PARLIAMENTARY DEBATES

HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

WELFARE REFORM BILL

Twenty-fourth Sitting

Thursday 19 May 2011

(Afternoon)

CONTENTS

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Monday 23 May 2011

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

The Committee consisted of the following Members:

Chairs: Mr James Gray, †Mr Mike Weir

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

James Rhys, *Committee Clerk*

† attended the Committee

Public Bill Committee

Thursday 19 May 2011

(Afternoon)

[Mr Mike Weir *in the Chair*]

Welfare Reform Bill

1 pm

Stephen Timms (East Ham) (Lab): On a point of order, Mr Weir. I welcome you back after our break. Before lunch, the Minister reminded us that we had been invited to a seminar about child care support in universal credit on Monday afternoon. When the Secretary of State gave evidence to the Committee on 24 March, we asked him what plans the Government had for setting out options and proposals for supporting child care in universal credit. He said:

"I hope to be able to come forward to the Committee with those sets of options so that there can be some greater decisions made in time for that part of the Bill. I promise to try to do that but if I do not, it will certainly be done within the Committee stage."—[*Official Report, Welfare Reform Public Bill Committee,* 24 March 2011; c. 161, Q313.]

I understood that to mean that before the Bill left Committee—that is to say, by Tuesday—we would have a new clause or amendment from the Government setting out their conclusions on child care. I am seeking to establish whether a proposal will be tabled by Tuesday for us to debate, because there is no such proposal on the amendment paper at the moment. Can we be informed whether one will be on the amendment paper for our debate on Tuesday, as, I think, the Secretary of State indicated to us?

The Chair: Does the Minister wish to respond?

The Minister of State, Department for Work and Pensions (Chris Grayling): Further to that point of order, Mr Weir. I am not sure whether my contribution or that of the right hon. Member for East Ham is a point of order. However, the Government intend at the meeting on Monday afternoon—it will be an informal as opposed to a formal setting—to discuss the different options available with members of the Committee. We have narrowed them down to a small number, and if the meeting goes swimmingly, and everybody agrees that the approach set out is the right option, who knows what we will be able to achieve in Tuesday's debate?

The Chair: I thank the Minister for that. That is not a matter for me to rule on. It is for the Government to decide whether they table an amendment, and I am sure that the parties can thrash that out later.

Clause 111

Civil penalties for incorrect statements and failures to disclose information

Amendment proposed (this day): 257, in clause 111, page 74, line 36, leave out 'an' and insert 'a significant'. —*(Ms Buck.)*

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following: amendment 265, in clause 111, page 75, line 10, at end insert—

'(3A) The amount levied under subsection (2) shall not be greater than the value of the overpayment arising from failures outlined in subsection (1).'.

Amendment 258, in clause 111, page 75, line 34, leave out 'an' and insert 'a significant'.

Amendment 259, in clause 111, page 75, line 44, leave out 'an' and insert 'a significant'.

Amendment 266, in clause 111, page 75, line 47, at end insert—

'(2A) The amount levied under subsections (1) and (2) shall not be greater than the value of the overpayment arising from failures outlined in those subsections.'.

Ms Karen Buck (Westminster North) (Lab): I was coming close to the end of my response to the Minister. I was expressing some disappointment about what he told us in response to our probing amendments, which leaves us very concerned about the extension of the application of civil penalties in cases of error. We are concerned about the possibility that Jobcentre Plus advisers will be in the position of imposing civil penalties and required to decide whether to make applications on the basis of the flexibility given to them and their own judgment. That makes it quite likely that two individuals in identical circumstances in different Jobcentre Plus offices will be treated differently. That, in turn, is likely to generate the potential for challenges to decisions, and the savings that may accrue from the different penalties may be offset by additional appeals and challenges. Unfortunately, that is the downside of injecting discretion into the system, particularly when Jobcentre Plus advisers will find it difficult in many cases to make rulings on the issues, such as the extent to which conditions such as poor mental health are legitimate grounds for people making errors in their applications.

In our short break, my right hon. Friend the Member for East Ham prompted me to mention the Independent Parliamentary Standards Authority, which provides a parallel in some ways. Were Members of Parliament subject to a civil penalty in each case where IPSA ruled that we had made an error in an application, that would be deeply unpopular. Were an automatic penalty of £50 or £300 to apply when someone filled in an IPSA application incorrectly—it might simply be for the purchase of a pen in a travel claim—that would be wholly disproportionate.

Chris Grayling: I appreciate that we have had to do a lot of work over the past 12 months to improve the ways of working in the Department, but I want to reassure the hon. Lady that the situation we inherited was way above the level of inefficiency that she describes, and did not create the kind of risk she suggests.

Ms Buck: The introduction of universal credit in two or three years' time will be one of the largest transformations in the welfare system in decades. We have said this on several occasions, and my right hon. Friend has said it particularly in respect of the IT: it will be a triumph of hope over judgment to expect that there will not be, at least in the transitional period, a number of difficulties in implementing the system. That is not a critique of universal credit, and it is certainly not a principled criticism; I am simply saying that that is inevitable. If

Government Members really believe that for the first time they have found the philosopher's stone in a system that will not lead to administrative error or inadvertent error on the part of claimants, they are likely to be disappointed. Many vulnerable individuals will not only have errors made in the calculation of their claims, but will be subject to proportionately harsh civil penalties as a consequence.

I will obviously not press the amendment to a vote; the next group of amendments takes me to where the argument leads. Under those amendments I want to discuss with the Government a bit more about the extent to which they see the penalties applying and whether there will be—as we discussed earlier—a risk that setting penalties will create a worrying target culture. I look forward to the Minister's reassurances on that point, and I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ms Buck: I beg to move amendment 260, in clause 111, page 75, line 25, at end insert—

'(7) Under no circumstances shall the Secretary of State allow any targets to be set that would be intended to provide an incentive to increase the number or value of civil penalties issued under this section.'.

The Chair: With this it will be convenient to discuss amendment 261, in clause 111, page 76, line 12, at end insert—

'(7) Under no circumstances shall the Secretary of State allow any targets to be set that would be intended to provide an incentive to increase the number or value of civil penalties issued under this section.'.

Ms Buck: Moving smoothly on, by pressing the Government on any form of target or incentive for applying civil penalties, the two amendments seek to find out a little more about how widely the Minister expects the penalties to be applied. I hope that he will correct my understanding of the situation.

My interpretation of the projections is that the Department expects to raise £30.5 million from civil penalties by 2014-15—the first full year of the application of universal credit. That equates to the application of 610,000 penalties every year, which is in staggering contrast to the 1,221 penalties applied to tax credit claimants under similar legislation last year. I was struck by the Minister's written response to a parliamentary question I read in *Hansard* yesterday on other social security benefit penalties. He stated that the number of administrative penalties issued last year in respect of the benefits service—benefits rather than tax credits—was merely 7,249, down from 9,810 in 2006-07. Therefore, fewer than 10,000 penalties were applied in the last financial year and the numbers—in the social security field—are falling, yet the Government appear to anticipate an income of £30 million, which would mean a potential application of 610,000 penalties at the expected minimum level or a significant number of much larger ones.

I am baffled that, in a simplified system that has been sold to us so convincingly on its merits, the Government expect such a huge increase in the number of civil penalties. That seems to fly directly in the face of what the Government are telling us. It gives rise to a concern that, while I am sure that the Department for Work and Pensions business plan will not set a specific target to apply 610,000 penalties, if that £30 million is put into the financial projections—we talked about this earlier in relation to sanctions—there will be a culture and an expectation that, if that money is to be raised, offices across the country will be looked at. There will be a review, no doubt, of the number of penalties applied by each office and, if certain offices are not applying any civil penalties, someone will ask why. That will, in turn, generate a cultural response. The Minister says that DWP officials will act with discretion and common sense when applying the penalties, but they will be put under a countervailing pressure that will encourage them to exercise less discretion and spend less time digging into the details of a claimant's mental health condition, or the good reasons they give for why they made an error or a late application.

Charlie Elphicke (Dover) (Con): We had a discussion about targets earlier, and it transpired that that culture was a result of the policy implemented by the previous Government. Will the hon. Lady join me in congratulating Ministers on putting a stop to it as soon as they found out about it?

Ms Buck: Not everything that we say in this Committee is filtered wholly and exclusively through a party political prism. Labour Members have been frank in saying that we would have wanted to avoid aspects of the administration of tax credits. I accept that problems that arose from the tax credits were a flaw in the system. We are urging the Government to learn from the mistakes in the tax credit programme, and to avoid going down the same path, but that is what they seem intent on doing.

The Minister has explained how the misunderstandings that arose from the sanctions regime led to a culture in which, in some cases, officials felt that they needed to increase the number of sanctions. However, a savings target and an expectation for £30 million to be generated from several penalties are more likely to lead to a repeat of that kind of behaviour.

Charlie Elphicke: The hon. Lady seeks to write into the Bill something that Ministers say they have stamped out and that they do not favour. What is the purpose of tabling this amendment when Ministers have no intention to of doing anything of the kind?

Ms Buck: I am sorry, but I have to tell the hon. Gentleman that, unless the Minister contradicts my statistics—I would be delighted and thrilled if he did and told us that we are reading the figures wrongly—he is completely wrong. Despite the assurances that we received and believed during our debate on sanctions, the Government now appear to be saying that a specific figure underpins universal credit. The implication is that 610,000 civil penalties will be applied per year, raising £30 million. That is a vast number of penalties. I do not have a calculator to work out how many times greater that civil penalty figure is than the total number, but it seems to be 40 or 50 times higher. That needs to be explained.

Finally, it is worrying that the equality impact assessment, which reviews the impact of the civil penalties regime on disadvantaged groups and groups covered by equality legislation, estimates:

"Civil penalty appeals will be low in number".

[Ms Buck]

How on earth can the Minister square what appears to be an expectation that the number of civil penalties will be much higher with the expectation that the number of appeals will be much lower? Either one of those is wrong, or a barrier between claimants is anticipated.

