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Public Bill Committee

WELFARE REFORM BILL

Twenty-first Sitting

Tuesday 17 May 2011

(Morning)

CONTENTS

Written evidence reported to the House.

CLAUSE 93 under consideration when the Committee adjourned till this day at One o'clock.

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The Committee consisted of the following Members:

Chairs: †MR JAMES GRAY, MR MIKE WEIR

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

Public Bill Committee

Tuesday 17 May 2011

(Morning)

[MR JAMES GRAY *in the Chair*]

Welfare Reform Bill

Written evidence to be reported to the House

WR 67 CARE

WR 68 Surrey Welfare Rights Unit

WR 69 Camphill Scotland

10.30 am

Clause 93

BENEFIT CAP

Kate Green (Stretford and Urmston) (Lab): I beg to move amendment 205, in clause 93, page 61, line 40, at end insert

‘excepting where they are the parent(s) or principal carer(s) of a child who is the subject of a child protection plan, a Children in Need assessment or Common Assessment Framework Team Around the Child’.

The Chair: With this it will be convenient to discuss the following: amendment 197, in clause 93, page 62, line 24, at end insert—

‘(4A) Family and friends carers will be exempt from the benefit cap—

- (a) where the child comes to live with the carer as a result of plans made within a section 47 Children Act 1989 child protection enquiry;
- (b) where a child comes to live with the carer following a section 37 Children Act 1989 investigation;
- (c) where a carer has secured a Residence Order or Special Guardianship Order to avoid a child being looked after, and there is professional evidence of the impairment of the parents’ ability to care for the child;
- (d) where the carer has a Residence Order or Special Guardianship Order arising out of care proceedings;
- (e) where the carer has a Residence Order or Special Guardianship Order following the accommodation of a child;
- (f) where the carer has a Residence Order or Special Guardianship Order following the death or serious illness of a parent.’.

Amendment 206, in clause 93, page 62, line 24, at end insert—

- ‘(h) make provision where there are parent(s) or principal carer(s) of a child who is the subject of a child protection plan, a Children in Need assessment or Common Assessment Framework Team Around the Child.’.

Kate Green: It is a pleasure to return to the Committee with you in the Chair, Mr Gray.

I suspect that we will spend a large part of this morning’s sitting, and perhaps some of this afternoon’s sitting, talking about the Government’s proposed introduction of a benefit cap. The more that we read about the Government’s plans, the more that we see that the plans are both unworkable and discriminatory. My

hon. Friend the Member for Westminster North looks forward to expounding at length on issues related to family size and structure, housing costs, employment status and so on.

With this group of amendments, I want to focus on two groups of families that will be affected by the design of the cap. Amendments 205 and 206 address families in which there are child protection issues, and amendment 197 addresses families with kinship care situations. Later this morning, my hon. Friend will deal with the broader aspects, such as housing, family size and so on, that particularly affect such families.

I will start with amendments 205 and 206, which address child protection issues. There is considerable concern, as the Government have admitted, that the welfare reforms encompassed within the Bill and the earlier housing benefit reforms introduced by the Government will result in increased housing mobility, as the value of the total income of benefit claimants declines relative to the rents that they can afford in the private rented sector, where they may be occupying properties that will become unaffordable for them.

In addition to the contribution of material poverty to child neglect, the evidence of a number of serious case reviews of children subject to child protection issues shows that housing transience and inappropriate housing, which the welfare reforms could exacerbate, contribute to such neglect. Housing transience also makes it difficult for local authorities to keep track of families in which children are at risk. We can already see that in some London boroughs. The impact of housing transience, particularly its implications for child protection, was specifically highlighted by Lord Laming in his report on the death of Victoria Climbié some years ago.

I am not for one minute stigmatising all poor families by suggesting that they have a heightened risk of having child protection issues. Child neglect and child abuse can occur across all family backgrounds, and poor parents are in general as committed to the well-being and good upbringing of their children as any parent. They care as deeply about their child’s welfare as any parent from a better-off background. None the less, we have to observe that the number of incidents is sufficient to be concerned that child protection case loads will increase in the poorest boroughs as vulnerable families relocate, as a result of the benefit reforms, to boroughs with cheaper housing stock.

The leader of Haringey council, Councillor Claire Kober, is on record on that point. She told *The Guardian* in October 2010 that flight to cheaper boroughs as a result of reforms to local housing allowance had already caused an inflow of children at risk. She said:

“In the last two months we have seen an influx of 40 children on child protection plans. That’s more than a 10% rise for us in vulnerable children...which means other services come under pressure”.

That was before the introduction of the new benefit cap that we are debating. As a result of the benefit cap, there is a risk of difficult and potentially dangerous child protection cases being concentrated in certain parts of the country that have low-cost housing.

Research into serious case reviews that were conducted between 2005 and 2007 found that, in 45% of sample cases, the families were highly mobile and living in poor conditions. The report stated:

“Reluctant parental co-operation and multiple moves meant that many children went off the radar of professionals.”

Family Action highlights an example: family Q of Sheffield and Lincolnshire moved 67 times to conceal three decades of parental sexual and physical abuse.

In London, where rents are higher than elsewhere, there is an even clearer indication of the link between housing issues and safeguarding challenges. A London Safeguarding Children Board paper found that of the serious case reviews that were completed in the capital between 2006 and 2009,

“47% of the sample had rent arrears, had either been evicted or were described as on the verge of eviction”.

The paper concludes:

“Children disappear from view when there is high mobility (including inter country) and housing problems.”

The situation that we are moving to, in which families may be forced repeatedly to move in search of affordable housing as a result of the benefit cap, will exacerbate the problem and prevent the vital safeguarding and tracking of vulnerable children and their parents. High mobility contributed to the failure to trace and share information between different London local authorities in the death of child C in Sutton in 2006.

Charlie Elphicke (Dover) (Con): I am listening to the hon. Lady’s argument with care. My understanding is that the cap for housing benefit will be about £500 a week or thereabouts. Will she confirm that my understanding is correct and explain how people would not manage to have quite substantial houses for that kind of rent?

Kate Green: The hon. Gentleman needs to understand that there are two caps: one relates to housing size and the other to overall benefits received. I think that the latter is the £500 a week for families with children to which he has referred. Considerable analysis of the impact of the Government’s earlier housing benefit reforms and the cap proposals in the Bill suggests that a substantial number of families with children will be unable to remain in their current housing. That is particularly so in London, especially in the high-cost London boroughs such as that represented by my hon. Friend the Member for Westminster North, but it is true in other parts of the country as well. For example, my borough, Trafford, has relatively high housing costs in the north-west of England, so we expect to see—both within and across boroughs—some dislocation of families as a result of the caps.

Charlie Elphicke: Correct me if I am wrong, Mr Gray, but I believe—

The Chair: Order. I will not be correcting anyone.

Charlie Elphicke: Indeed. I believe that we are talking about £26,000 in rent each year, or thereabouts, which is an awful lot of money. How many families will really be affected?

Kate Green: First, if a single child becomes at risk as a result of these proposals and becomes the subject of child protection arrangements that are more difficult to enforce, we must be seriously concerned about that. Secondly, two caps are running. The benefit may be capped by the size of a family and the number of

bedrooms that they can have, as well as the financial cap that the hon. Gentleman has alluded to. We are seriously concerned that such families will face a total income cap of £500 a week, from which they will have to meet housing and other costs. It will be very difficult even for families with three children—such families are not particularly large—to stay in the high-cost housing that some occupy in some boroughs. That applies especially in London and in other parts of the country, too, either because they are expensive parts of the country, or because those families need relatively larger accommodation.

As I have said, high mobility will cause an increased risk for children, where there are child protection issues. We can see that very clearly; it happened in the case of child C in Sutton in 2006. In that case, the extended family was known to five different local safeguarding children boards, yet the mobility of the family impeded the sharing of vital information. I am not for a minute suggesting that removing the benefit cap would solve all the problems of information sharing across boroughs for children who are the subject of child protection measures. We should, however, think carefully about any benefit arrangements that might create further mobility issues and further dislocation and disconnection from the social services that need to have the closest eye on vulnerable children. That is the thrust of amendments 205 and 206.

In August 2010, Ofsted found that

“in instances of a failure to share information between schools and health professionals, local authorities were unable to identify children under their authority. As parents have no legal requirement to inform professionals when they move into or out of a borough, it is often through health professionals that children become known to local authorities.”

However, health professionals are also likely to lose contact with many such vulnerable families as a result of the benefit cap.

When we have raised concerns about families who will be harshly impacted by benefits changes in the past, the Government have highlighted the role that transitional protection will offer to vulnerable claimants. Although that is welcome and useful in the short term, while it lasts, Ministers have yet to tell us what will trigger the end of transitional protection and what changes in circumstances will mean that it is no longer in place. In any event, in the long term, transitional protection will obviously not exist for families who are not currently in the benefits system or for those who are not in receipt of any relevant benefit. Only existing benefit claimants will be protected.

Following the introduction of universal credit, new claimants will receive no protection, and they could lose substantially compared with their entitlement under the existing system. From the briefing notes provided by the Department, we now know that protection will not be uprated with inflation. Losses could be relatively large under universal credit, and benefits could be further eroded within only a few years. As I have said, households whose circumstances change will lose their cash protection, and what counts as a change in circumstances for those purposes has not been defined in detail.

Amendments 205 and 206 seek to remove from the benefit cap those families where child protection is an issue, and there are a number of variants relating to how that issue could be defined by the administrative processes.

Ian Swales (Redcar) (LD): I have a lot of sympathy with many of the hon. Lady's arguments. I will say more later in the debate, but first, can she say how many families she thinks that the amendments would affect? Secondly, is she not concerned that, if her amendment were accepted, there would be a perverse incentive for children somehow to be considered as vulnerable, either by authorities or through the families' actions? In other words, if it enables someone to stay in a house, it is a good idea for the children to be vulnerable. Does she not understand that that could be a perverse way of gaming the system?

Kate Green: I cannot give the hon. Gentleman the numbers, but I will get back to him because it is a good question. However, the numbers are relatively small; substantial numbers of families do not have serious child protection issues, although the numbers have risen in recent years in the wake of the Climbié report, as all hon. Members are aware. That is already putting strain on local authorities, as they have to take more children into care, or make them the subject of child protection orders and assessment frameworks, and so on. I will get the information that the hon. Gentleman seeks, because it is an important question, but let us remember that child protection is no issue at all for the vast majority of low-income parents. They are good, caring and loving parents who put the well-being of their children first, just as any parent does.

On the perverse incentive, the motivation to abuse children is a very dark place, and it is difficult for us, as amateurs, to unpick what drives such behaviour and what leads parents into patterns of abuse. I am therefore not able to say that any current abuse has arisen as a result of poverty. Indeed, I am explicitly not saying that any more than I can say that building in some sort of financial incentive would have any impact on parental behaviour. We cannot go into any rational analysis of whether that is likely. We can say, however, that there is clearly a coincidence between material deprivation, child neglect and frequent housing transience. With vulnerable children, who may need to become the subject of child protection procedures, we need to do all that we can to minimise those risks.

