide them will continue. That is the case for those young people.

We estimate that about 90% of the young people who can currently migrate to contributory benefit are entitled to receive an income-based benefit instead, so their situation will not change. It is only in the case of those who have alternative financial means in their household that the automatic passporting will not continue. That does no more than extend the principles that we are applying across the contributory system to that group of young people. It is not at all apparent why somebody who reaches the age of 18 should simply be able to receive a contribution-based benefit. We provide the safety net of the income-based system, which will continue; this measure does not change that. We want a simplified, streamlined system that provides support where we think it is necessary, which is why we are making this change.

The right hon. Gentleman disagrees with us about this proposal, and I know that he would have chosen not to make the reduction. We may disagree about the emphasis that is required to deal with the deficit, but we have taken what we think is the fairest possible approach in the context of these financially difficult times. It is a tough decision, which we might not have wished to be in a position to take, but this Government faces many such decisions. In the context of those difficult decisions, we think that this is a sensible measure; it is a sensible step forward, which achieves a proper balance in a system that already includes time limits for people who are out of work. On that basis, I urge the Committee to reject the amendment.

Stephen Timms: That was a desperately inadequate response, and I find it deeply depressing that the Minister's only justification for this provision is that saving money is a good thing. He has offered us no evidence at all that one year is an adequate period. Indeed, he has told us frankly that he does not know or care whether people can be expected to get back to work in that period. This is purely a cost-saving measure, and on that basis, I suppose, anything goes. I presume it is a question of the shortest period of time the Government can get away with, and that is reflected in the Bill.

The Minister did not mention the position of people with cancer, or those who will lose their benefit in the middle of cancer treatment—the hon. Member for Meon Valley was certainly discomfited by that, and even if the Minister does not feel any awkwardness about it, many who follow our proceedings will. He did not mention the position of people with mental health problems, although he has attempted to be understanding of such issues in the past. The Minister has responsibility for the future of the welfare system and for providing a system that is coherent and can be explained and defended. It is not simply about finding the cheapest system which we can get away with, although that appears to be the approach to the clause. I am afraid I am fairly despondent.

John Glen (Salisbury) (Con): It is also incumbent on the Opposition to propose a well-costed and reasonable alternative. The costings of the amendment may have been provided in the answer this morning, but we have not received an adequate response about where that money will come from. Many on the Government side will be anxious about some of the decisions that have to be made, but that is the responsibility of governing. As someone who was hugely respected in the previous Government, does the right hon. Gentleman not feel lacking in integrity as a result of failing to come to the Committee with a proper costing for the alternative spending plans that would be needed to justify the cost of the amendment?

Stephen Timms: First, I am pleased that another Government Member has at least indicated a degree of discomfort about where this measure is taking us. I have given the costing. The hon. Member for Cardiff Central asked me for it earlier, and I was able to provide it on the basis of a question that I received today. The hon. Gentleman is right: I did not bring a full spending programme to present to the Committee, and I do not think it would be pleased if I had done so. Let me make it clear, however, that the amendment has the full authority of my party's leadership and it is the right thing to do. What is being done in this legislation is wrong.

Chris Grayling: Will the right hon. Gentleman confirm two things to the Committee? First, will he confirm that he did not know how much the measures in his amendment would cost before he tabled it, and secondly that according to his proposals he would have to increase public borrowing to fund it?

Stephen Timms: It is true that the answer I cited arrived only this morning, but other costs were published earlier by the Government. Lord Freud wrote to the Committee a few days ago to point out that the costings had all changed. I had evidence and information about the costs of the amendment when it was tabled, but the Government changed the situation. I do not criticise that; no doubt there was some difficulty for the Government in establishing what the provision will amount to. That is why the figures I gave this morning are different—although not significantly different—from those I had in mind when I tabled the amendment. The Government changed their mind.

Even if the Minister does not feel that he has responsibility for delivering a welfare system that is capable of being defended, the Committee certainly does. I urge members of the Committee to support the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 14.