In this case, we are not talking mainly about fraud—which should be prosecuted to the utmost—but official or individual error. If the number of civil penalties applied was higher, we would expect there to be a capacity for vulnerable individuals to make appeals against those impositions, and we do not understand why appeals are expected to be lower. Will the Minister address the appeals point? Exactly how much money has he written into DWP expectations from civil penalties? How many civil penalties does he expect to be applied in the average year? What variance is there between the current level of tax credit and benefit civil penalties, and those built into universal credit? We would be delighted if the Minister addressed those points, and we could then enthusiastically withdraw the amendments.

1.15 pm

Chris Grayling: The point can be addressed very straightforwardly. In debate terms, this is like "Pirates of the Caribbean 4" and "Harry Potter 8", which I am looking forward to seeing this summer. It is "Targets debate 2". We heard it all a couple of weeks ago. As I said at the time, the issues that caused us problems over targets for sanctions originate with the previous Government's policies, which we have had to unravel, and the culture that they built up. I am always delighted to accept such amendments when they include the word "Labour", because that is where the issues came from.

Very straightforwardly, we do not intend the measures to have any target attached. The number of sanctions and civil penalties issued will be down to the number of people who mis-declare information to the Department, transgress and break the rules—no more and no less. If there are no transgressions, no penalties will be charged; if the figure is high, a lot of penalties will charged. It is as simple as that.

We make a working estimate—it may be right or wrong—which the hon. Lady rightly identifies as being contained in the impact assessment. We expect that the number of cases resulting in a £50 civil penalty in each year to 2014–15, rounded to the nearest thousand, will be in the region of 513,000, 542,000, and 571,000. We estimate that, of those claimants who incur an overpayment related to customer error each year, around 40% will be likely to incur a penalty. That means that four in every 10 mis-declarations to the Department are likely to lead to a civil penalty.

The number of cases that would meet the £50 civil penalty criteria is taken from our debt management administrative data, from which we estimate that 40% of the 1.2 million customer error cases have the potential to attract a penalty, if one existed under the new rules. We do not have any comparative figures now because that civil penalty does not currently exist. It is being introduced for a purpose. It is immaterial whether the percentage is 20%, 40%, 50% or 60%—there is no target. There will be no target if the number of mis-declarations is zero. We would all be delighted in that case, because it would mean that people were are providing 100% accurate data to the Department, and that no customer-generated error was taking place. That is all fine and hunky-dory, but if it does not happen, several sanctions and civil penalties will be applied. However, to be absolutely clear, the number will relate exactly and directly to the number of transgressions that meet the criteria for administering the penalty—no more and no less. There will be no guidance for targets or financial goals. There is a broad estimate of the impact of the change because it is our job to produce an impact assessment and provide our best estimates to the Committee and the House. We will continue to do that. However, no penalties will be introduced other than those that result from a transgression by a claimant.

Ms Buck: I am sorry, but I find that response extraordinary. Although the Minister tells us that there will be no targets, which I am happy to take his assurance on, he has not explained why there will be such a phenomenal increase in the number of individuals liable to be subject to civil penalties. In fact, he appears to have confirmed the figures that I quoted and he did not challenge the financial figure that will be written into the DWP business plan. It is completely extraordinary that a Government who have given us such sincere assurances about their wish to protect vulnerable individuals should be quite happy to anticipate an increase of this order in the number of civil penalties that people who are not currently subject to such penalties will have to face, and that is in addition to any overpayment that may arise as a result of the official error.

The Minister did not respond to my point about the level of appeals and the apparent incongruity between a huge increase in the number of civil penalties that will apply and a fall in the number of appeals. He says that that is almost an automatic response in universal credit to errors within the system and that if there is a transgression in an application, an appeal can be made. However, we have discussed several times before the extent to which Jobcentre Plus staff will be able to exercise their judgment. Therefore, the concept of there being an automatic transgression simply does not exist.

That will be a subjective assessment and there will be enormous pressure on Jobcentre Plus staff who will be making those relatively subjective decisions about what makes good cause, and they will be doing so entirely aware of the number of so-called transgressions that the Government expect and the amount of money that is likely to be generated as a consequence. Although £30 million is a significant amount of money to individuals, it is relatively small beer in terms of the DWP budget and it will at least be offset by the number of appeals made on behalf of individuals, so it is a false economy.

Chris Grayling: I explained to the hon. Lady that this is a new system. There is no comparison that can be made. At the moment, Her Majesty's Revenue and Customs sanctions relate to fraud. This is not a policy for fraud. There is no comparator that she can use between the current level of any activity and what will be the case in future, because this is doing something that has not been done before.

Ms Buck: I sort of understand that point, but I have been assured passim by Back-Bench Members and the Minister for the last six or seven weeks that universal

credit will be so smooth, comprehensible, integrated and simplified that there will not be any errors. It is not possible to have it both ways. On the one hand, the Minister says that universal credit will be so easy to use that there will not be a vast increase in error, but on the other he says that the number of errors will explode, proportionate to the existing tax credit and benefits system, so those two things do not go together.

I expect to return to this matter, because I find the Minister's reply most unsatisfactory, but as I do not intend to press it to the vote, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ms Buck: I beg to move amendment 262, in clause 111, page 76, line 12, at end insert—

'(2) Subsection (1) shall not take effect until the Secretary of State has published a report setting out the criteria that will be used to define whether an error will or will not be considered to fall within sections 115C and 115D of the Social Security Administration Act 1992, as inserted by subsection (1), and how individual characteristics of the claimant are to be taken into account when making the distinction.'.

The Chair: With this it will be convenient to discuss the following: amendment 263, in clause 111, page 76, line 12, at end insert—

'(2) Subsection (1) shall not take effect until the Secretary of State has published a report setting out how the appropriate authority will determine what reasonable steps a claimant can be expected to take to avoid error.'.

Amendment 264, in clause 111, page 76, line 12, at end insert—

'(2) Subsection (1) shall not take effect until the Secretary of State has published a report setting out what information, guidance and other assistance the appropriate authority will provide to each person making a claim to enable them to understand and meet their responsibilities with respect to that claim.'.

Ms Buck: To conclude this debate—I will not take any significant time in doing so—let me pull together some of the strands. During the debate, those strands have become significantly more alarming to me than was the case beforehand. The amendment asks the Secretary of State to take action on behalf of the Government by striking a balance between the additional responsibilities that he seeks to lay on claimants—who are, in many cases, vulnerable and do not have the necessary resources always to understand the workings of a system—and ensuring that civil penalties are not introduced before very clear and transparent criteria are set out to ensure that claimants are not penalised unnecessarily for making innocent errors, or for failing to understand the need to report changes within a required time frame.

The amendment would allow for the definition of "reasonable excuses" to take account of a claimant's individual circumstances. It would put flesh on the bones of the discretion that the Minister has told us about. It would enable claimants to meet their responsibilities by ensuring that they were provided with the necessary support from within the Department to build trust within the system so that claimants were better qualified to make an accurate application.

I will not repeat our debates about welfare rights and advice. We know that there is a major threat to independent advice services and legal aid coming through the system. We know that the Government expect the overwhelming majority of applications and change of circumstance notifications to be made through the internet rather than face to face, and there are many advantages to that. However, set against that is the fact that it is the most disadvantaged and vulnerable claimants who are not able to apply in that way. We want to be reassured that the Department will meet its responsibilities and that there will be capacity in the system for the DWP to assist those individuals who need assistance. All this is set against the backdrop that universal credit will be introduced while resources for the DWP are shrinking.

Will the Minister conclude this debate about sanctions by telling us—if claimants' responsibilities are taking such a step forward within this regime, and with such a significant increase in penalties and sanctions being applied—how he will strike a proper balance, so that the Department's responsibilities with regard to official error and support for claimants are realised?

Chris Grayling: The hon. Lady needs to get a sense of proportion. Listening to that, people would think we were imposing some draconian penalty, rather than creating a £50 civil penalty for people who mis-declare their circumstances to the DWP. This penalty is intended only for those who are overpaid benefit as a result of their own fault or action, or because they could and should have provided the correct information to prevent overpayment of benefit, but failed to do so.

We have said clearly that we expect the penalty to be administered in only a minority of cases. We lose £1.2 billion a year as a result of customer error, and this a sensible and balanced response to that. We do not intend to sanction every individual. The hon. Lady keeps making reference to the "huge increase" in penalties, but this is a new approach. There is no comparison that can legitimately be made, and decisions are made carefully about who is an appropriate person to sanction and who is not.

What we intend is that, when we carry out a check, or find that someone has negligently provided information that is wrong or incomplete, or has not told us about a change within a sensible time frame—within the time that they should—and there is no reasonable excuse for the failure, a civil penalty will be imposed on them. I gave an example of someone who moves in with a new partner and changes materially the financial situation of the household, but does not report that to the DWP. That is the kind of circumstance involved.

Sheila Gilmore (Edinburgh East) (Lab): In circumstances where a partner moves in and that continues for some time, as has been suggested, surely there are overpayment and, indeed, prosecution options to cover that, and it is unlikely that such a circumstance would be covered by a civil penalty.

Chris Grayling: I take the view that there are times when it is appropriate to prosecute, and times when it is not. A civil penalty system provides an appropriate response to minor cases where people should have done something differently, but where it is not sensible or practical to pursue a prosecution option. This is a balanced and sensible approach. I am afraid that the amendment would impose a substantial additional bureaucratic process on a very simple policy. We are

[Chris Grayling]

dealing with massive financial challenges and trying to protect front-line services and ensure that there are sufficient advisers in front-line Jobcentres to deal with the unemployed and help young unemployed people, so it would be utterly counter-productive to devote departmental resource to creating a series of complex reports on something so simple and straightforward.

On that basis, I am afraid that I cannot accept the amendment; I do not buy the arguments made by the hon. Member for Westminster North. Ours is a simple and proportionate response to a big problem. We lose £1.2 billion a year to error, so our response is appropriate and I shall defend it in Committee.