10.45 am

Amendments 205 and 206 would, when child protection orders, assessment and so on are in place, leave families outside the ambit of the cap. If the Government are not able to accept those amendments, I hope that we will at least receive assurances from Ministers about how they will ensure that children do not fall down the gaps as a result of the introduction of the benefits cap. I would also like assurances about what extra support Ministers will be offering to those local authorities that are already finding that their child protection and safeguarding services are increasingly stretched, as a result of the rise in case load that I have already mentioned, as well as the rise in case load that has already taken place in some boroughs following housing benefit reform, which we expect will now be exacerbated.

With regard to amendment 197, the other family group that I want to highlight is those who provide kinship care to children—relatives, grandparents, godparents and so on—and might take them into their homes because those children's parents are unable to look after them properly. When we discussed that group a few weeks ago, there was widespread support and sympathy

for the need to recognise the contribution that such families and family members make, and to give them the support to enable them to care for children in an environment where those children are likely to feel safer and more stable, because they are with family members—people who know and love them—and because they relieve the state of the financial burden of providing such care.

Amendment 197 would exclude the families and friends who are providing such care from the ambit of the benefit cap. A failure to do so could lead to some families being financially penalised specifically for taking on that caring role, and I am sure that we would want to avoid that. Inevitably, taking more children into a household will make it larger, and family and friends carers often end up being members of large households as a result of taking on not only one child, but perhaps several siblings so that the family is kept together. That has led to an estimated one in 10 family carers living in households of five or more people, and they are therefore likely to be disproportionately affected by the benefit cap. It is also more likely that those family and friends carers may have to take time out of the labour market to settle children who will be arriving under often quite distressing and stressful circumstances, so they may be more reliant on a higher level of out-of-work financial support for a time. In many cases, the payments for the children will be coupled with their own out-of-work benefits, which is likely to push them above the level of the cap.

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

We know already that kinship carers highlight the financial disincentive that is built into taking children into the household without getting all the financial benefits that might accrue to their parents. The benefits cap risks pushing a small number of families, albeit ones that we are all agreed we should support, into a situation in which they are significantly disadvantaged financially by offering care to the children of family or friends. An unintended consequence could be that more children will be taken into care because they cannot go to live with family and friends.

Even if the Government cannot accept the amendment, I hope that they can offer us some assurances about their intentions on supporting families providing kinship care. We all recognise that such care is important and valuable, and it is something that we want to see acknowledged. I look forward to hearing the Minister's comments on these two groups of families.

The Minister of State, Department for Work and Pensions (Chris Grayling): This is the first of what I suspect will be a series of debates about the clause and the benefit cap. The hon. Lady wishes to exempt certain households from the benefit cap through amendments 197 and 205. Amendment 206 is more general and indicates a desire to make special provision for such households when making benefit cap regulations. The theme of writing exceptions into the Bill is one to which we shall return as we consider in the next few groups of amendments.

First, I should point out that subsection (4)(c) makes specific provision that regulations may make exceptions to the application of the benefit cap, which raises the obvious question about the circumstances in which those exceptions should be made. I want to make it clear that given that the provision is there, it is not my intention to write specific exceptions into the Bill. I will be as helpful as I can to Committee members, but I take them back to my original comments about the nature of the Bill—and the bookcase, which has not made an appearance for a while. The clause simply creates a framework that allows a benefit cap to be established. We are not specifying the detail, the amounts or the exceptions. There will be a lot of debate about exactly how individual situations such as the ones that the hon. Lady described should be handled. The Bill simply creates the mechanics for all this to take place.

Amendments 205 and 206 would apply to households when social care services had put formal plans in place to secure a child's safety and well-being, often due to parental problems such as mental or physical health, divorce, domestic abuse or substance abuse. Those issues can clearly be hugely disruptive to families and children as they grow up. In other families, such parental problems may lead to another family member or a friend taking over the child's care, and that might happen for other reasons, such as the death of the child's parents. Those households are covered by amendment 197; indeed, some households would be covered by all three amendments.

We recognise that the welfare of children whose parents are not always willing or able to look after them appropriately has to be carefully considered when policy making. In addition, we must acknowledge the immense value of the care given by family and friend carers who look after children whose parents are unable to provide the necessary care themselves. It is important to reiterate that we are introducing the benefit cap to increase incentives to work by addressing the injustice of a benefits system that can sometimes give significantly more to people who do not work than the average earnings of those who do. That injustice not only is unfair to the workers who fund the system, but fails benefit claimants by making the choice to take a job an illogical one when their benefit income will not be matched. It also contributes to the inappropriate stigmatisation of benefit claimants when people who are in work look with frustration at those who are receiving more than them through state support.

It is vital that we use the levers of the benefit system to make work the natural choice. To achieve that, the benefit cap must apply to most households, including those in which concerns about child welfare have been registered. The presence of a child welfare concern should not materially affect the way in which such families interact with the benefit system. It is not a question of saying, "We're worried about the children, so let's provide more money." The question is much deeper and more challenging than that.

The hon. Lady referred to the situation that exists now in which housing mobility can lead to child protection problems.

Ms Karen Buck (Westminster North) (Lab): Does not the Minister recognise that in child welfare cases, parents are almost invariably required to attend regular sessions

with social services during the working day—that is often part of a court order? In such circumstances, how would that be compatible with a work-search requirement?

Chris Grayling: We cannot deal with deep-rooted social problems in a family by exempting them from the return-to-work path about which we have talked extensively. How can it help a family with deep-rooted problems if we do not try to help the parents get into work, which would increase the money coming in and increase the family's purpose and direction in life?

Sheila Gilmore (Edinburgh East) (Lab): As I understand it, the benefit cap will apply even if someone's needs have been assessed as requiring particular categories of benefits. People may receive the allowance that is due to them as an individual or a couple, which will include any child, disability or housing element. Is it right to take money away from people when the system has decided that they are entitled to that money?

Chris Grayling: The key point is that these households receive substantial amounts. We are talking about households that receive the average national income without going out to work. There is an important point of principle here: our reform package is designed to encourage and incentivise people into work.

If the hon. Lady reads subsection (4)(b), she will see that if there are individual challenges and anxieties about individual issues—about war widow's benefit, to pick one example—the Bill allows regulations to "make provision as to the welfare benefit or benefits from which a reduction is to be made".

The Bill therefore clearly provides for the possibility of exceptions in such circumstances. The benefit of our approach, as I have said about other aspects of the Bill, is that it provides for freedom and flexibility. If the country is unfortunate and misguided enough to vote for a Labour Government in the future, that Government will have the freedom to use the Bill's flexibility to make any adjustments that they wish.

The hon. Member for Stretford and Urmston referred to housing mobility and how housing mobility can lead to child protection problems. I do not deny that the benefit cap may result in individual cases of housing mobility, but I do not believe that the measure will exacerbate and existing problem. She described a situation under the current system in which a household made 67 moves to cover up a child protection issue. We should be extremely concerned about that, but it is not a problem of our benefit system; it is a much broader problem of how our social services interact with each other within and between local authority areas. Of course, that sort of problem has to be watched extremely carefully, but not including such households in the benefit cap will not solve it. The problem has to be addressed in a very different way.

It is vital that we use the levers of the benefit system to make work the natural choice. To achieve that, the benefit cap must apply so that people recognise that there is a point beyond which they cannot simply receive money from the state. In that way, we will use the wider advantages that come with moving into work to address such concerns about social issues, rather than assume that they are simply a question of benefit levels. I do not buy the argument that those problems are a matter of

[Chris Grayling]

benefit levels. They are much deeper rooted than that; they are policy failures that exist outside the welfare state.

I now turn to the amendments. Some households in which children are cared for by relatives or friends receive fostering allowance from the child's local authority to cover the cost that caring for the child brings, but I am well aware that many more relative and friend carers are not approved foster carers, so although they may receive some payment from the local authority, they do not have access to fostering allowance. That is clearly the group that the hon. Lady is talking about. Such carers are able to receive support for the children who are in their care through the benefits system, because, unlike approved foster carers, they have access to child benefit and child tax credit on the same basis as parents. Any payments they receive from the local authority will be disregarded. That parity of treatment with parents will be continued with the introduction of universal credit. Where work-related requirements apply, the safeguards that are in place for parents will extend to friends and family carers to take account of their caring responsibilities.

11 am

If we are to treat family and friend carers in the same way as parents for other facets of the benefit system, it seems logical and appropriate that that parity is extended to the application of the benefit cap. The benefit cap principles apply to family and friend carers as they do to parents, so it would not be appropriate to create an exemption as amendment 197 proposes. If we did so, we might be in the absurd position of not applying a benefit cap to a family with fewer children than another to which the cap is applied. Surely, we have to deal with individual circumstances differently; we should not simply say that solely because someone has caring responsibilities for a child, they should be given a blanket exemption from the benefit cap. I simply do not accept that argument. However, the Bill provides the flexibility for adjustments to be made to the benefit cap in regulations, so if Opposition Members feel strongly about the matter, they can form and pursue a policy decision if they want.

Sheila Gilmore: I understand the point that the Minister is making about powers to make regulations and to change them, but am I to understand that he is not inclined to make any of these groups an exception in any circumstances? I am thinking, for example, of kinship carers for a period when they first take over responsibility for children; by definition, that is a difficult situation. Am I to understand that when the Minister comes to draw up the regulations, he will not be disposed to make any exceptions for any of the groups that my hon. Friend the Member for Stretford and Urmston has highlighted today?

Chris Grayling: I am not persuaded by the hon. Lady's argument, although I understand the sincerity with which she makes it. The current system, which allows friend and kinship carers to receive child benefit and child tax credit in a way that other foster carers would not, provides additional financial support for such families. None the less, there is flexibility and we

have not yet drawn up the detailed regulations. If Labour Members feel strongly about the matter, the Bill provides the flexibility to make such changes.

That brings me to placing specific exemptions from the benefit cap in the Bill. Throughout the Committee's deliberations, I have explained that we intend the Bill to be a framework for our welfare reforms, with much of the detail to come in regulations, which is similar to the approach used by the previous Government. The amendments propose a series of exceptions to be written into the Bill, which we simply cannot accept.

I understand that hon. Members on both sides are concerned about getting the detail right. We will be thoughtful, we will listen to the arguments put to us, we will listen to the concerns and we will seek to make sure that the policy is implemented in the best and most effective way possible. However, I simply do not accept that the right way to go about that is to write a series of specific exemptions for individual groups into primary legislation, so with all due apology to the hon. Member for Stretford and Urmston, I cannot accept the amendments. I assure her that we will think carefully about the issues that she has raised, because she has made some valuable points. I do not agree with her in principle on kinship carers, but we will take note of the issues that she has raised.