Division No. 7]

AYES

Buck, Ms Karen	Green, Kate
Curran, Margaret	Greenwood, Lilian
Elliott, Julie	Pearce, Teresa
Fovargue, Yvonne	Timms, rh Stephen
Gilmore, Sheila	

NOES

Baldwin, Harriett	Miller, Maria
Bebb, Guto	Newton, Sarah
Ellison, Jane	Patel, Priti
Glen, John	Smith, Miss Chloe
Grayling, rh Chris	Swales, Ian
Hollingbery, George	Uppal, Paul
McVey, Esther	Willott, Jenny

Question accordingly negatived.

Stephen Timms: I beg to move amendment 158, in clause 51, page 36, line 19, at end insert—

'(3) The Secretary of State shall ensure that the impact of subsection (1) is independently monitored and reported on annually, for at least the five years following its implementation, in order to review their impact on specific groups of people.'.

The amendment would require the Secretary of State to put in place a system to monitor independently the effect of time limiting contributory ESA. The Minister has been frank with us; he does not know how many people will be affected. Slightly more surprisingly, he indicated that he does not really care how long people will take to get back to work. He said that that is not a matter of concern for him.

This is a major change and there is clearly strong disagreement in the Committee about it. Those on the Government Benches argue that the decision to limit ESA to one year will be fair and will not push people into unnecessary hardship, but we cannot agree. All the evidence indicates that one year is not enough for the majority of people who lose their jobs through ill health to expect to get back into work. That seems to be the only basis on which one can judge whether a year is the right period. The Minister indicated that he does not think that it is a significant consideration, but it seems to me that it is.

We are dealing with many unknowns. We do not know how long it currently takes people in the work-related activity group to enter work, although it clearly seems to be more than a year. We do not know the full extent of the barriers that people currently on incapacity benefit will face, particularly if they received the benefit for many years. They will go through the work capability assessment and on to ESA and the Work programme, and we do not know how successful the Work programme will be in supporting those individuals back into work. The assumption in the tender documents for the Work programme seems to be that 9% of people on incapacity benefit will get back into work within a year, but we do not know what it will prove to be.

Time limiting will have far-reaching effects on the lives of many people. I would prefer the response to the unknowns to have been a more careful and cautious approach, but at the very least we should ensure that we can review the impact of the policy properly in future, because policy making should be based on evidence and reflect the position of the individuals whom it will affect. If we had legislated for a two-year time limit, we would have put in place a proper review to ensure that we could respond in future as new information became available. That is why we argued for the length of the time limit to be determined through regulations. We all know the effect of a six-month time limit on contributory JSA; we do not know the effect of a one-year time limit on ESA, so I do not accept the Minister's argument that because it was done in that way for JSA, it is all right to do it for ESA. Had the evidence suggested that two years was too short—as the hon. Member for Meon Valley suggested it might be—we should certainly have wanted the flexibility to extend the period.

12.30 pm

The amendment would require the Secretary of State to implement a review process. I hope that the Minister will see the attractions of that, and I like to think he might support it. I will quickly run through the characteristics of the review process that the amendment suggests. First, it should be independent. All Committee members will have received representations on behalf of disabled people and people with health impairments who are very anxious about the Government's proposals. It is important that they have confidence in the review process if, as I hope, we have one. I have in mind something along the lines of the review of the work capability assessment that Professor Harrington carried out for the Government, which the Minister welcomed, endorsed, and supported, as did groups supporting disabled people. I do not want to be too prescriptive, but it may be that some other form of review—such as through official statistics—might be appropriate, but it must be independent.

Secondly, the review should report annually, though, depending on the design of the review process, it may be that it should report more frequently. I think that it should report at least annually, and should continue for at least five years. The Government intend to set a very short period of eligibility for contributory ESA. People will be affected by the changes very quickly, and we will need information and data about those effects. We have already established that, although ESA has been in place for almost three years, there are some very important statistics about its effects that we do not know, so the amendment calls for the review to report for at least five years, by which time we can be confident that the necessary information will be available. We will then be able to assess the effectiveness of this change beyond the initial transition period.