1.30 pm

Ms Buck: Once again, I am disappointed. I think that proportionality is a problem for the Government, not us. It is all very well for the Minister to say that £50 is a meaningless figure, but for people on marginal incomes—as he well knows; he has been eloquent in expressing this view in other contexts—£50 is a lot of money, particularly when, almost invariably, those individuals will be repaying an overpayment. My hon. Friend the Member for Edinburgh East is right in saying that fraud must be put into a different category; in many cases, overpayments arise either from official error or from a simple error made by people facing language or literacy barriers or mental health problems. Fifty pounds, on top of an overpayment, is not far short of the entire disposable income of an individual on jobseeker's allowance or employment and support allowance. That is the proportionality problem.

The Minister again made the point that it is a new benefit, so there is no comparability, but he has told us time and again that the new system is so simple that there will be no error, so why does he expect such a phenomenal increase in the number of sanctions? The problems are genuine. He is right to say that prosecution should occur only in a minority of cases and cannot always be justified, but a civil enforcement penalty cannot be made without scrutiny or accountability. The figures written into the impact assessment create a climate of expectation about penalty levels, which places a significant burden on vulnerable claimants that is not matched by a corresponding expectation from the Department.

Again, I think the absolute truth of the matter is that if anything approaching that number of civil penalties is applied in the early days of universal credit, all the Minister's fine words about savings and reducing pressure on DWP staff will go out of the window, because those staff will be tied up in a constant stream of challenges to civil penalties. The figures cannot be shrugged off. A Member of Parliament might easily be able to shrug off a £50 civil penalty without even going to the effort of writing a letter to challenge it, but someone on a very low income will not. They will challenge the penalties, and they will do so in tens if not hundreds of thousands, if the figures are to be trusted. That will be a false economy for the Government. However, I do not intend to press the amendments, as I am sure that we will return to this debate on another occasion. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sheila Gilmore: I beg to move amendment 288, in clause 111, page 76, line 12, at end insert—

'(2) Subsection (1) shall not take effect until the Secretary of State has published a report setting out how the appropriate authority will compensate claimants where an overpayment or delay in payment of benefit has arisen as a result of official error.'.

Amendment 288 asks the Secretary of State to publish a report before the penalty arrangements come into effect showing how claimants will be compensated for overpayments or delays arising from official error. We have heard a great deal about errors due to claimants making mistakes, not filling in their forms or not declaring things such as changes in circumstances, and we have heard that the Department loses £1.2 billion as a result. It would be interesting to put that into the context of losses incurred by other large organisations in similar circumstances for the sake of comparison. Without making such comparisons, however, the total loss is estimated to be about £3 billion, so there is more loss through departmental error than claimant error.

Although we all hope that it will not happen, or will happen less, in the future, I do not think there is any organisation or human being who does not make errors. Such errors can be very difficult for people on very low incomes. For people who receive less than their usual payments for a period, even if that payment is later reinstated, or for people who struggle to maintain their family in a situation in which they receive less than they would have done if no error had been made, that is a significant and serious matter.

On that basis, the amendment seeks to create a parallel and a balance between the two forms of error. As it stands, the clause will impose a penalty on claimants. Where an error is made by the Department, there should be a system for compensating claimants who have suffered as a result. That would also provide an incentive for the Department not to create errors. If the system is designed in the belief that claimants are not careful when they fill in forms and do not ensure that they get everything absolutely correct, that should also work the other way and, if it did, that would create an incentive for the Department to ensure that due care and attention was paid to the processing of claims and that errors were kept to a minimum.

The amendment would also create a balance between the Department or Government body dealing with such matters and claimants. There would be mutual respect on both sides about the fact that while a claimant might be at fault, at other times the Department might be at fault. People would therefore understand that the process is a mutual endeavour, and they would feel more trust and confidence in, and work better with, the Department in those circumstances. That is the context of the amendment, and I am interested to hear the Minister's view.

Chris Grayling: I think I can give the hon. Lady a fairly rapid response. We are investing many hundreds of millions of pounds in a system for universal credit that will, I hope, eliminate much of the official error that she rightly says is made. That will happen because more of the system will be automated, more will be based on real-time information and movements into and out of short-term periods in work will be dealt with within the universal credit automated system. We will therefore significantly reduce the amount of official

error, although we can never remove it altogether. As she has rightly said, people are only human, and there will be errors in the inputting and processing of data, but I am confident that the universal credit system as a whole will reduce the amount of error.

The hon. Lady is right to draw attention to the fact that the Department should accept where it gets things wrong, but I do not agree with her amendment. She talked about producing a report, but that would consume time and resources and take people away from the front-line job that we want them to do. Of course, we already provide compensation. For cases in which a claimant has suffered as a result of departmental maladministration, we operate a discretionary, non-statutory scheme to provide financial redress.

In letters crossing my desk, I regularly see cases in which we have made errors and are making payments to claimants in compensation for the inconvenience and disruption that has been caused. That amount varies according to the situation. We routinely consider financial redress when we rectify any cases of maladministration. Claimants may request that they be considered for a special payment or an extra statutory payment by outlining what has happened and its impact on them. We are sympathetic to claims that are bona fide and legitimate.

The provisions in appropriate cases allow for the making of a consolatory payment when, as a result of an official error, there has been a specific impact on someone's life. Importantly, each payment is considered individually to ensure that the redress provided is appropriate to the circumstances. If the hon. Lady wants to find out more, the DWP website gives details of the special payments scheme, so she will be able to see more clearly what we are doing. Local authorities are autonomous bodies, so they have their own arrangements for matters in their ambit, such as providing compensation when they have made a mistake in a housing benefit claim.

I reassure the hon. Lady that mechanisms are in place. They will vary depending on circumstances, which is one reason why a set scheme with a fixed amount would be inappropriate. The individual impact of an error can be very different in different cases. I cannot accept her proposal of another report because, arguably, the Government already produce too many reports. I reassure her, however, that the mechanisms are in place to ensure that when we make a mistake, compensation will be paid to the affected person.

Sheila Gilmore: I thank the Minister for his reply. The arrangements are complex and time-consuming. They apply when there has been substantial error, but not necessarily when there has been regular error. The Government are not the first to suggest that they have found the nirvana of a system that will not have errors, but a simple system for compensation might have been more acceptable, especially as that argument is being used as an incentive to reduce error for claimants.

I do not share the Minister's great optimism that automation is the answer to everything. As we know, automated response systems can go horribly wrong—and they can go even more horribly wrong when they apply to many people. I hope that the system will not be like trying to correspond with a certain council's outsourced council tax system. Whenever people ask for a response, the system states that the council will respond in 10 days; when people write back to complain that it has not done so, they get an e-mail stating, "You haven't responded; we will respond in 10 days." It is an endless loop that seems to be unbreakable. I am sure that that will not happen under the DWP system. I shall not press the amendment to a vote, but I hope, as we see how the system develops, that the Government are minded to reconsider our suggestion. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 111 ordered to stand part of the Bill.

Clauses 112 to 114 ordered to stand part of the Bill.

Clause 115

LOSS OF TAX CREDITS

Chris Grayling: I beg to move amendment 284, in clause 115, page 80, line 48, leave out '5 April 2012' and insert

'the day specified by order made by the Treasury'.

The Chair: With this it will be convenient to discuss Government amendments 285 and 286.

Chris Grayling: The amendment is simple and makes a minor technical change to the Bill. Clauses 112 to 114 make changes to the rules for restricting payments for sanctionable benefits. Clause 115 introduces a similar scheme, which restricts working tax credit when the claimant has been convicted of, cautioned for, or accepts an administrative financial penalty for tax credit or benefit fraud. The clause specifies the scheme's commencement date as 5 April 2012; clauses 112 to 114 allow commencement by order. The amendment simply aligns the two, because it does not make sense to have two schemes starting on different days. The change will enable the start date to be implemented in a joined-up manner simply by issuing a Treasury order. The amendment is technical and certainly makes no material change to the substance of the Bill, so I hope that the Committee will accept it.

Amendment 284 agreed to.

1.45 pm

Amendments made: 285, in clause 115, page 83, line 31, leave out '5 April 2012' and insert 'the day specified by order made by the Treasury'.

Amendment 286, in clause 115, page 85, line 35, at end insert—

'(c) in subsection (3)(a) at the beginning there is inserted "an order or".'—*(Chris Grayling.)*

Clause 115, as amended, ordered to stand part of the Bill.

Clauses 116 to 120 ordered to stand part of the Bill.

Clause 121

INFORMATION-SHARING BETWEEN SECRETARY OF STATE AND HMRC

Stephen Timms: I beg to move amendment 267, in clause 121, page 90, line 39, at end insert—

'(11) The Secretary of State shall commission a report, which is to be published no later than 365 days after this Bill receives Royal Assent, about the possibility of using and/or adapting the relevant information-sharing systems to inform policy on the living wage.'.

[Stephen Timms]

The clause is about information-sharing between the Secretary of State and HMRC to allow the Department for Work and Pensions to access real-time PAYE data. Provided there are sufficient safeguards in place, we do not oppose the sharing of data in this way. The approach is right, albeit one that will not be ready on time. Eventually, it will represent an important step forward.

The amendment suggests one further way that the Secretary of State could make use of this enormous quantity of data about people's pay, which in future will be collected by the state every month and immediately conveyed to the Department. The amendment calls for the Secretary of State to publish a report on how that data could be used to inform policy on the living wage. I will return to how those data could be used for that purpose. The amendment also calls for the report to be published no more than 365 days after the Bill receives Royal Assent to give the Government the greatest opportunity to build recommendations from the report into the design of their computer system.

There is wide agreement across the House that the living wage is an important goal. It is important that we do not miss the opportunity to promote it, afforded by this change. The precedent was set by the introduction of the national minimum wage, which was one of the previous Government's historic achievements. Its introduction was bitterly opposed by some, although it is now widely accepted.

It is no surprise that the idea of a living wage—a higher level of minimum wage—has found support among Labour Members. At last year's general election, my hon. Friends and I stood on a manifesto that committed us to asking all Whitehall Departments to pay the living wage within their budgets. During his leadership campaign, my right hon. Friend the Leader of the Opposition wrote to the chief executives of 30 major employers, including Marks & Spencer, Tesco, Holiday Inn and The Carphone Warehouse, asking them to adopt the living wage for their staff. An early champion of the policy was Ken Livingstone. In 2005, he established the living wage unit at City hall, which annually sets the London living wage.