Kate Green: I am disappointed by the thinness of the Minister's reassurances about two important and vulnerable groups of families. If he is thinking so carefully, perhaps he should consider the consequences of not having particularly well designed arrangements for these families. Members on both sides of the Committee are genuinely anxious about kinship care arrangements. He should be mindful that the potential effect of what he has said this morning is that fewer families will be able or willing to offer kinship care. I hope that Ministers will keep that under careful review, so that if that consequence flows from the policy that has been expounded this morning, it can be revisited immediately.

As my hon. Friend the Member for Edinburgh East said, such situations often occur quite suddenly. Families often have to make unexpected and emergency arrangements, and I would expect the Minister to want at the very least to facilitate such transitions. It is important to recognise that kinship care may be a relatively short-term, stop-gap arrangement. I hope that anything that reduces the propensity for children to be taken away from their families for good and put into care, such as providing shorter-term care within the family setting, is not damaged by the policy to which the Minister seems so committed. I am disappointed that he is so convinced that there is no reason to treat families providing kinship care differently from other parents, when clearly the situation is extreme and difficult and therefore very different from the normal domestic family set-up. I should have liked him to have shown a little more flexibility in his response.

The right hon. Gentleman said that it was important to understand that the overall purpose of the benefits cap is to make taking up employment the prevailing norm—the issue that will trump every other in determining the way in which the benefits system works. We have long advocated that the paramount interests of children should be the guiding principle in all aspects of public policy in which they are involved, not just specifically in

relation to children's issues. I am really concerned that the need to get parents into work takes precedence over their children's safety and well-being.

There will be some families where moving the parents into some paid employment will help them to develop their parenting skills, but as my hon. Friend the Member for Westminster North points out, many families are already being required to comply with other conditions and requirements, which will make moving into paid work particularly challenging for them, and others are living in incredibly chaotic circumstances. It is right to seek to move those families towards the labour market over time, but for some of those chaotic families that can be a very long time—years in some cases.

The Minister says he does not believe that child protection issues arise out of the levels of benefits. I certainly am not suggesting that poverty causes parents to abuse their kids—many parents on low incomes would be horrified by the thought of such a thing—but he has to accept that there is a correlation or a coincidence between material deprivation and child neglect, and he needs to accept that housing mobility will be increased by the reforms that the Government are bringing in. Whether or not he thinks that will happen in many cases and or that it is a new problem, Labour Members believe that we will see a significant increase in housing mobility in certain parts of the country. It will not be seen everywhere—we accept that in some parts of the country it is not an issue; but where it is an issue, I am concerned about the stretch on local authority social services and children's services. The right hon. Gentleman has been quite cavalier about the potential consequences.

I am pleased to hear the Minister say that he understands the value of families providing kinship care, and I noted what he said about the ability, within regulations, to do more work to describe, very particularly, families and households that we believe ought to be left outside the scope of the benefits cap. We will give more consideration to that when the secondary legislation is laid.

I am surprised by the Minister's saying that he does not want to start specifying families where there are child protection issues and where there are kinship care arrangements, because he does not want to specify lots detailed instances and examples, yet he is able to say straightaway to my hon. Friend the Member for Edinburgh East that war widows will be exempted. That seems like a differentiation between the deserving and undeserving poor. I am therefore disappointed with the right hon. Gentleman's answers.

Chris Grayling: The hon. Lady obviously did not understand my point. The clause contains provisions to decide which benefit should or should not be included in the benefit cap as well as provisions for exceptions to be made. Does she understand that those are different things?

Kate Green: The point is that the Minister is prepared to sign up now to some families being treated in a particular way by the rules on the benefit cap, but is prepared to deal with other families only when we come to discuss regulations in detail a few months' time. That sends a message about the kinds of families that will receive exemptions from the benefit cap.

Chris Grayling: May I draw attention to the fact that there is no reference to any individual benefit in the Bill? I have simply given an example. No benefits or exceptions are given; it is purely a framework.

Kate Green: I understand that, but we have heard from Ministers several examples of the kinds of situation that might be exempt from the cap. We also know that we are discussing—I think I am right in saying—how families where disability is an issue or in employment will not necessarily be encompassed within the cap, although we have some questions about the extent of that, which my hon. Friend the Member for Westminster North will raise later. My point is that the Minister seems willing to say now that there are some kinds of family structure and family type where he has some sympathy for a more flexible interpretation of the benefit cap. I am concerned that he is not able to make such positive statements about two groups of families that I think merit such flexibility.

I am therefore disappointed, but we have many other questions about some of the broader aspects of the benefits cap, such as incomes, family structures and housing, which will give the Minister further opportunities to offer us some broader assurances. Given that there is an extensive list of such propositions that we want to raise today, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ms Buck: I beg to move amendment 232, in clause 93, page 61, line 40, at end insert—

'(1A) The Secretary of State shall not apply a benefit cap on a claimant's welfare benefits where the claimant has not received a reasonable offer of a job, except in prescribed circumstances.'

The Chair: With this it will be convenient to discuss the following: amendment 244, in clause 93, page 62, line 15, at end insert

'including one for couples with children who between them work more than a prescribed number of hours.'

Amendment 235, in clause 93, page 62, line 25, at end insert—

'(5A) Regulations under this section must provide for an exemption from the application of the benefit cap for couples or a single person who within a prescribed period has left work due to redundancy or illness or reasons relating to the care of a child.'

Amendment 236, in clause 93, page 62, line 25, at end insert—

'(5A) Regulations under this section must provide for an exemption from the application of the benefit cap for couples with dependent children who if living in separate households would have benefit entitlements lower than the relevant amount.'

Amendment 237, in clause 93, page 62, line 25, at end insert—

'(5A) Regulations under this section must provide for an exemption from the application of the benefit cap for households where no adult is subject to all work related requirements as defined in Clause 22.'

Amendment 238, in clause 93, page 62, line 25, at end insert—

'(5A) Regulations under this section must provide for an exemption from the application of the benefit cap for families who are worse off in work once childcare costs are taken into consideration.'

Amendment 246, in clause 93, page 62, line 25, at end insert—

'(5A) Regulations under this section must provide for an exemption from the application of the benefit cap for any claimant in receipt of disability living allowance, personal independence payment,

[The Chair]

attendance allowance, constant attendance allowance, employment and support allowance, carer's allowance, or any element or sub-element of universal credit paid in respect of a disability.'

Ms Buck: It is a pleasure to continue the debate under your chairmanship, Mr Gray. We have begun to air some of the arguments about the benefit cap.

Political history is littered with wheezes, emerging most commonly in political conference speeches, and I would go so far to say that that is not confined to one side of the Chamber. All too often, such wheezes, which sound great in the context of a political speech, tend to unravel. Picking up the bookcase analogy—the Minister has correctly not aired that often enough—the benefit cap is like a garish coffee table book given to one by a relative that one is then required to display, despite the fact that it is something of an embarrassment. From the political news commentary, which we know is often correct, we learn that the benefit cap is not popular within the Department for Work and Pensions, or with the Secretary of State or the Deputy Prime Minister, and that negotiations are ongoing between the Treasury and those Ministers to find ways to deal with the problem. They are completely right to raise their concerns, because the problem with the benefit cap is that it interacts in a destructive way with the universal credit and will complicate greatly many other aspects of the smooth transition into UC. It will have all kinds of perverse and unintended consequences. The further we dig down into it, the more obvious that becomes.

11.15 am

It is obviously true—the Opposition agree with this—that work should always pay; that is the banal observation about the benefit cap. But it is also true that, broadly speaking, when one looks at comparable incomes for comparable household sizes the issue is not nearly as stark as the Government would have us believe. With very few exceptions, families of comparable size are better off in work than on benefits. The central problem with the cap is that one is not comparing like with like. I will return to that.

If one is living in Hull or Easington, some of the rents, which inform this debate—slightly misleadingly, in the context of the overall benefit cap—are eye-watering. One completely understands why those figures shock and surprise people, but fortunately, good public policy is not usually made on that basis.

We need to drill down into how the provision will work. As is so often case, the impact assessments are brutally informative. We know how much the Government want to save with the benefit cap, but we have no idea how much it will cost. That is a particular challenge for Ministers. The impact assessment tells us:

“Housing Benefit may no longer cover housing costs and some households may go into rent arrears. This will require expense and effort by landlords and the courts to evict and seek to recoup rent arrears. Some households are likely to present as homeless, and may as a result need to move into more expensive temporary accommodation, at a cost to the local authority. It is not possible to quantify these costs because they are based on behavioural changes which are difficult to assess”.

So we are able to quantify a cost, but we have no means of quantifying what the Government's offsetting expenditure will be. That is before we even start to calculate the costs

of moving people into work, because, broadly speaking, the households that we are talking about will, in many cases, require more public expenditure to move into work. I will address child care costs in a few moments, but child care is one example of that.

In principle, the working tax credit in the transitional period into universal credit, possibly with transitional protection, will in many cases, particularly for lone parents with larger families, result in higher expenditure. But at the moment we are flying blind. We do not know what the costs are likely to be. As is the case with other provisions in the Bill, we have no real confidence in the figures that are being presented to us.

We also know who will be affected by the cap; it will almost invariably be larger households. Approximately 40% of households affected by the cap will consist of five or more children, and 80% will consist of three or more children; fewer than 10% of households will have no children at all. The impact assessment tells us that “a large proportion of those affected by the...cap are likely to be...households from cultural backgrounds with a high prevalence of large families”.

The Office for National Statistics finds:

“Asian households are larger than households of any other ethnic group. Households headed by a Bangladeshi person were the largest of all with an average size of 4.5 people in April 2001, followed by Pakistani households...and Indian households”.

People from ethnic minority households, particularly certain groups, including 30% of Pakistani and Bangladeshi households, are more likely to be in receipt of income-related benefits. The weighting is larger for families, particularly for black and ethnic minority families. An impact assessment says that it expects some

“60% of customers”—

that seems to be a singularly inappropriate use of the word “customers”—

“who are likely to have their benefit reduced by the cap to be single females but only around 3% to be single men. Most of the single women affected are likely to be lone parents”.

Households will lose £93 a week on average; the median loss will be £66 a week. The mean is skewed by some households losing significantly larger amounts, and such households will almost all be in London. Some 40% of the losers will lose less than £50 a week; 25% will lose between £50 and £100 a week; 20% will lose between £100 and £150 a week; and 15% will lose more than £150 a week. The impact assessments set out dramatic figures relating to who will be affected and by how much, but they do not dig deeper into the Government's thinking, which is what our amendments, some of which are probing, seek to address. There are many reasons why the policy is flawed.

Charlie Elphicke: I am listening to the hon. Lady's argument carefully. Do the Opposition believe that there should be no benefit cap whatever, as a matter of principle?