Thirdly, the amendment calls for the review to monitor the impact on specific groups of people. I have in mind the impact on different types of disability and health impairment. It may well be that the time limit is particularly inappropriate for people with certain conditions, and if there is—as I suspect—a good case for extending the time limit for people suffering from specific conditions then we need to know, and the review must tell us. The Committee is sharply divided on the merits of those provisions as they stand, but I hope that we all agree that policy making should be based on evidence, and that it is right for us to take steps to obtain the crucial evidence required to evaluate the change and its future effects.

Chris Grayling: First, I completely agree with the right hon. Gentleman on the need to monitor the impact of policy and understand the effect of the changes that we make. In reality, however, I do not believe that it is necessary to put the kind of complex process he describes—with all the inevitable costs—in place for a change such as this. As a matter of routine, we monitor the impact of all our policies, as he did when he held his position in the Department. We use

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evidence on the experiences and outcomes of the affected groups from several sources. All that information is published very openly, and can accessed by the right hon. Gentleman and his colleagues, or by independent groups looking at these issues.

We use administrative datasets to monitor trends in the ESA case loads and in the level and distribution of benefit entitlement. We use survey data, such as the family resources and labour force survey, to assess trends in the incomes of those affected. We will use qualitative research and feedback from stakeholder groups to assess whether there are unintended consequences and whether the policy results in adverse consequences for particular groups. We will also use feedback from departmental employee networks and internal management information. So, for example, we will monitor the level of appeals and complaints in order to assess the broader impact of the policy.

In the Work programme, we will have clear understanding of those people who come through on an ESA(C) basis because they fall under a specific category within the contracting of the Work programme. We will draw on broader DWP research work, where appropriate, as well as any research commissioned specifically as part of the evaluation of the measure. We collect all that data and if we were to find the resources to pay for a separate, independent assessment process, it would cost a few hundred thousand pounds. That is the equivalent of a handful of jobs in Jobcentre Plus. Right now my goal has been to keep the monitoring process to the level that is necessary to deliver the information that we need, but not to over-engineer, because over-engineering in reality means job cuts elsewhere in the organisation—the jobs of those who could otherwise provide real support to people on benefits and those we want to help move back into the workplace.

I am therefore afraid that I cannot accept the right hon. Gentleman's amendment. There is no question but that we will monitor the impact of these changes. We will know and understand their consequences. However, let me take him back. He talks about the need to have a structured system around specific conditions. Clearly, those people in the support group will continue to receive support. There has never been any question about that. However, for the work-related activity group, the issue is what the alternative financial resources available to the household are, not the nature of the condition. That is the basis on which we have approached this and it will continue to be so.

Stephen Timms: Many of us feel that a time limit on ESA needs to be justified on the basis that most people can expect to be back in work before it expires. The Minister has suggested that he would favour the shortest period he can get away with. Many of us would not agree with that and feel that analysis and evidence is needed. However, the Minister has given us some modest encouragement that the Government will monitor the effects of this change, so I will not press the amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 51 ordered to stand part of the Bill.

Clauses 52 to 56 ordered to stand part of the Bill.

Clause 57

ENTITLEMENT OF LONE PARENTS TO INCOME SUPPORT ETC

Kate Green: I beg to move amendment 172, in clause 57, page 45, line 28, at end insert

'except where that lone parent can demonstrate that they are enrolled in a course of education or training, in which case the age of the child shall be 7.'.

The Chair: With this it will be convenient to discuss amendment 173, in clause 57, page 45, line 31, at end insert

'except where that lone parent can demonstrate that they are enrolled in a course of education or training, in which case the age of the child shall be 7.'.

Kate Green: The amendments relate to lone parents in receipt of income support and the age of their youngest child in terms of the requirements placed on them under the new conditionality regime. After I had tabled the amendments, I received a helpful briefing from the Department about lone parents on training courses, but it would be useful if we could have some clarity from the Minister about exactly what is intended.

It is extremely difficult for a lone parent on day one of their child starting school to put everything in place so that they can participate fully in work preparation activities, go out to employment or undertake a course of education or training. However, we know that undertaking relevant and effective programmes of education or training significantly improves the propensity of lone parents to secure and remain in sustainable employment that genuinely lifts them and their children out of poverty. I think that Members on both sides of the House feel very strongly and positively about the difference that can be made to families, in terms of employment outcomes and long-term prosperity, if lone parents access good-quality education and training that leads them into work, rather than that is undertaken for the sake of it.