Support for the living wage is not only limited to Labour Members. The Prime Minister said before the election that the living wage was

"an idea whose time has come."

The living wage was not in his party's manifesto, but the Prime Minister, when leading the Opposition, was clear that he would match the support proposed by Labour. Indeed, during the election campaign, he said:

"The one progressive new idea we hear will be in Labour's manifesto—the living wage—is actually a Conservative policy".

That is what the Prime Minister said—the living wage is a Conservative policy. We have not heard a great deal about that particular Conservative policy since the election, but it might be in the same category as other policies we heard about—maintaining education maintenance allowance, not increasing VAT, recruiting 3,000 extra midwives—that were abandoned as soon as the election was safely won. There is no doubt, however, that the Prime Minister, at one time at any rate, regarded the living wage as a Conservative policy.

The Secretary of State for Work and Pensions is also on the record as a supporter of the living wage. In December last year—after the general election—he delivered a speech about welfare reform to the think-tank the Institute for Public Policy Research. During a question-and-answer exchange afterwards, he said that the Government were "very keen" on the idea of a living wage. I hope that the Minister will follow the Secretary of State's lead when he responds to the debate.

One of the most vocal supporters of the living wage—in the Conservative party, at least—is the Mayor of London. The work was begun by his predecessor, but the Mayor has maintained the policy, for which he is entitled to a good deal of credit. He put the case cogently in his foreword to the seventh annual report on the London living wage, published earlier this month:

"It is right that their skills and commitment to London's success are recognised, and one of the most fundamental ways of doing this is to ensure that all Londoners are paid properly. That means receiving at least the 'London Living Wage', which is designed to provide a minimum acceptable quality of life."

The campaign for the living wage was launched just 10 years ago, and I was at an event in Central hall on bank holiday Monday earlier this month to mark the anniversary. The campaign is a product of the citizens organising movement, and Citizens UK rightly identifies two key reasons to support it, the first being to help to address the challenge of in-work poverty. We have touched on that in Committee and will return to it when we debate the Government's new clauses on child poverty.

A high rate of poverty exists among households in which at least one parent is in work. Working poverty imposes a high cost on the UK economy, for example by worsening the health of those who suffer from it, and wider adoption of the living wage would reduce such costs. The Joseph Rowntree Foundation estimates that, in total, poverty imposes a cost of £25 billion a year on the UK economy, and working poverty is part of that bill.

Secondly, the living wage would help to reduce the cost to the Exchequer of supporting people on low incomes. People on low incomes are supported through the tax credit system, but in future, as we have been debating, they will have their income topped up by universal credit. The organisation Working Families made this point about universal credit in its written evidence to the Select Committee on Work and Pensions:

"The benefits system should not subsidise poor employers paying minimum wages. A move towards a living wage would significantly reduce the burden on the welfare budget and ensure more families were able to progress in work."

Citizens UK set the case out thus:

"The Living Wage is an effective tool to create good jobs, combat child poverty, incentivize work and save the taxpayer money in in-work benefits. By introducing and championing a non-statutory 'moral' minimum that complements the National Minimum Wage, the Government can encourage the private sector to take responsibility for low pay without endangering employment. Success of the Living Wage in London is a strong example of how a 'nudge' policy can be used to tackle the difficult problem of working poverty. A combination of productivity gains and saved spending on in-work benefits makes this policy entirely affordable and when the 'nudge' works, will be a way to reduce public spending while improving social outcomes."

I warmly welcome the progress that has been made in the campaign. A few weeks ago at the event I mentioned, the uprated London living wage calculated by the unit

operated by the Mayor of London was announced. The London living wage has increased to £8.30 per hour, which is nearly a 25% increase from when it was introduced six years ago. For the first time ever, a national living wage was also announced for people outside London. It is proposed that that should be set at £7.20 per hour.

I pay tribute to Citizens UK for the imagination and determination that has gone into that campaign, which goes back to TELCO—the east London citizens organisation—whose launch I attended soon after the 1997 general election. That organisation brings together hundreds of people from churches, mosques, synagogues, trade union branches, community organisations and schools. Its impact is unquestionably building, and slowly but surely the idea of a living wage is catching on. Citizens UK has calculated that the campaign has already secured more than £70 million in extra wages. It estimates that it has lifted more than 10,000 families out of poverty, but there is still undoubtedly scope for a considerably greater impact.

There is a compelling case for the living wage campaign and politicians have been vocal in their support.

Harriett Baldwin (West Worcestershire) (Con): I am listening to the right hon. Gentleman's speech with a great deal of interest. Does he accept that not just the wage, but the net amount after tax, is important for the low paid? Does he welcome the fact that this Government have taken so many people on low wages out of tax?

Stephen Timms: Indeed I do. The hon. Lady is right that take-home pay is most effective. As we have debated in Committee, I am worried about the impact of some measures on the amount of cash that people take home. Certainly, as a contribution to increasing the amount that people take home, an increase in the tax threshold can only help. Our amendment is not overly prescriptive.

Kate Green: I agree with my right hon. Friend, but will not universal credit incentivise mini-jobs? People in such jobs will probably, by definition, be below any tax threshold, existing or previous, so the living wage will be of particular significance.

The Chair: Order. Before the right hon. Member for East Ham responds, I should say that the debate is getting a bit wide of the amendment. We are getting into a debate about the merits of the living wage and low taxation, which are not issues covered by the amendment. I ask the right hon. Gentleman to return to the terms of the amendment.

Stephen Timms: I will, of course, do so, while very quickly agreeing with my hon. Friend. The amendment is not overly prescriptive. We do not yet know the full detail of how this real-time PAYE system will work and how everything will be delivered. However, there is certainly an opportunity here.

Charlie Elphicke: In informing policy on the living wage and in line with the amendment, does the right hon. Gentleman not think that the living wage should be a right?

Stephen Timms: No. If the hon. Gentleman's suggestion is that the level of the living wage should be the statutory national minimum wage, I do not agree with that. Citizens UK is very clear that it is not calling for that. The statutory minimum wage is calculated on the basis of the advice of the Low Pay Commission and is set very carefully at a level that does not threaten employment. Citizens UK makes the point that if one simply increased the minimum wage from £5.93 to £8.30, which is the current London living wage, there would be an effect on employment. Therefore, I am not proposing that it should be made statutory, and neither is the campaign. However, there is an opportunity to look at how the vast amount of information that will become available to the Secretary of State may be used to inform policy on the living wage. Ideally, I would like that to take the form of an independent review. That would enable as much fresh and imaginative thinking as possible. A report would be welcome.

2 pm

Let me suggest a few lines of inquiry. The first way in which all that information could inform policy on the living wage is by helping calculate what the level of the living wage should be. The living wage unit in City hall in London has a great deal of experience in calculating the level of living wage for London. The method it uses is well developed. It has strong links with the methodology for minimum income standards, which was developed by Loughborough university—my hon. Friend the Member for Stretford and Urmston described that to the Committee in an earlier sitting—and is set out in the annual report of the Greater London authority living wage unit entitled, "Fairer London". It uses two basic approaches to calculate the living wage. The information, which will be shared on the basis of the clause, could support both.

The first approach is what it calls the basic living costs approach; the second is the income distribution approach. The first starts by assessing costs—housing, council tax, child care and so-called regular shopping basket costs—for various types of family. The next step is to deduct taxation, add the benefits to which households would be entitled—working tax credit, housing benefit and so on. That is where the data possessed by the Department could be particularly valuable. Drawing on the data at his disposal, the Secretary of State will be able to make much more authoritative assessments of the value of those deductions or additions. Based on its calculations, the London living wage unit then calculates the weighted average wage, across various household types, that is required to meet basic living costs. In 2011, the most recent calculation, that figure came to £6.85 an hour.

The other side of the calculation is the income distribution approach. The Department for Work and Pensions provides the unit with indicators of average household incomes after housing costs. That is where the real-time PAYE data, which will be assembled under the clause, could prove extremely valuable. There will be an immensely rich set of data assembled every month, in real time, about precisely how much every employee in the country has been paid that month. That will be far more data on regional and seasonal variation than anyone has access to at the moment. It will be available in real time, and not a long time afterwards as is the case with the various surveys that are available at the moment, or even with tax data, which are available only a lengthy

period after the event. Those data will be invaluable in assessing the right level for the living wage, certainly in areas other than London, where at the moment the calculation is in its infancy. As I said, the first stab at setting a figure has only just been made.

As the official poverty threshold is 60% of median income, the unit calculates the wage that is required to meet that income level. In 2011, that calculation, across various household types, came out at £7.65 an hour. The London living wage unit brings those two approaches together and takes an average from them, so £6.85 and £7.65 results in an average of £7.25. It then adds in a 15% margin against poverty, resulting in the final figure that was announced earlier this month, which I have already mentioned, of £8.30 an hour for the living wage.

Charlie Elphicke: I thank the right hon. Gentleman for being so generous in taking interventions. A moment ago, I asked him whether he thought that the living wage should be backed up to be a real strong policy. He has expressed a concern that it would actually increase unemployment. Therefore, what policy is he advocating on the living wage that the Government should take on board? I am slightly at a loss. He says, "Don't back it up, or give it teeth, but somehow just generally advocate it, or exhort private sector employers." What should the Government do to further the right hon. Gentleman's case?

Stephen Timms: The Government could do several things. I would certainly like them to adopt the living wage for their employees and contractors in the public sector, which the Labour party manifesto proposed at the last election. On top of that, I would like more exhortation. I would like the approach to be similar to that taken by the Government in relation to corporate responsibility: not making it a legal obligation for companies to behave in a socially responsible way, but providing a variety of exhortations and encouragement. We know from what happened with corporate social responsibility that that approach is effective, and I would like the Government to adopt it, particularly as the Prime Minister said that that is Conservative policy. We would like to see him acting on it.

Guto Bebb (Aberconwy) (Con): I have some concern about the comments on the Government leading the way, because in parts of north-west Wales, where we have 40% to 50% employment in the public sector, it would not encourage the private sector, which is under threat from the unbalanced economy, to follow suit. It would take the employment pool away from the private sector in that part of the country, where we desperately need to rebalance the economy. That is real concern about the policy that the right hon. Gentleman is advocating.