Ms Buck: I believe that it is absolutely right that households should be better off in work. There will always be exceptions, however, and there will be some individuals for whom the work-search categories do not apply, which is a point that I will come on to. As drafted, the cap is so flawed and so full of perverse incentives that it is really hard to see how it will operate at all—still less operate and save the money on which the proposals are predicated.

The central argument is one of comparability between working households and households who are out of work and on out-of-work benefits. I will return to this point in more detail, but the difficulty is that people's average earnings are used for comparison, not their average income. In many cases, households who are on average earnings are entitled to top-up in-work benefits, such as housing benefit, council tax benefit, working tax credit and universal credit, so we are not even beginning by comparing like with like. Centrally, there is also no recognition of regional variations, particularly in housing costs, which is the single biggest flaw in terms of the scale of the money that is involved. It is, of course, impossible to make a meaningful comparison between households in work in Easington and Hull and households in work in London, because there is an enormous disparity in housing costs, through no fault of theirs. I will return to that point later.

Charlie Elphicke: My constituency of Dover is less likely to be directly affected, but my constituents rail at me, asking why people should earn more on benefits than they do when they are in work. Surely, it is right in principle that the effective earnings equivalent of £35,000 should be a cap, to deal with the level of public concern that there is.

Ms Buck: The hon. Gentleman is absolutely right that people are shocked by rent levels, but rent levels are what they are. I will come on to this matter in later amendments, but people with the lowest possible housing costs are also affected by the cap. That point has not been particularly worked through. People expect households to be better off in work than out of it. That is absolutely right, but even the existing system's harshest critic would have to recognise that there are differences in housing costs in different parts of the country, and that should be reflected in the benefits system.

It is reflected in the benefits system, of course—in housing benefit. A few weeks ago in Parliament, we debated the housing benefit cap, which is being levered down. We think that is happening more harshly and faster than necessary, but those measures are predicated on a recognition that there are variable housing costs in different parts of the country. On one hand, therefore, the housing benefit reform that we are charging ahead with recognises local variations in housing costs, but that is not recognised in the benefit cap, which is a fundamental flaw.

It has become clear from further scrutiny of the cap that the main risk element for the cap applying is having a larger family. In effect, it is a back-door attempt to reduce benefit for those families with larger numbers of children. Such families already face the highest risk of falling into poverty. No one has properly explained how applying a cap to families with larger numbers of children will have a significant behavioural effect. What do we do about those families who are left in that situation through no fault of their own: people who are widowed, abandoned or severely ill?

The measure introduces the ultimate in couples' penalties. It would be extraordinary for two rational individuals whose combined income in out-of-work benefits would leave them subject to the cap, not to seek to form separate households. Not all of them would do so because there are many other factors at play, but why, logically, should we have a benefits system that creates

an incentive for households to separate, which will not only have a devastating effect on that family but increase expenditure?

Why have the Government no confidence in all of the other measures that are being introduced through universal credit and other benefit changes and employment changes leading up to the introduction of universal credit? We already have a sanctions regime. We already have a commitment to the Work programme. We already have a programme of measures that are designed to tackle worklessness and the Government are extremely positive about its impact. If the Government are so convinced about the Work programme and the fundamental thrust of universal benefit to improve the income of households out of work, why do we need to introduce yet another entirely arbitrary measure that cross-cuts all of this?

Charlie Elphicke: The hon. Lady asks why we should introduce such a measure. The answer is because of the level of public concern. Half of the hon. Lady's own voters support the introduction of a cap; 78% of Liberal Democrat voters support the introduction of such a cap, as do 94% of Conservative voters. Overall that is 72%. That is nearly consensus in opinion polling land. In Parliament we represent people, and we should listen to them and serve our constituents and engage in their concerns. This is a lot of money to be capped.

Ms Buck: It is not a lot of money for the cap. The hon. Gentleman's earlier intervention implied that he was slightly confusing the housing benefit cap with the universal cap. This cap does not only apply to housing costs. I completely understand that public opinion is shocked and surprised by high rents. That does not necessarily mean that a particular measure that deals with that public concern will work, let alone save money and let alone not have all kinds of unintended consequences that the public do not like either. We are all the same. We all want several contradictory things at the same time. There are consequences here that will cause a great deal of concern.

The nastiest dimension to the benefit cap is the fact that there is almost no way for many of these larger families to avoid its impact. One obvious reason—the Minister will tell me if I am wrong—is that around 5,000 of the 50,000 households who are currently assumed to go into the benefit cap are currently in work-search groups. That number may increase. It is possible that as income support fades out into universal credit and the assessment of incapacity benefit is rolled out, there will be an increase. None the less the majority of households currently covered are not in work-search groups. So there is another series of perverse consequences.

We had a debate earlier about the exemption of families whose children are under five. The Minister confidently asserted that work search would not be expected to apply to households with children under five. But the benefit cap, as currently constituted, requires such households to be included. The other, larger problem is that we know from the way that the benefit cap interacts with the total income of a household in terms of child benefit, child tax credit and so on, that the impact will be predominantly on people's housing choices.

We are indebted to Ferret Information Systems for some of the analysis that has been done on way that the measure will apply to families. For larger families, such

[Ms Buck]

as a single parent with five children, if that family is not to dig into their child tax credit and child benefit in a way that significantly lowers the disposable income available to spend on the children, there will not be a single private sector property of an appropriate size anywhere in England that they can move into—at proposed levels of local housing allowance and subject to the reductions that the Government are already applying—without facing a shortfall.

11.30 am

I cannot believe that the Government intend to leave households, which will be unable to cover their rental costs and would, therefore, need to move into cheaper accommodation—moving to cheaper accommodation is constantly repeated as being one of the purposes of the Government's agenda—in a position whereby there is nowhere in the whole country that they could move to. The model example that Ferret Information Systems gives is that the lowest local housing allowance figure for a four-bedroom house in England is in the broad rental market area of Bradford and south dales, and, factoring in council tax and housing benefit there, a family would find that their benefit was still capped by £25 a week. If the family are unable to work, for all kinds of reasons, including long-term sickness or the fact that the children are under-five, they cannot take averting action. They will not be able to find a property in the private rented sector anywhere in England that they could rent without leaving them below the minimum income that the Government have stated—they continue to support that—is the least that they can live on. If the household in question is a couple, that situation is even worse, because the gap in income would be even larger. If they have more than five children, the gap would be larger still.

Returning to the argument about employment, we all agree that it is desirable, where households are able and where they are in a work-search category, for people to go into employment. If they cannot find work, however, it seems a little odd, as we have discussed with housing costs, for those families to seek to avert the impact of the cap by moving from higher housing-cost areas to the north of England—Bradford, as in the example, or Liverpool—where work opportunities are even fewer than in London and in the south-east. In my experience, the overwhelming majority of households that are physically capable of work, and for whom work can be made to pay through child care, want to work, and they want to look for jobs.

I want to share one or two examples of real households that I know. I have swapped some of the personal characteristics, so that they cannot be identified, but they are real people. Mr and Mrs B have four children, and they have been placed by the local authority in what is called settled accommodation. They were homeless, and they were then offered accommodation that requires them to pay market rents for three years, and, after those three years, their rent gradually declines. Mrs B and two of her children suffer from sickle cell disease, and she is unable to work. Mr B, who is a graduate, was made redundant two and a half years ago, and he is absolutely desperate to work. He is engaging in all the Jobcentre Plus work-search activities, and he came to me with his CV and was pleading with me about what I,

as a Member of Parliament, could do to help him back into work, because all he wants to do is find a job. If he finds a job, he will still need housing benefit to top up the rent for his settled home, in which he was placed by the local authority.

At the moment, if the cap applied to Mr and Mrs B, their family would face a shortfall well in excess of £200 a week. They have already been found homeless and placed in local authority accommodation, so they are now set on the same path. He will not be able to pay his rent—nobody would be able to cover his rent—and he will have to leave London, where he has worked and where he is trying to find employment, with his four children, two of whom have sickle cell disease. Where is he going to go? His children are teenagers, and he would not be able to find a property of an appropriate size anywhere in the country that did not leave him with an income shortfall. That is certainly the case according to my analysis. His rent for a three or four-bedroom private sector private property would have to be less than £120 a week. If somebody could find me a three or four-bedroom property for less than £120 a week, I would recommend it to Mr and Mrs B.

Mrs N has four teenage children, who will all be sitting public exams when the cap applies. Mrs N was also homeless and she was placed in temporary accommodation by the local authority, where she has been for six years. She is expected to remain there for at least another three years according to the points that she has, and she has a rent liability in local authority obtained private accommodation of £600 a week. She has severe osteoarthritis and severe depression, which in many weeks renders her unable to leave the house. She will be affected by the cap. Her husband was in employment, but sadly he died last autumn, so she is widowed and is now stuck.

Mrs Miah is another example, from a Bangladeshi family of the kind who will frequently be affected by the cap. She has five children, two of whom are below school age, and she was also widowed last year. She lives in a council flat, which is the cheapest form of accommodation that anyone can find, with a rent of £130 a week. The cap on her income will mean that the shortfall on her rent, let alone on her council tax, will be £65 a week.

We have dozens of examples of such people, who in many cases want to work, have tried to work, have been in work and are stuck through no fault of their own. It is not surprising that criticism of the way in which the cap works is pouring in from just about every quarter. We would expect criticism to come from Shelter, the Child Poverty Action Group, Barnado's, the Children's Society and other expert organisations which have some idea of the people with whom they are dealing and what the implications will be. We were surprised to see the criticism from the Centre for Social Justice, which was published last week. The CSJ, which is such a cheerleader for universal credit and the Government's plans, is concerned that the benefit cap

“will bring hardship to as many as 50,000 large families who will have the rug pulled from under them overnight. The impact of the average projected loss for such families of £93 a week could be highly damaging, and for families who are predicted to lose much more, it is likely to be devastating. Giving such families tailored transitional support through initiatives like the Work Programme will mitigate some of the damage, but the Government should think again urgently about its implementation plans for the full benefit cap.”

In addition, the Mayor of London has made clear his deep concerns that the cap disproportionately applies in London because of higher housing costs. He, too, wants changes to be made to the cap before it has the kind of damaging implications about which he has also warned for the housing benefit cap. We discussed that at Christmas, and he and his researchers helpfully advised us that the housing benefit cap would cost more in additional homelessness and temporary accommodation costs than it would save.

Those are some of the reasons why we believe that the benefit cap is fundamentally misconceived and unworkable. Amendment 232 would require the Government not to apply the cap unless a reasonable offer of work has been made. The Government—again, in response to my hon. Friend the Member for Stretford and Urmston—stressed the centrality of encouraging people into work where possible. I could not agree more, but if a person such as Mr B desperately wants to work and is desperately searching for work, and is complying with every single requirement that the Government and Jobcentre Plus set—and has not been sanctioned for being in error or for not showing themselves keen to be employable—but still cannot find a job, why would the benefit cap apply to them? If the Government are so confident that the Work programme and Jobcentre Plus under their stewardship will deliver employment opportunities, surely it would be extremely easy for them to accept the amendment.