Obviously, when a lone parent has a child who is too young to go to school, their attention is likely to be predominantly towards child care. That is why the Government's proposals on conditionality for lone parents kick in when the youngest child reaches the age of five. I say in passing that I am worried that a lone parent is expected to do a lot on day one when her child starts school. Most of us would be very reluctant to start a new job on the same day that our child went to school for the first time. There would be a lot to organise to put in place child care and to ensure that the child was happy and settled while one's own attention was on one's new employment. I am sure, however, that there will be in practice a more flexible and imaginative approach to the expectations placed on lone parents on the day that their youngest child turns five, although I would be pleased to hear the Minister's assurances about that.

It is quite likely that a lone parent will want to embark on the steps towards work at the moment her youngest child is in full-time school. Indeed, that is very much the grain of the Government's proposals. It is likely that many lone parents will use the first period in which their youngest child begins school to start refreshing

their skills, which could be seriously out of date if they have had a long period out of the workplace while caring for children, and preparing to return to the workplace, perhaps by trying to achieve the qualifications that would be more likely to lead them into good prospects and sustainable work. The amendments would allow for that period of preparing for work through undertaking good-quality education or training, thereby offering the lone parent a realistic opportunity to undertake such education or training that would make a meaningful difference.

The amendments suggest that two years would a period during which educational training would enable a lone parent properly to be competitive and attractive in the labour market so that she could secure the kind of good job that would lift her family out of poverty. Rather than requiring a lone parent who is undertaking education or training to be subject to full conditionality when her youngest child turns five, I propose that there should be a period during which she may successfully and effectively complete that training before she is subject to the fuller conditionality that the Government intend to introduce.

I am aware that we have had a helpful briefing note from the Department in the last few days setting out the Government's intentions regarding lone parents on income support who are in education or training. It would be useful to understand whether that will apply to lone parents who are currently in education or training, or whether it is to be read across in the long run. I would be grateful to hear the Minister's views on whether there is an expectation that lone parents will undertake education or training in the first couple of years after their youngest child turns five, given that we all recognise the importance of good-quality education or training and the significant benefits that it can bring.

The Parliamentary Under-Secretary of State for Work and Pensions (Maria Miller) *rose—*

The Chair: My mind has gone completely blank—[Hon. Members: "Maria Miller."] I call Maria Miller; I beg your pardon.

12.45 pm

Maria Miller: It is good to be able to make an active contribution to our proceedings, which my right hon. Friend the Minister of State has conducted so well up to this point. The hon. Member for Stretford and Urmston has made some extremely important points, and there is a great deal of shared ground on the importance of work for lone and coupled parents. I am glad that she has found the Department's briefing notes for Opposition Members so helpful.

Amendment 172 would enable lone parents with a youngest child between the ages of five and seven to remain entitled to income support if they are undertaking education or training. Amendment 173 relates to mandatory work-related activity for certain lone parents whose youngest child is under seven.

The hon. Lady set out well what the amendments would achieve. She will be aware that transitional protection was applied to the regulations that were introduced progressively to reduce the age of the youngest child that enabled lone parents to be entitled to income support. Such protection applied to full-time students or those following a full-time course of study arranged by Jobcentre Plus prior to that change, meaning that they could remain on income support. I assure the hon. Lady and other members of the Committee that when the new changes are introduced and we lower the age threshold to five, a similar arrangement will apply. A lone parent whose youngest child turns five will remain entitled to income support if they are undertaking such activity until their youngest child is seven or their course finishes, whichever comes first. Lone parents whose youngest child is five or older who want to claim benefit after the transitional protection ends will have to claim JSA if they are capable of work, or ESA if they have limited work capability, in the same way as other lone parents with children of school age.