The Chair: Order. I appreciate that the right hon. Gentleman may have been led astray by interventions, but I remind hon. Members that we are discussing the amendment, not the principle of the living wage, or any other subject that hon. Members may want to discuss. Will hon. Members please speak to the amendment, or at least fairly close to it, for the rest of the day?

Stephen Timms: I am grateful for your instruction, Mr Weir. Let me simply say that the amendment provides the solution to the hon. Gentleman's problem, because with the data that the Department for Work and Pensions will have under clause 121, it can work out the appropriate level for the living wage in north Wales. The hon. Gentleman is making the point that it should be less than elsewhere, and that is a fair point, but he underlines why the Member for Dover is mistaken about making it statutory.

It is not my intention to advocate a particular mechanism for calculating the living wage, but I want to highlight the ways in which, as a consequence of introducing real-time PAYE data collection to support universal credit under the clause, the Department for Work and Pensions will have access to a vast amount of data in real time, which could be of great value in developing policy on the living wage.

Ian Swales (Redcar) (LD): I think I have now understood the right hon. Gentleman's amendment. Its effect would simply be to talk about the fact that the Government will have a lot of pay data as a result of the new systems. With the transparency that the new Government believe in, I am sure that that data will be available in some form. What use is then made of the data by campaigners against poverty, campaigners on the living wage, or anyone else will be up to the users. It will not be for the Government to prescribe how it is disseminated.

Stephen Timms: We have been told by the Prime Minister himself that the living wage is his policy, so I hope that he will seize the opportunity of the vast amount of data to promote it. That is what I am advocating. However, the hon. Gentleman is right, and there is a wider point. At the moment, a good deal of effort goes into income surveys and various household surveys, and some data are available through the tax authorities on levels of income, but this system will completely transform the landscape. Suddenly, data will be collected about every single mum and every single employee in the country, and perhaps the Minister will tell us how he envisages that being made available.

One would have to be careful, because individuals' pay data must not be allowed to get into the public domain. There are some security issues with this enormous new system. As long as those data can be protected, our understanding of pay and local variations—in north Wales and around the country—will be transformed by that rich, new data source.

My first suggestion, therefore, is that the information could help inform the level of the living wage, and my second suggestion is that it could be used to calculate the cost to employers of implementing a living wage. The Mayor of London has on several occasions argued strongly that paying the living wage is in the best interests of businesses, and in the foreword to the Greater London authority living wage unit's latest annual report, from which I quoted earlier, he states:

"Paying the London Living Wage is not only morally right, but makes good business sense too. What may appear to a company to be an unaffordable cost in a highly competitive market should more often be viewed as a sound investment decision. I believe that paying decent wages reduces staff turnover and produces a more motivated and productive workforce."

Citizens UK makes a similar point:

"Implementation of the Living Wage has gone hand in hand with improving the quality of low-paid jobs. As the pay is increased, employers have sought to increase the range of task

performed by the employees. Increased pay has led to greater staff loyalty and much reduced turnover in staff. These two factors alone produce significant savings and, combined with increased training and improved career progression opportunities, have the potential to produce greater overall productivity and much higher levels of service."

That has certainly been the experience of a number of the employers who have adopted the London living wage. For example, Barclays has commented on its experience of introducing the London living wage for its contract cleaning staff.

Regardless of whether the assessment is agreed, it might be helpful to have an indication of the cost to employers of paying their staff a living wage. The vast amount of data that will now be held by the state should make it possible at least to estimate by how much wages would need to increase. Should the Secretary of State wish it, it might also be possible to calculate the additional cost on a regional or even more localised basis, which would give us a better measure of the challenges involved in implementing the living wage across the country. My second suggestion, therefore, is that the system be used to estimate the cost to employers of implementing the living wage.

There is of course a weakness here. As we have discussed, the real-time PAYE system will not collect data on hours worked. It would be a major additional burden on employers to collect that information as well. The Department for Work and Pensions would like to have those data; it would enable it to apply the hours threshold for its exemption for working households from the benefit cap, instead of using the pay proxy, which will have the absurd effects that I described to the Committee on Tuesday. I wonder though whether we might end up with that data being collected, notwithstanding objections from employers, in which case a much fuller assessment could be made of the cost to employers of introducing the living wage.

That leads to my final suggestion, which is that the data could be used to assess employers' compliance with the living wage. In its written evidence to the Work and Pensions Committee, the Child Poverty Action Group stated:

"Given the data that the government will hold on employees and earnings through using PAYE to deliver Universal Credit, it will be more possible than before to identify major employers who exploit poverty pay and the top ups made by the tax payer. The government should commit to investigating if this will provide an opportunity for applying levies to companies that exploit the presence of Universal Credit wage-subsidies in this way."

To assess properly compliance with the living wage, the Government would need to collect details not only of earnings but of hours worked. If the Government eventually decide that they have to collect the information, they should use it to assess compliance with the living wage. Larger companies probably already collect details of hours worked—a lot of small companies will not—and they might well have the capacity to supply such information to HMRC monthly, alongside their earnings data.

2.15 pm

One line of inquiry for the report could be to consider requiring the largest employers to provide hours data or rates of pay for each employee alongside pay data, and to use that in assessing compliance with the living wage. Perhaps it might even be possible to publish some assessment of the extent of major employers' compliance with the living wage. That is an example of the kind of encouragement that the Government could give to promote the living wage, without making it statutory as the hon. Member for Dover suggested.

Those are three suggestions for how the information-sharing systems that the clause facilitates could be used to inform policy on the living wage. I give them simply as examples to highlight possible lines of inquiry for the report. Others could well be suggested, but the large new PAYE real-time monthly data collection will certainly provide a remarkable new resource.

The campaign for the living wage is an important progressive cause of our time that unites Members across the House and beyond. Citizens UK makes the point:

"It is recognised that one of the key aims of the coalition Government is to encourage people receiving benefits to take up employment. However, without the Living Wage, work is not a guaranteed route out of poverty".

The introduction of universal credit raises the possibility of further progress in realising the living wage and lifting many more families out of poverty. I hope that the Minister will recognise that opportunity and seek to grasp it.

Chris Grayling: I congratulate the right hon. Gentleman on an innovative, comprehensive and thoughtful speech about the living wage. He is right that concerns about the issue are shared throughout the House.

I appreciate that the debate has strayed quite a long way from the purpose of the amendment, so I will concentrate my remarks on that, although I will stray a tiny bit into some of the principles addressed by the right hon. Gentleman. I tell him with regret that he has a bit in common with Lord Nelson; I will explain why in a moment.

From the Prime Minister downwards, both sides of the coalition have voiced support for the principle of the living wage and the London living wage. It is my absolutely clear view—I agree with the right hon. Gentleman's point—that it is to employers' benefit to pay their employees a decent wage to secure their loyalty and avoid staff turnover, quite apart from the fact that it is the right thing to do.

It is right and proper that politicians from all parties should encourage employers to pay a living wage. One of the first steps that we took as Ministers when we entered the Department was to ask whether our own work force was paid a living wage, and every single DWP employee is. Employers across the public sector and outside it should all be encouraged to consider the issue seriously. As I said, it makes good business sense, quite apart from anything else. I agree with that point.

The work done by voluntary sector groups to highlight the issue has been enormously valuable. It is a sign of how our society works today that grassroots campaigns can have a significant impact on policy making and behaviour. Citizens and consumers wield enormous powers; sometimes I think that they do not understand how much.

Stephen Timms: I very much agree with the Minister on that point. He mentioned that employees of his Department all receive a living wage. Does he acknowledge the importance of contractors? That is what has made a difference in the banks. They have required their cleaning contractors to pay their employees at least a living wage.

Chris Grayling: I acknowledge that. It is very much on Ministers' minds and has been in our eyesight, as I am sure it was for the right hon. Gentleman when he was a Minister. This is an area where there is a commonality of view: it makes good business sense, it is the decent and right thing to do, and I applaud those who have campaigned for the living wage, including the Mayor of London. I support and endorse the comments made by the Prime Minister, but I am afraid that this is the Lord Nelson amendment because the right hon. Gentleman has it the wrong way round. I shall explain why.

First, we collect data as a matter of routine. We input that data into research projects for different Departments and across Government, and that will certainly be the case when universal credit is introduced. It is a matter of routine, and the right hon. Gentleman will be aware from his time in the Department that we spend a considerable amount on analysis of our own data and of research data gathered from outside the Department to inform policy making. That will not change, but unfortunately for him, in proposing an amendment that would require the Secretary of State to produce a report, he is looking down the wrong end of the data-sharing pipeline set out in the clause.

The London living wage and the living wage as an overall principle are a responsibility for the Treasury and the Chancellor of the Exchequer, so, while I am delighted to confirm that we will be sharing data of the kind that the right hon. Gentleman suggests with the Treasury and with HMRC, and that we will pool resources and work together to understand more clearly the nature of the audience we are dealing with over the introduction of universal credit, the impact of universal credit on poverty and the information that we garner as a result of the use of real-time data about employment trends or pay levels, it is the job of the Chancellor and his team at the Treasury to assemble the report and make recommendations on the issue.

As I am sure the right hon. Gentleman will be aware from his time in government, there are moments when it is wise to tread on the Treasury's toes and moments when it is not. In this case, I am happy to say to my colleagues in the Treasury that I hope they will make use of the data we collect to inform their thinking on the living wage. We will make findings available where it is appropriate to do so under data-sharing agreements and the regulations and rules set out by the Information Commissioner, so that outside researchers can use the data we have collected for some of the purposes that the right hon. Gentleman described. If he wants to achieve the goals set out in the amendment, I suggest that he wait for the next Finance Bill, propose an amendment to that and argue the case with the Chancellor.