Charlie Elphicke: The hon. Lady expresses great concern for London. However, I believe that 69% of Londoners support the cap, which does not bear out her argument.

Ms Buck: I am not sure what the hon. Gentleman means by that. People have not been tested on whether the cap will end up costing more money, creating a cut-off penalty and forcing significant numbers of people into homelessness. Do they think that it is right that 90% of the people who will be affected by the cap are currently in work-search categories? The public assumption on this is that large numbers of people—and there are some—simply choose not to participate in work-search or take on any employment because it is always better to be on benefit, which, in terms of comparable family size, is wrong. It is right that we should be informed and advised by public opinion, but to make public policy on that basis when the policy itself is so flawed would be a serious error.

Amendment 235 requires that the cap should not apply to people who have been made redundant or who have had to leave work to care for a child. Shelter and many other organisations that have been making representations on this point say that this is a particularly harsh measure to apply to households in which somebody has been in work and then lost their job through no fault of their own. They are subject not simply to the trauma of unemployment and reduced income but to the associated disadvantages that will accrue if the cap applies.

Harriett Baldwin (West Worcestershire) (Con): Would not amendment 236 create a perverse incentive for someone to leave work to care for a child in the way in which my hon. Friend the Member for Redcar described in relation to a previous amendment?

Ms Buck: No, it would not because the amendment would provide that people were exempted from the cap only if they were made redundant or they left work to care for a child in a way in which Jobcentre Plus recognises. We have already discussed in Committee a whole range of sanctions that apply to people who leave work without reasonable cause. If we have confidence in that sanctions regime, it should be enough to cross-reference it with the benefit cap. Clearly, we are not saying that none of those investigations should apply. They apply in normal circumstances and they should also apply if people fall foul of the cap. We know from the statistics on jobseeker's allowance that the vast majority of people—90%—who lose their job and claim JSA return to work within a year. In fact, a large majority tend to do it much more quickly than that. In the case of people who are made redundant or who lose their job through no fault of their own, the cap will take what will be, in most cases, a temporary period of unemployment and turn it into a catastrophe in which many people lose their homes and are plunged below the poverty line.

Ian Swales: The hon. Lady talks in her amendment about a prescribed period. Will she say more about how she sees this amendment operating? For example, if someone is made redundant, how long would the exemption apply?

Ms Buck: I have already cited the statistics for jobseeker's allowance. We know what proportion of people who have lost their job and make an application for JSA stay out of work. I expect that this is technically difficult—more work needs to be done on the clause. However, as this entire benefit cap is so deeply technically deficient anyway, I am not sure that it is any more difficult than anything else we are being asked to consider. Through the amendment, we want to ensure that what, in many cases, is a temporary period of unemployment does not result in people plunging below the level they need to live on, in some cases by hundreds of pounds, and, as a consequence, losing their home.

11.45 am

Harriett Baldwin: Will the hon. Lady confirm that redundancy is often accompanied by a redundancy lump-sum payment? How would her amendment address that?

Ms Buck: In the same way that existing benefit rules treat redundancy payments.

The amendment is specifically designed to get the Government to understand and recognise that the cap is such an excessively punitive measure to apply to unemployed people that we need to find some way of offsetting it. People on lower incomes regularly move in and out of employment. That is one of the characteristics of people on the margins of the labour market. What we should be doing—this is the element of Government policy that we always agree with and support—is trying to smooth that transition as much as possible.

Universal credit is designed to blur the distinction in the benefit system between being in and out of work. It is designed to ensure that people can move in and out of work, take a few extra hours or drop a few hours without its having a dramatic effect on their income.

[Ms Buck]

The overall benefit cap cuts right through the middle of that argument. It creates cliff edges and makes a temporary period of unemployment a catastrophe. It should be possible to change that with some additional work. The Government have often promoted the bookcase analogy. Further details and regulations have yet to be explored in so much of the universal credit system. It should be possible to find a way to address the provision.

Amendment 237 would exempt people not subject to the work-search requirement at any given time. As I said earlier, 4,850 of the 50,000 households currently liable to be caught by the cap are not in work-search categories: nine out of 10 households caught by the cap are not currently in work-search categories. It is an extraordinary state of affairs for the Minister to stand up, as he has done several times in this Committee, and rightly defend the exclusion of other elements of the sanctions regime, such as households with children under five, yet apply this cap to exactly the same group of people. It is essential, therefore, that those who are not in work-search categories should not be caught by the cap, although the number of people in work-search categories will be a moving feast.

Amendment 238 would exempt those households for which work does not pay because of child care costs. Again, it would be extremely difficult to make work pay for families with large numbers of children. The Government have made that worse by reducing the child care tax credit as we move towards universal credit. The imposition of the cap would cut in half the household income of a lone parent going into work, because of the way in which child care tax credits are currently assessed. A lone parent with four or five children, particularly if one or more of those children are under five, would have no means whatsoever of escaping the cap, because those children could not be placed in a child care environment covered by the child care tax credit, or its successor.

Surely it is fundamental to the operation of any benefit cap designed to incentivise people into work, as the Minister has said, to make work pay in all those circumstances. Surely the Government do not expect families with children—particularly lone parents, because they are most likely to require child care costs—to go into employment, to take a job offered by the jobcentre, if they find that they are, in some cases, hundreds of pounds worse off in work because there is no child care support. A family will not be able to pay for themselves to go into work, and this is the central point: if child-care costs were covered, that would significantly erode the savings that the Government are assessing.

Amendment 236 seeks to prevent a couples penalty from applying, when it could become advantageous for a family to form separate households. Couples have a higher benefit entitlement than single people. If a couple with a higher benefit entitlement find that the entitlement and rent costs are in excess of the benefit cap, the obvious thing would be for the family to form separate households. A husband or wife may form a household with some of their children, or some adult children could leave the family and set up homes on their own. As well as meaning additional expenditure for the Government, in terms of their social agenda, it would be undesirable for families to seek to do that,

because it cuts right across everything that the Government have said about wanting to encourage couples to stay together.

Regulations have slightly caught up with amendment 244, and I look forward to the Minister telling us more about how he sees the issue of families going into work, in terms of the transitional period before universal credit applies, and afterwards. How will a household be assessed on the work that it does and the income that it achieves from work, and how will the cap interact with working households? Commentators who have looked at how all the elements of universal credit—and working tax credit, in the transitional period—interact with the cap are extremely anxious about the measurement and how the Government will assess families going into work, because of the step change that is introduced into the system. The step change, for those families who are on the cap, cuts right across universal credit and the smooth line of additional income as families increase their hours. If the Government are planning an earnings threshold that is, for example, 24 hours of work for an individual on the minimum wage—roughly the equivalent of £7,500 a year—the cap will apply to fewer people, and those affected would be on the edge of work. What it means is that as people move in and out of employment and as their hours rise and fall, the cap could apply one week to a working household, but the following week, somebody in that household could escape from work, sometimes through no fault of their own. It might even be that income from the minimum wage increased, and people might be caught as a consequence.

The White Paper stressed that it should be financially rewarding for families to work additional hours. Paragraph 20, under “Earnings Incentives”, states that universal credit will mean that it will be

“financially rewarding for a lone parent to work 15 hours per week, or 17 hours per week (both of which would not have been financially rewarded under the existing system which only recognised 16 hours per week)”—

so, the existing system creates a step at 16 hours. However, that smooth line will no longer apply for families who have more than four children, and it will not apply where families have high rent or a non-DLA disability component. In some cases, people will find that they will be capped if they work fewer than 16 hours, and “de-capped” if they work more. Therefore, if their income fluctuates, they will have serious problems in managing their income.

As paragraph 19 states:

“Establishing a single withdrawal rate, and eliminating the hours rules currently present in Working Tax Credit, has the potential to create a much more flexible labour market. Workers will be able to work the number of hours that most suits their needs and those of their employer, without being constrained by the structure of the benefits system. Employers will find that their workforces become more flexible and open to opportunities for progression.”

Again, the proposals break that commitment.

In the case of a couple with children, moving to 24 hours work from 23 hours on minimum wage would mean that they become entitled to £47.98 a week in working tax credit, and that they escape a benefits cap of £95.21, which would otherwise apply, as their benefit income would otherwise have been £595.21. However, an increase in net income of £148.29 for an extra hour of work becomes a fall of £148.29 if the

hours are reduced, as capping would be applied once more. There is a cliff edge in the system that, perversely, will apply only to the 50,000 households, the larger households, the families with more children.

The system is full of anomalies, and people in lower paid jobs will therefore be hit by the cap, while those working the same hours but on a higher rate of pay will escape. How will this work for the self-employed? Net profit for the self-employed is calculated on a different basis. It is often adjusted later in the year. If the cap is applied on a weekly basis, how will this have any interaction with households whose earnings are calculated on a different rota?

Finally, we seek in amendment 246 to include in the Bill a range of the benefits that would be exempt from consideration for the universal cap. Those benefits interact with the earlier point about families being exempted if they are not in work-search categories. I particularly want to stress the importance of people with disabilities. Disability living allowance has been mentioned as a benefit that would not be included in the calculation but there are other people with disabilities on employment support allowance, carer's allowance, attendance allowance and so forth who would be caught by the cap unless this is spelt out more specifically.

As well as all those perverse incentives and difficulties in workability, there will be an impact on the local authorities that have to make the decisions to reduce housing benefit, because it will be housing benefit that will be cut in all these cases. The benefit cap, while being a simple wheeze at conference, with all the elements that attract people because they understandably object to the rent amounts they hear mentioned, will have all kinds of unexpected consequences. It is deeply punitive. It is hard to see how it will work, and it will result in thousands of people losing their homes when they lose their jobs. It will create new pressures of homelessness and mobility, which I am sure the Government do not intend. We are on the Secretary of State's side. We are on the Deputy Prime Minister's side. We believe that the benefit cap is unwelcome and unworkable, and that it will not save money. I look forward to the Minister's response.

Stephen Timms (East Ham) (Lab): I, too, am pleased to see you in the chair again this morning, Mr Gray. I rise to add briefly to the powerful analysis set out by my hon. Friend the Member for Westminster North and to speak specifically about amendment 244 with the aim of clarifying how the Government intend to implement the exemption from the benefit cap that was promised in the case of working households. Initially the Government made it clear that the exemption will be for those who qualify for working tax credit, which in the case of a couple with children is when they work between them more than 24 hours a week. That is the idea that is picked up in the wording of 244.

The problem is that that version of an exemption will not work in universal credit. It will not work because the Government will not know how many hours couples are working unless that information was collected alongside PAYE data in the real-time system for PAYE data from employers being implemented by HMRC. It would be difficult and a large burden on employers to collect hours data alongside the PAYE data. Indeed, the Minister rightly made that point, and it is confirmed in some of

the notes that have been sent to us by the Department that the exemption will not be based on hours for that reason.