That does not mean that lone parents cannot access training—far from it. We are keen to give all the support that is required to update skills and to ensure that training is in place for lone parents who are in receipt of ESA, JSA or income support. If, after discussion with their personal advisers at Jobcentre Plus, it is identified that access to work-related training could improve lone parents' employability, they will be able to apply from day one. That is really important. For those claiming JSA and ESA, the support will be available via Jobcentre Plus contracted provision or, if they are eligible, through the Work programme.

As the hon. Lady will be aware, lone parents who are in receipt of income support are required to attend work-focused interviews. Their personal adviser will encourage them to access work-related training to improve their job prospects in readiness for them to move on to JSA or, it is hoped, into employment. That allows the lone parent to think about work early on, and it is consistent with the previous Government's intentions in the area. JSA is not available to people undertaking full-time education that is not work-related, although it possible for claimants to undertake part-time training and education if they are still able to show that they are actively seeking and available for work. Jobseekers may also undertake up to two weeks' full-time training in any 12-month period with the agreement of their personal adviser.

With regard to amendment 173, the provision to allow for work-related activity for lone parents with children whose youngest child is three was put on the statute book by the previous Government. While we are not intending to use that legislation at the moment, we can see a virtue in retaining it as a way of future-proofing employment support for this group. The hon. Lady's intentions are similar to those we discussed with regard to amendment 172: to provide that lone parents who have a child under seven and are on training courses should be exempt from the requirement to undertake activities and to look or prepare for work.

The protection that the hon. Lady proposes for this group is unnecessary for a number of reasons. If the requirement were ever to be introduced, we would ensure that there was sufficient flexibility to accommodate lone parents' individual circumstances with regard to work-related training and other activities. That would cover any training that they were undertaking. If that were not the case, we could not achieve our objective of enabling lone parents to update their skills in a way that helps them to find employment. That said, it is possible

[Maria Miller]

to imagine circumstances in which an existing course has no prospect of improving someone's employability. In such cases, I imagine there would need to be negotiations between the lone parent and their adviser to examine such things as the remaining duration of the course and its effect on their job search. We will gain more experience through the work being undertaken on the Work programme by my right hon. Friend the Minister of State, through which certain people claiming ESA will undertake mandatory work-related activity.

Lone parents with young children face different circumstances. Such barriers relate to caring rather than health, but there will be common elements from which we can learn. We will include such learning in the support materials and regulations that will be brought forward when dealing with previous welfare provisions.

I hope that I have reassured the hon. Lady that we have the shared intention of supporting lone parents to stay close to the workplace by ensuring that they have the right support. If they are undertaking training at the time, they can have the sort of protection for which she is asking. Having received my reassurances, I hope that she will withdraw the amendment.

Kate Green: I am grateful to the Minister for those helpful and encouraging assurances on lone parents' education and training, and their requirement to be available for work. It is welcome that the Minister strongly shares our belief in the value of good-quality employment-related education and training in improving lone parents' long-term prospects. It was good to hear her say that she does not envisage activating existing provisions on lone parents with much younger children. On the basis of those welcome assurances and what the Minister calls a shared understanding of what we wish to achieve, particularly on education and training for lone parents, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 57 ordered to stand part of the Bill.

Clause 58 ordered to stand part of the Bill.

Clause 59

CLAIMANTS DEPENDENT ON DRUGS ETC

Question proposed, That the clause stand part of the Bill.

Maria Miller *rose—*

The Chair: Order. Before the Minister speaks, perhaps I should apologise for not recognising her swiftly earlier in our proceedings. She will take some comfort from the *Hansard* report of a debate in 2006 that I was reading at the weekend. In that debate, the Chairman intended to call the right hon. Member for Witney (Mr Cameron) but inadvertently shouted out, "Mr George Osborne," so a great future lies ahead of her.

Maria Miller: I assure you, Mr Gray, that I took no offence whatsoever.

I wish briefly—I stress that I will be brief—to set out the reason why clause 59 is in the Bill. It repeals provisions introduced under the Welfare Reform Act 2009 relating to JSA and ESA claimants who are dependent on drugs if their dependency affects their prospects of obtaining or remaining in work. As constituency Members, we all know about drug and alcohol addiction problems; there are 400,000 problem drug users and 630,000 severe alcoholics. The problem is still growing, and an effective action strategy is a priority for the Government.