Stephen Timms: I am grateful to the Minister for his support for the principle of the campaign, for underlining the cross-party nature of that support and for confirming that it remains a principle that the Government support. I am not persuaded by his response, though, because legislation does not specify which Secretary of State should do this. Our amendment refers to the Secretary of State, but that does not mean that it must be the Secretary of State for Work and Pensions. As I was very often told when I was sitting in the Minister's chair, legislation does not specify which particular Minister is referred to, or which is required. It is for the Government to decide which Minister should take this forward. I would like to test the Committee's support for this modest but important proposition.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 15.

Division No. 16]

AYES

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

NOES

Baldwin, Harriett	Miller, Maria
Bebb, Guto	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 negatived.

Clause 121 ordered to stand part of the Bill.

Clauses 122 to 127 ordered to stand part of the Bill.

Clause 128

SUPPORTING MAINTENANCE AGREEMENTS

Margaret Curran (Glasgow East) (Lab): I beg to move amendment 268, in clause 128, page 97, line 2, leave out from 'Commission' to end of line 8 and insert

'may with a view to ensuring that there are effective maintenance arrangements in place—

(a) take such steps as it considers appropriate to ensure that all parents eligible for child maintenance are made fully aware of the choices open to them to secure periodical payments by way of maintenance with respect to any child either by means of a maintenance agreement or by means of an application to the Commission for a calculation for the said child,

(b) upon receiving an application under sections 4 and 7 in respect of a child, take steps to establish with the applicant whether a maintenance agreement or an application to the Commission is the best means of achieving a sustainable and durable maintenance arrangement for the child in question, and to encourage the applicant accordingly.'.

The Chair: With this it will be convenient to discuss the following: amendment 269, in clause 128, page 97, line 13, leave out from 'to' to end of line 16 and insert—

'take steps to establish with the applicant whether a maintenance agreement (within the meaning of section 9 of the Child Support Act 1991) or an application to the Commission is the best means of achieving a sustainable and durable maintenance arrangement for the child in question, and to encourage the applicant accordingly.'.

Amendment 272, in clause 128, page 97, line 16, at end insert—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection 2 insert—

(2A) The Secretary of State shall not levy any fees on a parent with care, except in prescribed circumstances.".'.

Amendment 273, in clause 128, page 97, line 16, at end insert—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection 2 insert—

(2A) The Secretary of State shall not levy any fees until the Commission has achieved prescribed performance targets and standards set by the Secretary of State.".'.

Amendment 274, in clause 128, page 97, line 16, at end insert—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection 2 insert—

(2A) Except in prescribed circumstances, the Secretary of State shall not levy any fees on a parent whose income is below a prescribed level.".'.

Amendment 275, in clause 128, page 97, line 16, at end insert—

'(3) In section 6, subsection 2(g) of the Child Maintenance and Other Payments Act 2008, after "fees", insert "including, in particular, waiver of any fee where the applicant has experienced domestic violence from the non-resident parent, which may include physical, sexual, emotional and financial abuse.".'.

Amendment 289, in clause 128, page 97, line 16, at end add—

'(3) In section 6 of the Child Maintenance and Other Payments Act 2008, after subsection (2) insert—

(2A) The Secretary of State shall not levy on a parent with care any fee in respect of submitting an application, except in prescribed circumstances.".'.

Margaret Curran: We come to a very important section of the Bill that has attracted considerable press attention to date and will continue to excite further public comment, particularly as the Bill progresses and these clauses become more well known. It is important as it touches on a number of key issues concerning families and children. At the heart of the debate, our amendments are about supporting families through difficult transitions, ensuring that focus remains on the best interests of the child and on ensuring that parents fulfil their proper parental responsibilities.

I am about to make a very controversial statement, one that I never thought I would hear myself say, that will come as a great surprise to many of my friends and colleagues, which is that Mrs Thatcher had a point. *[Interruption.]* A great shockwave. I intend never to make such a controversial statement as that ever again, but let me quickly explain, and please do not ever take that comment out of context.

The point that that lady had when she established the Child Support Agency—she provided the drive behind its establishment—was to ensure that parents, particularly absent fathers, fulfilled their responsibilities to their children, even when they were no longer living under the same roof as those children. It is not appropriate that, when some parents leave the scene, they assume that their commitment to the child is somehow watered down, and the state is essentially left to pick up the tab when parents take off, if I might put it so crudely.

Over the years, there have been developments and improvements in the law and the operation of child support systems, most recently the Child Maintenance and Other Payments Act 2008. That legislation has great bearing on the discussions we will be having this afternoon and, indeed, as the Bill progresses. Some in the Government will argue that they are simply building on those developments, but that argument cannot be sustained, which is what our amendments will explore.

2.30 pm

We should bear in mind the key clauses of the 2008 Act, because they put into context the work of the Bill and our amendments to it. That Act provided a mandatory conversation. Wherever possible, private voluntary arrangements should be encouraged and supported, and we should utilise the machinery of information, counselling, mediation and so on to promote voluntary arrangements. It is now widely acknowledged that the Options service that was introduced is operating increasingly effectively to deliver voluntary arrangements. However, as I will explore this afternoon, the Government's proposals have taken us a step too far and have begun to undermine that drive.

I will turn to amendments 268 and 269 and consider the issue in some depth. The Government's proposals must be judged on key criteria: are they fairer, sustainable and, most importantly, effective in ensuring that the commission meets its main objective as set out in the 2008 Act? That objective was to

"maximise the number of those children who live apart from one or both of their parents for whom effective maintenance arrangements are in place."

Amendment 268 would ensure that the commission's priority continues to be the well-being of the child and that that is centre stage. It would ensure that the commission's overall motivation is what works best to reach successful and lasting maintenance arrangements. That is not what the clause seeks to do, which is to enforce voluntary arrangements simply as a means to reduce case load. That is a very important distinction in the debate today.

Amendment 269 applies the rationale set out in amendment 268 to existing applicants who wish to transfer to the new system. We support voluntary arrangements wherever possible. For the record, it is essential to remember the commission's original objective, as set out in section 2A of the 2008 Act:

"to encourage and support the making and keeping by parents of appropriate voluntary maintenance arrangements for their children".

The commitment to the importance of voluntary maintenance arrangements is already enshrined in legislation. We strongly believe that the commission's purpose must involve assisting and facilitating those voluntary arrangement wherever possible. However, the clause goes one step too far. It gives the Secretary of State power to enforce private arrangements, even if that may not always lead to the best outcome for the parents or children involved. To empower a Minister in that way is a very significant step.

Groups working with families across the country have clear reservations about introducing a mandatory gateway in a way that will undermine the importance of the commission's primary objectives, which are the best interests of the child. For example, the Church of England is, we can safely assume, a strong advocate of marriage and lasting relationships.

Kate Green: Oh yes.

Margaret Curran: I hear some support from behind me.

The Church of England has laid out its concerns about the proposals:

"In particular, we believe that child support maintenance is a crucial aspect of any welfare system which is concerned with children. Here we have some specific concerns about the Bill. The

[Margaret Curran]

intention of the Bill is to support parents to make voluntary arrangements about child maintenance wherever possible, thus reducing the need for applications to the statutory scheme, so saving the state money. However … mediation is an excellent principle but it cannot work in all cases… We fear that the laudable focus on mediation will fail to serve some of the most vulnerable families and children."

Therefore, there are real concerns about the proposed mandatory gateway effectively acting as a deterrent to parents who genuinely need the statutory system to help them deliver their maintenance payments.

According to the Government's consultation paper "Strengthening families, promoting parental responsibility: the future of child maintenance", to which I am sure we will make many references this afternoon:

"A family-based arrangement is one in which both parents agree on how to provide child maintenance for their child, how much and when, independently of the CSA or the courts. It is more flexible than other types of arrangement, emphasises collaboration between parents rather than conflict and helps to keep both parents involved in their child's life after separation."

No one could argue against that; we would all support it.

As far it goes, we strongly support the approach, but there is a bigger picture. We need to focus on the families who are not beyond the stage where collaboration and flexibility of arrangements are possible. To declare the gateway to be mandatory for all is an over-simplistic response to the very complicated and challenging consequences of family breakdown.

Currently, some 1.15 million parents using the Child Support Agency have never lived together or separated a considerable time ago, are part of a parental conflict, and the parent with care is poorer or out of work. The chances of individuals in those categories making successful private arrangements are therefore likely to be considerably lower than those of others who choose to make such arrangements. There is considerable research evidence, which we might discuss, to back that up. We need to look at the circumstances of parents and children who live in particular difficulty.

The way in which the mandatory gateway is to be applied raises a range of fundamental questions, with which the Minister has been engaged for some time. I shall pick two to clarify the issues involved. First, in what circumstances will private maintenance arrangements not be regarded as appropriate—when will the agency accept those arrangements? Secondly, in what circumstances do the Government envisage that a parent with care's application to the statutory scheme could be turned down at the gateway stage, and will there be a right of appeal? If it is mandatory, how will that element be enforced if the parent with care does not feel that it is proper and necessary?

Gingerbread, a well-respected organisation in this field, has provided various case studies of private arrangements that simply do not work. One individual said:

"I worked in a private agreement for many years without a hitch but then the non-resident parent decided he no longer wanted to see his child or pay for her, how is this my fault? I think the Government are overlooking one major issue in the breakdown of many relationships which is the issue I am faced with—my ex-partner sees the payment of maintenance as a payment to me to fund my lifestyle and NOT payment to support our child... In my case no amount of negotiating would work I'm afraid."

Will the Under-Secretary outline how the mandatory gateway will work in practice in such cases? What is the benefit of such cases going through the mandatory gateway? That will waste time and resources, and in the meantime the child will not receive any money.

Barnardo's has pointed out that forcing the mandatory gateway on families may cause more harm than good. It has stated:

"Implementing a compulsory gateway, forcing family based solutions where they could be inappropriate, and introducing charges for the statutory service, could lead to more acrimony and conflict amongst families. This could be particularly problematic when there are changes in parents' circumstances, for instance when they find a new partner"—

we all know examples of that—

"move into or out of work, or have another child. All these situations could lead to renegotiation of payments further down the line, and could lead to conflict between parents"—

and we know the impact of parental conflict, which

"is a key variable associated with negative outcomes in children from both intact and non-intact families."