So what will the replacement test be? The Minister suggested that the most likely test would be an income proxy for the 24 hours per week working test. That would be the minimum wage for 24 hours a week, which is £142.32 a week or just under £7,500 a year. The proposition appears to be whether the income is above or below that level. If it is above, the benefit cap will not apply; if it is below, the cap will apply. We can all see roughly how that would work.

12 noon

That version of the test has a significant advantage over the hours test, in that it is more generous. Everyone exempted from the benefit cap by exceeding the hours threshold will certainly be exempted on the pay threshold, and quite a few people who would not be exempted from the cap if it was an hours test would be exempted on the basis of a pay test. The reason is obvious; quite a few people working fewer than 24 hours a week will nevertheless be earning more than 24 times the minimum hourly rate because their hourly rate of pay is above the minimum. Nevertheless, there is a significant problem with such a test.

If the exemption is defined on the basis of pay it will, as my hon. Friend said, introduce a whole new raft of cliff edges, perverse incentives and penalties of exactly the kind that the Government have said they want to eradicate through the introduction of universal credit. The benefit cap creates a multitude of peculiar and damaging features that do not exist under the current system that will undermine the new system if the benefit cap is implemented as the Government seem to intend.

To illuminate the matter, I have four questions for the Minister. He has indicated that he envisages having an income proxy for the 24 hours a week test. First, will the test be applied to all income or just to earned income? Secondly, assuming that the test will be applied monthly along with the universal credit payment schedule, will it take account of seasonal earning variations? If so, how? Or will it be strict and test income for each month separately? Thirdly, if the test is to be based on earning, will it be applied to gross or net earnings? Fourthly—my hon. Friend has already raised this point—how will the test be applied to the self-employed, for whom monthly earnings cannot be calculated in real time?

The answers to those four questions will determine precisely which new cliff edges, perverse incentives and penalties will be introduced. There certainly will be cliff edges, perverse incentives and penalties, but we will not know precisely what they will be until we have the answer to those questions. I hope that the Minister can answer them.

As we pursue the matter, it will become clearer why there is a dispute within the coalition about the benefit cap. It was reported over the weekend, as my hon. Friend said, that the Deputy Prime Minister is at loggerheads with the Chancellor, with the Deputy Prime Minister opposing the cap. Perhaps the Minister will shed some light on that in a few moments and tell the Committee whether we are correct, but it seems that the Chancellor insists on keeping it. However, according to reports, the Secretary of State agrees with the Deputy

Prime Minister and is at odds with the Chancellor. We did not get much of a sense from the Minister about whether he agrees with the Secretary of State or the Chancellor, but he appears to be taking the Chancellor's line.

The analysis that we are setting out may explain why the Secretary of State disagrees with the benefit cap. Listening to an earlier intervention by the hon. Member for Dover, I reflected that that opinion survey—admittedly it was of only three people: the Chancellor, the Deputy Prime Minister and the Secretary of State of Work and Pensions—appeared to divide two to one against the benefit cap, which is rather different from the figures cited by the Minister.

Charlie Elphicke: The right hon. Gentleman tempts me to point out that the opinion polls, by ICM and YouGov, showed pretty much the same thing—that a majority of Labour voters support the benefit cap as do nearly 80% of Liberal Democrats and 90%-plus Conservatives. Does the Labour party support a benefit cap in principle—yes or no?

Stephen Timms: The hon. Gentleman has not told us whether the sample that was polled in those surveys included the Secretary of State for Work and Pensions. We are not at all sure. From the reports last weekend there appears to be a 2:1 split against. As I go on, the hon. Gentleman will understand why the Secretary of State apparently does not agree with the benefit caps.

Let me give an example of the problems that this will introduce into the system. Like my hon. Friend, I am indebted to Gareth Morgan, from Ferret Information Systems, who has done the modelling to investigate this. Let us assume that the exemption from the benefit cap is for a couple, who between them have gross earnings greater than 24 times the hourly national minimum wage each week. The couple have four children, one person is in work and the couple are renting privately a three-bedroom house in outer south-west London, paying the local housing allowance sum for that area. If one person works 20 hours a week, earning £10 an hour, the couple's earnings will take them above the threshold and the cap will not apply. They will have a household income of £747 a week.

Suppose that the rate of pay falls from £10 an hour to £7 an hour, which is a drop in earnings of £60 a week. That household's weekly earnings will now be below the threshold, so the benefit cap will apply. A sharp fall in earnings will be transformed by the cap into a catastrophic drop in income, and the household income will fall to £640 a week, which is a drop of more than £100 a week. The earnings go down by £60 a week, but the income goes down by £100 a week, because the cap suddenly comes into play.

The Minister may be taking his inspiration from the New Testament. Luke's Gospel, chapter 19, verse 26 states:

"I tell you that to everyone who has, more will be given, but as for the one who has nothing, even what he has will be taken away."

That appears to be how this mechanism will work. I approve of the Minister's taking his inspiration from the New Testament, but he has got the wrong end of the stick about what that parable meant. We saw during the

recession that the tax credit system cushioned household income from the impact of reduced earnings. The benefit cap will have precisely the opposite effect, amplifying the impact of a reduction in earnings and making things considerably worse.

I do not imagine that that is what the Minister intended, but that is what the benefit cap will do if the exemption for working families is applied in the way he has suggested to the Committee. In the example I have given, on top of a drop in earnings the household will suffer a cut in benefit of more than £90 a week. None of that includes child care support; we do not yet know how the Government intend to support child care in universal credit. It appears, however, that child care support will be included in the benefit cap, so the loss might be substantially more. I am looking forward to seeing the new clause on child care support that the Secretary of State has promised to give us before the Bill leaves Committee.

If the household in my example suffers a further drop in income to the minimum wage rate of £5.93 an hour, the earnings fall is in total just over £80 a week but the benefit cap hits harder still. The benefit forfeit in this case is £106.53 a week and the capped weekly income falls to £618.93—an income fall of £130 a week—which is an even more dramatic amplification of the loss of earnings.

It is clear that if the Government proceed as they have indicated, we will end up simply with a mess. Ferret has modelled the impact of a test based on hours, but it has concluded that a test that is based on pay, as the Government have indicated it will be, will make matters worse still. It points out that the problems of some people who fluctuate around the limit—a point also raised by my hon. Friend the Member for Westminster North—is that one month they will hit by the cap, the next they will not, and the one after that they will.

The most extreme example that Ferret has modelled is, again, somebody in the type of household I referred to, who works 20 hours a week. If their rate of pay is £7.12 an hour, their income will be £733.65; they will be outside the cap. If, however, their rate of pay falls by 1p an hour to £7.11 an hour, suddenly the benefit cap will apply and their income will fall to £642.16. That is a fall of more than £90 a week because their earnings have fallen by 20p in the week. That is how the test will work. That is far worse than the problems in the current system. The benefit cap is introducing dreadful new problems that are far more severe for individuals than the problems in the current system.

The Government have made the eradication of such problems one of the main arguments for introducing universal credit. They might argue that odd cases such as the one I have described will be very unusual. However, the disincentives in the current system do not affect that many people, either, yet the Government have made removal of those odd features one of the principal arguments for universal credit. The truth is that universal credit helps remove cliff edges, perverse incentives and undesirable penalties, but the benefit cap is going to reinvent far worse ones and insert them straight back into the system. I imagine that is why the Secretary of State opposes the benefit cap.

This is a mess; the legislation is half baked. At the very least it needs to be far better thought through.

Sarah Newton (Truro and Falmouth) (Con): Although I can understand the right hon. Gentleman's desire to make a big party political point, surely this is just Parliament doing its job? At least in this new Parliament, Back Benchers from all parties are able, through the proper scrutiny of legislation, as is going on here, to reflect on analysis being done outside this place and urge the Government to take it on board and sort out the problems and unintended consequences affecting this group of 50,000 families, so that the system can be improved.

Stephen Timms: I am grateful to the hon. Lady; that is exactly what we are doing. We hope that we are going to hear in moment from the Minister that he agrees and is going to do something about this issue, although I fear we may not. I hope the hon. Lady will urge the Minister to make changes accordingly.

Charlie Elphicke: The right hon. Gentleman is clearly scrutinising the legislation carefully, but does he think the principle of the benefit cap is right?

Stephen Timms: My worry is that the Government's proposal is simply unworkable for the reasons I have set out, and because of the bizarre effects it will interject into the welfare system. I read briefing note No. 5, which the Department sent to us last week. It sets out the core objectives for universal credit, which are designed to simplify the benefit system:

"In order to help households understand what money they receive and how choices over work affect it, the universal credit will be simpler and will work on a single system of disregards and one taper...It supports work incentives directly by ensuring that individuals can keep more of their income from work but also by simplifying the system and providing more certainty about what people will receive in work".

I agree with all that. I also agree that universal credit will have some of those advantages, but the benefit cap, in the form the Government are arguing for, will unfortunately undo a large part of those benefits.

George Hollingbery (Meon Valley) (Con): Given that the right hon. Gentleman has, in effect, confirmed that he is for a benefit cap and that he did not take the chance to deny as much, can he explain for us how he would treat it? Would he increase the level of the cap? Would he exclude rent from it? What would his solution be to that dilemma?

12.15 pm

Stephen Timms: It is absolutely clear—the hon. Gentleman is perhaps tacitly accepting this—that the cap is unworkable as currently proposed. I was about to say that there is no easy solution. Much more work is certainly required before the proposal proceeds. We understand that the Chancellor is sticking to his insistence that the proposal should be implemented, and I am afraid that it will create all sorts of serious problems. I am particularly keen to know the Minister's answers to the four questions that I set out earlier, because that will illuminate the effects of the cap.

On this occasion, however, I must say that the Secretary of State and the Deputy Prime Minister are right, and the Chancellor is wrong. The problem is that the proposal is difficult and complicated. The Government are rushing in and making dramatic claims about the improvements that they will bring about, and they are saying that they

can create the IT system in time to implement the proposals. However, they have not worked out the detail, and they have not done the background work properly, and if the Government stick to their guns, we are heading for trouble.

Kate Green: I will be brief, because I want to raise one issue only, which is in addition to the many important points made by my hon. and right hon. Friends this morning. My point relates to the amendment on couples. I am concerned that we are in a situation where, as my right hon. Friend suggested a few moments ago, yet another disincentive or penalty for couples is being introduced into the benefit system. That may explain, of course, why the Secretary of State is so unenthusiastic about the proposals. He has made great play of the importance of family stability. He has emphasised repeatedly, over many years, the significance for children of, wherever it is possible, being brought up in households with both parents, and I had understood that one of his personal objectives for his benefit reforms was to promote and support parenting in couples, which is what he perceives to be in the best interests of children.