The provisions that we are repealing allowed regulations to be made to expect Jobcentre Plus advisers to question individuals about drug use and mandated claimants to undertake activities that included assessments and even drug testing. Any failure to comply would have led to sanctions. Drug users who refused to take up treatment would have been subject to mandatory rehabilitation programmes, and the provisions included powers to deal similarly with alcohol problems.

That approach was heavily criticised by medical professionals and experts in drug rehabilitation because it put Jobcentre Plus advisers in the role of medics, and we would all be concerned about mandatory rehabilitation. The previous Government planned to pilot regulations under the 2009 Act that would have applied to heroin and crack cocaine users in five locations in England. Last summer, we reviewed those plans and decided that the pilots did not meet our aims and ambitions. They were too narrowly focused, impractical and expensive.

We all agree that drug and alcohol addictions are among the most damaging roots of poverty. They cause untold harm and misery for individuals and their families, and for communities. The difference is that this Government are committed to helping people who are trapped on benefits by their addiction to recover and to find employment. Many ex-addicts say that getting a job was a key factor in sustaining their recovery. In our drugs strategy, which we published last December, we outlined our first steps to ensure that the benefit system supports effective engagement with recovery services, which is more successful than coercion. When substance misuse is a barrier to work, claimants will be offered a choice. If they go into structured treatment, they will be able to get their benefit conditions tailored to allow them time and space to focus on their treatment and recovery. We are aware that benefit conditionality, particularly in the jobseeker's regime, can sometimes hinder that process, and we want the benefit system to support the individual to stick to their treatment plan and strive for full recovery, rather than to distract them from it. However, if they do not take up treatment, they will be expected to sign up to the normal rules to receive benefits. Under the new approach, the effects of substance misuse will not be accepted as an excuse for any failure to meet the rules.

We will be introducing the new arrangements in jobseeker's allowance and ESA by making regulations under other existing powers. The provisions in the 2009 Act are inappropriate for that purpose and will not be used, which is why we are repealing them. We will also make similar arrangements in the universal credit, so Parliament will have the opportunity to consider the details. We felt that it was important to set out why we were repealing these particular provisions and to underline the Government's commitment in this area so that people have clarity on our approach.

Question put and agreed to.

Clause 59 accordingly ordered to stand part of the Bill.

Clause 60

ENTITLEMENT TO WORK: JOBSEEKER'S ALLOWANCE

Question proposed, That the clause stand part of the Bill.

Kate Green: My remarks will also relate to clauses 61 and 62 as we consider the proposal to take away entitlement to benefits from people whose immigration status does not allow them to work.

The intention behind the provisions is to prevent illegal workers from claiming contributory benefits—benefits for which entitlement is based on national insurance contributions paid in past tax years—and employment-related benefits. I draw that conclusion from the impact assessment that the Government published in February. My concern is that the measures would not achieve that intention. Instead of disqualifying people who are working illegally—in other words those who, at the point of paying national insurance contributions, did not have the right to work—they in fact disqualify people who do not have the right to work at the point that they are claiming benefit.

One understands why the Government have framed the provisions in such a way. It would seem that Her Majesty's Revenue and Customs would not be able to identify whether people were illegal workers at the time they were paying national insurance contributions. The option of excluding people who do not have the right to work while they are actually working was necessarily discounted, but I understand that the provisions will have an impact on people who have worked completely legally and paid national insurance legitimately in the past because they will be denied benefit. Such people might be asylum seekers who were given a right to work because of a delay in deciding their application, although I understand that the Department is considering the possibility of exceptions and that it might make regulations for that group. The situation might apply to people who had the right to work for a particular employer but then either left or lost that employment and were applying to change employment. It might apply to people who were applying for their leave to remain to be renewed or their status to be changed, which could arise in all sorts of circumstances. People who have worked legally and paid contributions in the past could, under the Bill, be left with no source of support while they wait for a UK Border Agency decision in relation to their application.

1 pm

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Four o'clock.