I emphasise that the amendment does not discount out of hand the importance of reaching a family-based arrangement. It states that parents must be

"made fully aware of the choices open to them to secure periodical"—

and lasting—

"payments by way of maintenance with respect to any child either by means of a maintenance agreement or by means of an application to the Commission".

Our position is about not throwing more parents straight on to the commission's case load pile and telling people that going there will sort out the problem, instead of encouraging private arrangements—that would go against the objectives of the commission, which was set up by the previous Government. We strongly support voluntary arrangements, but we have to recognise that that does not apply in every case.

The commission must take all possible steps to ensure that in each individual case the parent makes the right decision in the best interests of their child. That should be our guide whether it results in an effective private maintenance agreement or an application to the commission. Alongside section 2 of the 2008 Act, the amendments would ensure that a careful balance was struck between encouraging families to pursue private arrangements wherever possible, but not to the extent of deterring applications from those parents who require statutory support to arrange effective maintenance agreements. If we do not have that balance, in effect the children will suffer, and it would be a breach of the fundamental principles for setting up the CSA in the first place.

Kate Green: I support both amendments. It is easy to underestimate how far we have come since the original formation of the Child Support Agency in 1993, in getting it to work and ensure the flow of maintenance to more children.

I do not pretend for one minute that the CSA is operating perfectly, but we are light years from the difficulties experienced by parents in the mid-1990s. Members of Parliament who were in the House at that time might remember their case loads when the agency was established, but they know now that the preponderance of child support cases in surgeries today is much lower, by a major factor. That is a tribute to the hard work of

the agency's senior management and staff over many years, often in the teeth of considerable public hostility, which has been difficult for them to contend with.

Also, after a time, the Labour Government realised that, fundamentally, a system that collected money in hostile circumstances from a non-resident parent while not in any way ensuring that that money was transferred to her or, more usually, his children but was instead held on to by the Treasury, which cut the lone-parent benefit, obviously created a sour and poisonous atmosphere in which to get money out of the non-resident parents. Now, if maintenance is collected, it flows in full to the parent with care of the children and, therefore, makes a contribution to their material living standards. That is an important point and a significant step forward.

We should, absolutely, want to incentivise parents to make private, voluntary arrangements if they can, provided that such arrangements are made without the kind of conflict that can be extremely damaging to families and, in particular, to children—provided that the arrangements can deliver fair maintenance. In many instances, it is all too easy for women to enter into voluntary arrangements, but for not very much, for small sums of money and for sporadic support from the non-resident parent. They often do so because it is too much grief to negotiate a sensible level of maintenance. If we are interested in improving children's material circumstances, as we all are, it is important for the right level of maintenance to flow and, as far as possible, for the child to have as similar a lifestyle and material circumstances as if her or his parents had not separated.

Since 1997, Labour has rightly seen the purpose of the child maintenance system as getting that maintenance flowing to the family. It is important that any increase in the use of voluntary arrangements is not to the detriment of that maintenance flow, which we have always seen as the paramount purpose of the system. One question I very much direct at the Minister: does that remain the Government's top priority in promoting voluntary arrangements? There is certainly a perception that the top priority is simply to keep people from using the agency, and not actually to ensure that the maintenance flows.

One thing we know about maintenance is that, once even a small amount starts to flow regularly and once the habit of maintenance is developed, such arrangements tends to stick. In truth, that is probably more important than how the maintenance arrangement is arrived at, whether voluntary or through the statutory scheme.

No one wants to prevent the making of good-quality voluntary arrangements, if they can be put in place. I think that the Government acknowledge that to make such arrangements more likely to be fair, good for children and lasting, parents might need some support. Ministers are keen to bring together a range of services in the community to support parents as they navigate their way through those voluntary arrangements. People are concerned about whether voluntary local services will continue to have funding available to provide the support that parents need.

2.45 pm

I welcome the extra money that the Government are finding for relationship support, but it is important to recognise that making a financial arrangement with a former partner will probably require many different kinds of advice. For example, people will need financial as well as relationship advice. They will need to know what the right level of financial support is in their financial circumstances and in those of their partner. They will need to know what financial commitments that, as parents with care, they incur to look after their child.

In a lengthy debate in Committee a couple of weeks ago, we expressed our concern about the loss of funding for local advice services across the piece. Although I welcome Ministers' intention to give additional support to organisations that provide help with relationship breakdown and negotiating some of its consequences, voluntary arrangements will not work if parents cannot access decent support. Will the Minister reassure us that making funding available, particularly to non-statutory organisations, is not a question of payment by result? If organisations were given incentives to get parents into voluntary arrangements, there would be a real risk of people ending up in unsuitable arrangements. I hope that he can reassure the Committee on that matter.

The requirement to go through the gateway might deter some parents from taking steps to achieve child maintenance, either through a negotiated private arrangement with a former partner, or through the statutory scheme. My hon. Friend—if I may call her that—the Member for West Worcestershire and I heard some interesting evidence about access to the gateway on Monday afternoon in the Select Committee on Work and Pensions. I think that the transcript of that session has not yet been published, so I am speaking from memory and from watching the video of the session this morning on the Select Committee website. I had a quick nip through it and scribbled down a few key points. A good watch it was too—I strongly urge hon. Members to go and watch it on the telly when Committee ends this afternoon.

The session was interesting. All the witnesses highlighted the fact that it is the parent with care—the applicant for child support—who must go through the gateway. Right from the outset, it is more likely that the non-resident parent will become disengaged. In the vast majority of cases, the non-resident parent is the man; more than 90% of parents with care are women. Even at the beginning of this maintenance journey, witnesses whom we met on Monday were concerned that fathers were distanced from arrangements for the well-being of their kids. People are concerned that the gateway itself should be designed so that there is equality of arms for both parents—they must both be engaged with it from the outset.

The hon. Member for West Worcestershire and I were struck by the figures that we heard in the Work and Pensions Committee on Monday, as were other Committee members. The number of parents who are not using the Child Support Agency is substantial—they receive no child maintenance at all. We were told that 60% of parents with care who do not receive maintenance through the Agency do not receive any child maintenance from the other parent of their kids either. We were all staggered by that fact. I thought that I was hardened to people's poor experiences of child maintenance, but I thought that that figure was shockingly high. Children are the ones who lose out.

We certainly hope that some parents among those 60% might be persuaded to make private arrangements, but they are not doing so at the moment. To put it at its gentlest, they need some pretty heavy-duty persuasion to begin doing that. We probed a little more in the Select Committee. We asked, "Who are these people? Why aren't they making claims? What is the problem with them?" We were told by our witnesses that in 30% of cases, the parent with care did not know where the non-resident parent was and had lost contact completely. Let us remember that many arrangement cases affect couples who have perhaps spent little time together before separating and may not have had any meaningful relationship. In 20% of cases, the parent with care believed that the non-resident parent would not pay up, so they did not intend to go to any effort to get them to do so, because they believed that that was a hopeless goal.

That underestimates how far the Child Support Agency has moved in its effectiveness. Its original reputation has had a long-tail bad effect right through to today, nearly two decades later. We can all understand why that happened. That is not a point about the Conservative Government who introduced it any more than it is about successive Labour Governments. Governments on both sides have had huge difficulties over many years in getting the operation of the CSA right.

In recent years, the CSA has been on a more even keel. Inevitably, that message does not get through very quickly to parents. What they know is a long period of considerable operational difficulty, which has naturally deterred them from having any confidence in it. There is an opportunity, which I am worried may be about to be lost by this legislation, to begin to build up the reputation of the CSA, now that its performance is becoming stable and stronger. I pay tribute to the staff who have helped to bring that about.

The other point I want to make about voluntary arrangements concerns the nature of the people who enter into them. Again, we discussed this in the Work and Pensions Committee on Monday afternoon. We asked Caroline Bryson, a social researcher who had been involved in research on child support arrangements—I think I am right in saying that it was for the DWP—particularly as a researcher at the National Centre for Social Research a couple of years ago, who entered into voluntary arrangements. To a considerable extent, she felt that those people were something of a self-selecting group. Someone was more likely to enter into a voluntary arrangement if they had a longer, more stable relationship before separation. That probably meant that they had been married, or in a long-standing, co-habiting relationship over a number of years. She said that the separation had to be amicable. It is difficult to negotiate a voluntary arrangement if there are difficulties and conflict in all other aspects of the relationship.

Caroline Bryson did not say this, but in my experience, particularly when I was director of the National Council for One Parent Families—which is now Gingerbread—it tended to be the better-off, professional, qualified and generally higher socio-economic groups of parents who were able to make successful voluntary arrangements. Again, that does not mean that we cannot facilitate arrangements for others in some circumstances, but a heavy-duty infrastructure of support and advice would be required to ensure that they can make good—for the children, first and foremost—and sustainable arrangements.

Ian Swales: The hon. Lady's input is interesting—she obviously has great knowledge in this area. To help us better understand the effect of the legislation, can she, from her experience—I realise this will not be based on a huge amount of data—tell us what proportion of people in break-ups where children are involved are likely to come to a voluntary arrangement, with the finances at the right level, without any intervention from anyone else?

Kate Green: I cannot really, except to say that some 60% of people are not using the CSA and receive no maintenance. I have no doubt that that could be improved, but it is a massive gap to fill and an awful lot of children. If the parent with care goes through the gateway, she will have to demonstrate that she has genuinely made efforts to reach a voluntary agreement. That is not just picking up the phone and saying, "I don't think it will work for me." I say "she", because it probably will be a she. That, of itself, may be likely to deter a substantial proportion of the 60% who are not in the system now.

Ian Swales: I think that the hon. Lady made a further point. Not all of the voluntary arrangements that have been made are at the right level compared with the statutory arrangements that will be made through the CSA.

Kate Green: Yes, the hon. Gentleman is right. As a result of the Government's investment in advice on negotiating voluntary arrangements, some of those voluntary arrangements might become better. They might become stronger, and there might be more systematic payment of the right level of maintenance. Later in this debate, we will talk about the calculation service and how the Government intend to make it work. There is potential to improve the situation in some cases but, from all of my experience, it is more likely that a substantial number of those families will not come anywhere near the gateway and will not receive any support or maintenance arrangements and payments at all.