A benefits cap is surely yet one more inducement for couples to separate and to live separately. It enables them each to take their own benefits allowance up to the amount of the cap without suffering any penalty. I am curious to know, therefore, what we think the likely impact of this measure on family structure, stability and breakdown will be. I am so curious that, in a written question at the beginning of this year, I asked the Secretary of State what assessment had been made of the likely effects on family structure and breakdown. It took until the middle of March to get an answer, but, on 14 March, the Minister of State responded to me, and he told me that no assessment had been made by the Government of such an impact. I find that surprising for a Government that put family stability and couple relationship so much at centre stage in their approach to policy in general, including welfare reform.

We can be concerned, therefore, that while it may be quite difficult to be confident that couples will actually separate as a result of the benefits cap, although it could be one of the many unintended consequences of this flawed policy, it will certainly make it less likely that some couples will form stable relationships, which are those that could be very much in the interests of children. For example, a widow with three children forming a relationship with a widower with three children would lead to a substantially large family, and they will have each arrived in that situation through absolutely no fault of their own. Inevitably, with six children, one of them will be at home, taking care of the children, and if the other one, through no fault of her or his own, loses their employment, that family is likely to be vulnerable to the imposition of the benefits cap. When jobs look potentially uncertain and people may not feel confident about the stability of their employment, that is likely to be a factor that people consider when looking at whether to move in together and combine their household finances. The combining of household finances is, surprisingly, a significant factor that women in particular consider when they form new relationships. I am interested in the lack of thought that Ministers, as of the middle of March, appear to have given to this issue.

The Minister said in his written response to me that the Government were looking at ways to ease the transition

[Kate Green]

for families and provide assistance in hard cases, so my question this morning is, in what way is he looking to provide assistance in hard cases? He might think that this is entirely a problem of people meeting their housing costs and he will point yet again to the discretionary housing payment to bail families out. As we heard in earlier sessions on the Bill, that pot of money is being stretched very far. Families will not have concerns only about housing costs, so will he be clear about what assistance he proposes for hard cases affected by the benefit cap and, particularly, how does he intend to use such measures to ensure that family stability is protected? Will the proposals facilitate the stable family homes—preferably, in the Secretary of State’s view, those with parents in a stable couple relationship—to which the Secretary of State has turned his attention?

Sheila Gilmore: Discussing a benefit cap in the context of public opinion will always be tricky. If I ask many of my constituents in a bold sense, “Do you think that anybody should be getting benefit x?” or, “Do you think that people who are working should be better off than those who are not working?”, I know what the answers will be, but when I discuss individual cases and circumstances in which they, their friends or their relatives may find themselves, the situation is different. That is the difficulty with legislation and provisions of this kind. However easy it is to say how unfair something is in general, it is very different when we are dealing with real people, families and households.

There will always be circumstances in which it is genuinely very difficult to realise the general desire to make, for example, work pay or to ensure that benefits do not seem too high relative to work, unless we say that simply because someone has a particularly large family or particularly difficult circumstances, they must get less money than we, as a Parliament, have decided they should have. Remember, the cap is not just a housing benefit cap, but an overall benefit cap, and the elements in benefits will have been based on what was felt to be appropriate to meet a family’s needs. There are payments for an individual, a couple and there are elements of benefits for children, because it is recognised that there are clear costs in having children. We could all argue about, and there are debates on, whether benefits when taken in their separate elements are enough for people to live on.

We might all feel that in some circumstances people should not have very large families, although I doubt if people would actually say that. People may have large families for cultural reasons, and we have seen huge changes in family size in this country over the past 100 years. I do not think that we will return to those very large families, but nevertheless there are large family groups. A lot of them are blended families made up of people who came together after a relationship breakdown rather than those with children whom a couple had together as a single family. We have all encountered large families, and we might find them wholly inappropriate. I remember the local paper making a big fuss about a family in Edinburgh who had 11 children. The parents were not working and the paper worked out how much benefit they were receiving. The council had had to knock two houses into one for them, and that was thought to be grossly unfair. Nevertheless,

such families are there, so how do we deal with them? The reason that we end up talking about housing benefit as if it was just about high housing costs is that it is probably the most flexible end of the overall benefit that may be capped. If we say that the amount for children, an individual or a couple is in relation to their needs, they will either have to cut back on those needs in terms of food and clothing or they will have to cut back on their housing costs. To cut back on housing costs means either not paying their rent, and there are consequences of that, or finding somewhere else to live, which may or may not be easy. That is why we end up talking as if this is just about housing.

Where people live has a lot to do with their family background and where they were born and brought up. Even in cities such as London, which has such huge disparities of wealth, we can find a mix of people within a single council area. There has always been a social mix, and that is a positive thing. Houses worth some £1 million stand cheek by jowl with affordable homes. In Edinburgh, we have been making an effort to build affordable housing all over the city.

The Chair: Order. I am sorry to interrupt the hon. Lady, but perhaps I could make a couple of quick points. First, the question of housing more accurately comes under the next group of amendments. Secondly, I have allowed a fairly general stand part debate. We should be discussing exemptions rather than the principle of the cap itself and, therefore, I will probably decide not to allow a stand part debate later on. Perhaps the hon. Lady might like to bring us back to the particular group of amendments under discussion, bearing in mind that housing comes into the next group.

Sheila Gilmore: Specific housing issues come up in the next group of amendments, but clearly there are overall issues about how the proposed cap will have an effect. I understand why the Minister wants to have this empty book case and to come back to a lot of these issues later, but I would like to draw his attention to amendment 246, which proposes to list some specific exemptions in the Bill. If there is a consensus that certain kinds of benefit would not form part of the cap, it would be advantageous for them to be listed. It does not prevent the flexibility of adding to or changing those at a later date, but it would reflect an overall consensus on what types of benefit should not be part of the cap. Things such as disability living allowance and carers allowance are listed and are exactly those sort of benefits to which the cap should not apply.

Harriett Baldwin: Does the hon. Lady accept that in the paperwork that we have already had from the DWP, the disability living allowance and its successor are exempt from the cap. That is an important message to put on the record.

Sheila Gilmore: With all due respect to the hon. Lady, we have, at this stage, only a statement that that will happen. We have not yet reached the stage of agreeing regulations. If there is such a high degree of consensus, I do not entirely understand why there is such a resistance to including these benefits at this stage. For example, if there is consensus on benefits such as the disability living allowance, why not list them because it would be of considerable advantage to the people who are worried. We have learned a lot in the course of this debate about

people's worries and whether they are justified, and who is causing people to be anxious. If there is agreement and overall consensus, we should spell it out at this stage because that could reduce anxiety. Those who fear that they might be affected would benefit from having this now spelled out. Where there are other issues over which there is not the same degree of consensus, they will still be debated at the time of regulation. I do not understand why there is such a degree of resistance to including such an exemption.

Harriett Baldwin: A document was published on the DWP website last Friday that spelled it out. I would submit, therefore, that it has been spelled out.

12.30 pm

Sheila Gilmore: A document on the DWP website is not legislation, and it is not yet regulation. It is simply a statement of intent, and it is a statement of intent that I welcome. If it is a statement of intent, and if we all agree with it, I do not understand why including it in the Bill is so difficult.

The other clear theme, as the Minister said when he addressed the previous group of amendments, is that the main reason for having a benefit cap is to ensure that work pays. That is the most important reason why the Government want to introduce an overall benefit cap. In that context, I urge the Minister to look carefully at amendment 237, which would address the situation of people whom the system has decreed do not have to seek work. Such people, for the most part, would either have children under five or be in the support group of ESA, as it currently is, or its successor under universal credit. Having decided that someone with such severe health or disability needs does not have a work requirement, it is not clear why that person should be covered by a cap that, as the Minister has said, is intended to encourage people to seek work.

On the basis of his own statement on the purpose of the benefit cap, I urge the Minister to look in particular at amendment 237. If he is not prepared to agree to the amendment, he should at least give some indication of his views on future regulations and how they might be drawn up.

Chris Grayling: As you have pointed out, Mr Gray, we have had a lengthy debate on the scope not only of the amendments, but of the clause as a whole. I will begin my remarks, therefore, by following your guidance and saying a little about the clause as a whole.

The Chair: Order. I apologise for interrupting the Minister, but, further to my remarks a moment ago, representations have been made to me that one or two members of the Committee would like a stand part debate. It is quite possible, therefore, that I will allow such a debate. I suggest to the Minister, therefore, that he might like to constrain his thoughts and stick to the amendments under consideration.

Chris Grayling: I will happily follow your guidance, Mr Gray.

I will start with the key question, because it directly affects this group of amendments. The question was put to the right hon. Member for East Ham a few minutes

ago by my hon. Friend the Member for Dover. My hon. Friend asked whether the Opposition are in favour of the principle of a benefit cap—yes or no—and, notably, he did not get an answer. We are left in a state of considerable confusion as to where the Opposition stand on that issue.

A few days ago, I read out a quote from an adviser to the shadow Secretary of State that appeared in the *Financial Times*. The adviser said that Labour supports the principle of a cap on benefits. That statement has not been repeated today by the right hon. Gentleman, and I am not entirely surprised. What we have here is a set of what can only be sensibly described as wrecking amendments. They are not a series of thoughtful, probing tweaks; the amendments would completely demolish the principle and substance, and the rest, of a benefit cap.

Stephen Timms: Will the Minister comment on the accuracy of the rest of that article in the *Financial Times*? The article explained that the Secretary of State and the Deputy Prime Minister are opposed to the benefit cap, but that the Chancellor supports it.

Chris Grayling: Much though I am sure that the right hon. Gentleman would love to get into a debate about politics, if I am not mistaken, there is nothing in the amendments or the clause that describes anything to do with the discussions that take place in government, and I would therefore be out of order if I were to follow that path. The reality is that, taken together, the amendments would totally emasculate the concept and the practical application of a benefit cap. I can therefore only take it that this is an attempt by the Opposition to put a marker very clearly into the ground that they oppose the principle of a benefit cap. I intend to make my remarks in that context.

The basic principle behind all these reforms is that we want to encourage people to progress into work. The reality is that there is a very simple principle at the heart of what we are introducing, which is that there is a point beyond which the state should not continue to provide financial support. That matters for two reasons: first, it matters to the message that we send out about the importance of people getting into work; secondly, it matters to the credibility of our welfare state.

It does no service to welfare claimants in this country if they are seen to be receiving amounts of money from the state that exceed the average earnings of people who are in work. That encourages, develops, fosters and grows a narrative that says there is something wrong, and it has the effect of stigmatising those claimants, which is not right. People are better off in work, and we should do everything we can to help them into work. However, it is also important that we have a welfare system in which the people of this country can have confidence. At the moment, it is clearly demonstrable that that is not the case. The comments made by my hon. Friend the Member for Dover about the level of public support for taking such a measure are absolutely right.

Ms Buck: The Minister is rightly discussing the integrity of the system and people being better off in work. Will he clarify why the benefit cap will apply to people who are not in work search categories, when everything else

[Ms Buck]

we have discussed in Committee in relation to the universal credit and the existing benefit system includes people who are not in work search categories?

Chris Grayling: The reality is that the measure has to apply across the spectrum. We cannot say, “This type of claimant group is being cut; this type of claimant group is not being cut.” In policy terms, we have indicated a number of areas where we would make exceptions or where we would not include benefits in the benefit cap. This set of reforms should apply across the board, and we have made provision for that.

Today, we are debating a clause that sets out a framework. It does not specify any exceptions, and it does not specify any particular benefits to be included or not included in the cap; it creates the mechanism for this and a future Government to decide how and at what level to constitute a benefit cap. The measure does no more than that. However, the impact of the amendments would be to totally change that. They would write off significant parts of the welfare spectrum in terms of the people who would be excluded from these measures. In effect, the amendments would make it impossible to implement a benefit cap that would be even remotely credible in the eyes of the public. That is first and foremost why I cannot possibly accept the Opposition’s amendments.

Paul Uppal (Wolverhampton South West) (Con): I am grateful to my right hon. Friend for giving way. I wanted to wait for him to make his comments before I intervened. If this Public Bill Committee is genuine in its aspiration for people to escape from poverty, an essential part of the Bill and the principle we are talking about is that people should live within their means. I appreciate the points that he has made about the message we send out about the welfare system and how it works. However, if we are genuine in our aspiration not just to make work always pay, but to enable people to escape poverty, that is an essential message we should send out in the Bill.

Chris Grayling: My hon. Friend makes a valuable point. He has articulated it very well—better than I could. What he has said is very clearly on the record. He is absolutely right.

First and foremost, my right hon. Friend the Secretary of State made it clear on Second Reading that we are looking at ways of easing the transition for families by providing assistance in hard cases. We will provide more detail as we develop our implementation plans, but the Bill gives us all the powers necessary for the purpose. We have made it clear all along that there will be certain exemptions. For example, it is right to exempt households where the claimant, their partner or a dependent child, are entitled to the DLA or an equivalent benefit, because we realise that they have additional disability-related costs.

My point to the hon. Member for Edinburgh East is this. We know from past experience that writing provisions into primary legislation means that future Governments wishing to make changes will be unable to do so. There is no need to write such a safeguard into the Bill. We intend to replace the DLA shortly, and the Bill sets out replacements for it. We or future Governments may

wish to make other changes to the system, and it would be daft if we could not help claimants by providing additional support, because we had written such things into primary legislation.

I want to make it absolutely clear that it is right to exempt households if a claimant, their partner or a dependent child are entitled to DLA or an equivalent benefit in recognition of the fact that there are additional disability-related costs. That is a clear statement of intent by the Government, and I imagine that future Governments of whatever persuasion would share it. It is the right thing to do. It is also right to exempt war widows and widowers by not including their benefits in the cap. We have made it clear that working families entitled to working tax credit will be exempt, and there will be an exemption for working families on the universal credit. I shall address the points raised by the right hon. Member for East Ham in a moment. All those exemptions, and the detailed criteria for the working families exemption, will be set out in regulations in due course. The Bill creates scope for further exemptions, if we or future Governments consider it appropriate. However, the case for exemptions must be set against the reasons for needing a benefit cap.

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

Kate Green: Will the Minister comment on the matter raised by my hon. Friend the Member for Westminster North earlier this morning, which is that average earnings are not necessarily the right comparison point, even accepting the Minister’s premise, because many on average earnings will also be in receipt of other in-work financial support?

Chris Grayling: I return to the subject of our debate: this measure requires the cap to be determined by reference to estimated average earnings, but it does not tie the hands of Government.

Our policy approach, and the Government’s clear intent, is to have a cap that bears reference to average earnings. That is necessary for the credibility of our benefit system. It is the right place to set the cap. If Opposition Members believe that we are wrong, and they are successful in a future general election, the Bill will provide them with the flexibility to make changes. However, this Administration intend to set a cap that relates to national average earnings.

Charlie Elphicke: I found it noteworthy, particularly in light of the last intervention, that we have not heard of any case studies on the effect on the squeezed middle

householder who earns £35,000 a year—the alarm-clock strivers who work hard and who ask the question in our constituencies. “Why should we work hard while others are better off? It is not fair.”

Chris Grayling: My hon. Friend makes a valuable point. It was interesting to note the case study given by the hon. Member for Westminster North, in which she described someone who was potentially on the benefit cap but who was paying about £5,000 a year in rent. That person would have income of £20,000 after rent. That is more than many people in work receive. It is important that we have a system that is credible in the eyes of those people who are in work. If we do not, it undermines the principle of our welfare state in a variety of different ways.

12.45 pm

I remind Opposition Members that local authorities have the power to deal with individual hardship cases through the discretionary housing payment scheme, if they so choose. The problem with the amendments is that the cap would apply to almost no one. Under amendment 232, the cap would apply only where someone has turned down a reasonable job offer. That would turn the cap into a form of sanction, which is totally inappropriate. Why would we limit the cap to a situation where someone had turned down a job offer? That would be nonsensical. It would eliminate a significant proportion of those people in receipt of benefits. Turning down a reasonable job offer is in itself a sanctionable offence that can lead to the withdrawal of benefits for an extended period, so amendment 232 is completely illogical.

Amendment 235 exempts short claims and provides some breathing space during which people can adjust their circumstances to take account of the cap. We certainly need to give some thought to that. I have some sympathy with that but we need to look at issues like that in the formulation of the detailed application and the way we make this work and how we deal with short-term pressures. These are issues that will be dealt with in the regulation-making process. They are not things that need to be written into primary legislation. People who have been in work recently may be in a stronger financial position and better able to return to work quickly. As I have said, the Secretary of State has talked about the importance of being able to provide assistance in hard cases.

Amendment 236 is intended to counter any risk of additional couple penalties. I would simply say that if there is such a risk, I am not convinced that doubling the cap for couples so that they can get £50,000 a year in benefits is the best way of dealing with it. As for the couple penalty, if they break up they still have to pay two lots of rent in different places. I am not persuaded by the Opposition’s argument about couples. I do not think we should automatically limit the cap to households where at least one adult is subject to all work-related requirements, as proposed by amendment 237, or to link it to the cost of available child care, as proposed by amendment 238, because both approaches would undermine the principle of the cap.

Amendment 244 creates an exemption for couples in work according to the number of hours worked. The right hon. Member for East Ham discussed that

amendment, and I will answer his questions in just two moments. Amendment 246 is consistent with our intention to exempt the DLA and equivalent benefits, but it includes some other benefits where we do not think that the argument for an exemption is as clear-cut. The exemption for the DLA means that in effect we will be exempting carer’s allowance recipients in households where one member of a couple or a dependent child is severely disabled and the other member cares for them. That does not arise in cases where the carer’s allowance claimant is caring for someone outside the household. Nor do we think that there is a case for a general exemption for ESA recipients or people gaining a disability element in universal credit. These claimants will be exempt if they have additional costs and are receiving the DLA.

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

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

It is essential to have a welfare state that is fit for purpose, that provides support to people when they need it and that commands the credibility and confidence of the public at large. At the moment, as evidenced by the poll findings referred to by my hon. Friend the Member for Dover, that is certainly not the case. This mechanism will enable us to start to rebuild that confidence.

I cannot accept the amendments and will, in due course, be commending the clause to the Committee.

Ms Buck: There was a telling intervention by the hon. Member for Wolverhampton South West about the importance of people living within their means, with which of course I have a great deal of sympathy. However, the fact is that family means are determined by the Government. That has not changed. The means given to people in the form of child benefit and child tax

[Ms Buck]

credit remain extant, and the Government have taken that decision about the minimum that a household should have to live on. Yet the Government are now changing the rules—in effect, retrospectively, because a family cannot change its household composition or the number of children. I will come back to housing costs, but those households are now required to adjust their means, and often they cannot avoid the cap.

That inability, in the overwhelming majority of cases, to take meaningful action to avoid the implication of the cap is one of things that worries me most. The Minister glossed over the important amendment on child care, but it is an important illustration. If a lone parent with four or five children wishes to avoid the benefit cap by taking work—I have no doubt that many will—that household will end up worse off because of child care costs. That flies in the face of everything that the Government have rightly said is the guiding principle of universal credit, and I cannot believe that that is their intention.

We agree that, if the Government want people to go to work, work should always pay. Larger households are currently exempt from everything else in the benefit system if they have children under the age of five, but members of those families will now be required to go into work and lose money as a consequence. That is a powerful illustration to which the Minister did not respond.

The measure will retrospectively hit households that already include living, breathing children who have needs and who need to be looked after. It will affect 55,000 households with children, so, by definition, it will involve at least 250,000 people, because the families affected are largely ones with more children. They are losing £93 a week on average and, as the Minister has made it clear, include—bizarrely in my view—the nine out of 10 households not currently subject to work search requirements. I do not understand that at all.

On the one hand, the Minister rightly defends the exclusion of certain categories of people, such as people on ESA who have been assessed and deemed unfit for work, or families with children under the age of five. They are not required to look for work but, on the other hand, in Committee and elsewhere, the Minister wishes to apply a punitive benefit cap which, in many cases, as the information we have had from Ferret and others illustrates, will require those households to move to avoid the cap. In fact, it will not require them to move to avoid the cap and to find somewhere they can afford, because there is often not anywhere they can afford. That is spelled out in considerable detail.

The Minister has rejected the idea that households should only be subject to the extended sanction if they refuse a work offer. I do not understand that. If we want people to get into work—we want work to pay—surely people should have the opportunity to receive a job offer. People in vulnerable households, which often

include those who are sick or widowed, or deserted wives, should not be subject to this benefit sanction when no one has offered them a job or, in many cases, is even looking for a job for them. If those people go into Jobcentre Plus, they would presumably be sent away. It would say, “Hang on, you’ve got children under the age of five; you’re on employment support allowance and are not required to look for work. We’re not going to look for a job for you.” Will Jobcentre Plus help those people and find them a job? I do not think so, because that is not how it currently operates.

At the heart of the legislation, we should do everything that we can to support, advise and incentivise people to go to work. However, where they have no means of avoiding the benefit cap because they have not been offered a job and are often not in work search categories, such penalties are wrong. The scale of the penalty that will apply is so great in both financial and housing terms that it is wrong. Many of our amendments are probing amendments, but we will press for a Division on the issue of a reasonable offer of employment.

Harriett Baldwin: How does the hon. Lady define “reasonable”?

Ms Buck: In the same way that employment is defined elsewhere in Jobcentre Plus. If people are in a job search category and required to work, a sanction will apply if they turn down an offer of employment. It is essential to the integrity of the measure that people have the opportunity to work, and for that work to pay. On that basis, I will press the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 13.

Division No. 15]

AYES

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

NOES

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

Question accordingly negated.

1 pm

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

Adjourned till this day at Four o'clock.