It is important that we address the points on changing circumstances made by my hon. Friend the Member for Glasgow East. Interestingly, the Select Committee was told on Monday that voluntary arrangements tended to work quite well when children were younger and during the early years, but as children became older, as the arrangement got older and circumstances changed, the arrangement might come under pressure. My hon. Friend mentioned some of the pressure points that make it likely that a non-resident parent will lose his enthusiasm for an arrangement that he made. The arrival of a new baby or second family, his forming a new relationship, his moving to another part of the country for work, and so on, may mean that he has less sense of being around his children.

My second question is what support and infrastructure will the Minister provide for those who have made voluntary arrangements, perhaps with the help of the voluntary service or others, which she is keen to facilitate? What support will be available to help people to renegotiate and recalibrate arrangements over time?

I am concerned about the gateway proposal. I accept that we now have a choices model, which was introduced with the creation of the Child Maintenance and

Enforcement Commission some years ago, but the compulsion to go through that gateway, and the way in which the Government have designed it, is likely to deter a substantial number of parents with care from having anything to do with child maintenance arrangements. That means that maintenance will not flow to the benefit of children, so their material circumstances will deteriorate. Fewer cases will be handled by the statutory scheme, because people will not go near child maintenance arrangements of any sort, which will increase the cost per head of dealing with cases that get into the statutory scheme, so it may not be a great cost saver in the end. I am particularly concerned about the impact on child poverty in such families.

Some time ago, I tabled parliamentary questions about the impact of maintenance arrangements on child poverty. Ministers said that the changes to child maintenance will have no impact on child poverty. In statistical terms, that is probably right, because the differential of a few tens of thousands of children either way may not show up in the statistics, although I find it surprising. The parliamentary answer I received was thoughtful, and it explained how the child poverty impact might not show up in the statistical data. I accept what I was told.

Whatever the case may be with the national statistics, there is no doubt that the circumstances of children in families to whom child maintenance does not flow will be worse. That is why our starting point is that any gateway to get people into the system must be designed to ensure that the maximum possible amount of maintenance flows to the benefit of children. I am concerned that introducing the gateway as proposed will get in the way of that.

Sheila Gilmore: This proposal builds on the wider consultation and derives from the Government's view of how to proceed with child maintenance. I referred in the previous sitting to legislation by assertion. There appears to be a view, which is asserted rather than proved, about the nature of statutory child maintenance arrangements. Slightly oddly, the consultation began by effectively challenging everybody involved to say that they had the wrong picture of those who went through statutory schemes and that they might be "surprised to know" that quite a lot of people who went through the statutory system retained contact with each another or with their children. I am not surprised about that. We are creating a straw man in order to knock it down and say, we need to largely dismember—because, in the end, that is what will happen here—the statutory process.

3 pm

The intention, as I understand it—although it does not necessarily appear in the Bill; it is considered that it does not require legislation—is to put everybody through the gateway process, not just new applicants and people who may separate in the future. In a relatively short space of time—over a two-year period, it was suggested, although that may change when the results of the consultation come through—even for people who have a statutory arrangement in place, that arrangement will be closed and people will be told effectively to start going through the process again, which is quite an unusual way of dealing with change. I think that that stems in part from assumptions about the existing processes and statements that do not necessarily bear out a lot of investigation.

It is worth remembering why a system was introduced in the first place. The Conservative Government of the day were extremely concerned that existing arrangements—those made through courts, agreements that could be reached, or voluntary arrangements—simply did not provide sufficient maintenance. The system, such as it was, did not work. The replacement was not set up for no good reason; it was set up because the problem was perceived to be that absent parents were not making a sufficient contribution for their children. There was therefore a concern that the state was required to cover far too much of the cost.

The consultation document says:

> "In the past, efforts by the State have had the effect of taking responsibility away from parents, instead encouraging them to use a system in which conflict is inherent".

Yes, there is often conflict around separation, but my experience as a family lawyer was that the conflict often lay with the parties themselves. Statements are often made in relation to changes in the legal system, in the legal aid system and now in child maintenance, that somehow, statutory or legal arrangements are the ones that cause conflict and bad feeling in separation. Actually, what causes it is usually the circumstances in which people find themselves. I have often attended joint negotiations where, far from it being the legal process or the lawyers present who caused the situation to deteriorate, the real anger, bad feeling, disappointment and all the emotions came out of the separation. That is what drives a lot of these feelings and, indeed, most of us spend most of our time calming people down and trying to negotiate. The notion that we spend all our time ratcheting people up to court is simply not true.

Jenny Willott (Cardiff Central) (LD): Does the hon. Lady agree that that often depends on how recent the break-up is? If it is a recent break-up and people are trying to get the parties together to negotiate, they might have a better chance of getting an agreement, but if it is a couple who split up a long time ago, and have been in the system and the CSA for a long time, getting the parties talking, when they probably have not talked for a number of years, will be much harder, and it will be harder to reach a compromise agreement.

Sheila Gilmore: There could be a problem in moving everybody back through a system of this kind if it involves saying, "Right, we'll close your case and you have to start again," and people have not had that kind of contact. It can cut both ways, because the initial stages of separation are also extremely painful, and it can be difficult to get people to act in the way they might otherwise. On the other hand, there are circumstances in which people show willingness to enter into arrangements, whether through guilt or otherwise, which at a later date might become more difficult, possibly because of a change of circumstances in their own lives. As people form new relationships and even have further children, the whole thing becomes quite fraught.

While it sounds laudable to say that people should be able to reach their own arrangements, to translate that into saying that they must do that beforehand changes the tenor of the debate and the experience people have. Nor is it the case that there are a lot of institutions out there that can give people the necessary help. That certainly was not my experience, and I do not think

[Sheila Gilmore]

things have changed very much. In an ideal world, it would be good if organisations existed, and were well funded, that could pick people up at the beginning and give them all this help and assistance. However, my experience is that the number of organisations that can do that is limited. Family mediation schemes often struggle for funding and are not always in a position to take people on quickly, or indeed to take on all those who might want mediation.

I have a further issue with mediation in financial situations. Mediation is the flavour of the month—that has been raised already in relation to legal aid matters—but where financial issues are at stake, mediation can be extremely difficult The concept of mediation is that everybody comes together, compromises and comes to some kind of agreement. If there is an imbalance of power between the parties—for instance, if one partner has all the financial cards, or has hidden financial cards in their hand—one must be very skilled at mediating them. There are some very skilled mediators, but some are not that skilled. Sometimes what may seem like a mediated settlement is one person rolling over and saying, "Okay, I'll accept that," for the sake of peace and quiet, reaching an agreement or simply not getting into any further conflicts with the former partner. That is not necessarily fair.

We have to be very clear that it is not just in cases of domestic violence, which it has been suggested should be excluded, that such problems arise. There are many situations that would not necessarily add up to domestic violence, but where there is a serious imbalance between the parties in their financial capacity and their power in the relationship. If the thrust is to say, "Go away, reach an agreement and don't come back unless you've really failed in that," that may lead to people making arrangements that are very weak and not enforceable—that is, unless they have signed a legal agreement that can be properly enforced, which is why it is also important that that option is given to people.

A legal agreement is better than a purely voluntary agreement, but a lot of people working in this field, including those who remember the situation pre-CSA, have concerns. I had criticisms of the CSA from its start, and I could bore everybody with why I think it went badly wrong in its early years, but it was introduced to meet a need, and I do not think that that need has necessarily gone away. If we take the view that we will resolve the problems by taking people out of the statutory system and requiring them to try to reach voluntary agreements, we will find that the amount of child maintenance received by many people will reduce, for the reasons that I have given. If we are to have some form of gateway, it has to give people all available information very clearly, not lead to people feeling forced to go away for a while to try to negotiate with someone who, by definition, they are having difficulties in dealing with.

It is not clear from the Bill what are "reasonable steps". At what point could someone say, "I have taken reasonable steps."? What will they be required to do? Will it be that they have had to go to some form of mediation? What if there are no such forms of assistance available? Will it be good enough for them to come back and say, "Well, I tried to talk to him"—it probably would be "him"—"but he wouldn't talk to me. I have at least tried."? We need to know more about what "reasonable steps" means, so that people can pass the gateway and use a statutory system that, for all its faults, has been recovering substantial sums for children and has created greater acceptance of the idea that absent parents, of whatever gender, should pay for the upkeep of their children. Regardless of other issues, it is important to hold on to that and not devalue it.

I would be concerned about going back to a system in which people were acting on a largely voluntary basis, perhaps without the infrastructure described in the consultation paper. It would sound good if there really were such great resources in operation, but I do not believe that they exist countrywide. There are some good groups working, but I doubt that they have the countrywide coverage that would enable people to get assistance and advice, particularly if simultaneously steps are taken—in England and Wales at least, but gladly not in Scotland—to reduce the legal aid, advice and assistance people can get to pursue their own legal remedies. Both those things are going on at the same time, and I urge the Minister to consider the amendment before proceeding with the provisions.

The Parliamentary Under-Secretary of State for Work and Pensions (Maria Miller): It is good to be able to consider these important provisions, which look at the issues of child maintenance. If I may, Mr Weir, I shall set in context my comments on the Opposition amendments, but before I do so, it is important to reiterate something that the hon. Member for Stretford and Urmston said and to pay tribute to the hard work done by the staff of the Child Maintenance and Enforcement Commission and the Options service. They are at the sharp end of the business and have to deal daily with the problems that are still very real in a very difficult system. They do a lot to help families and our constituents.

However, there is an inherent contradiction in the contributions to the debate on whether there is a need for a gateway for child maintenance. On one hand, the hon. Lady talked about her shock at the number of children who are still not receiving financial support. I share her shock at some 50%—or 1.5 million—of children in this country living in families where their parents are separated or simply not being in receipt of effective financial maintenance. Yet, on the other hand, we hear that Opposition Members are quite happy. They even talk about a stable and stronger maintenance system that is on an even keel. Perhaps they have been listening too much to what the previous Government said about the improvements that had been made to our child maintenance system. Perhaps they are remembering the words of John Hutton, now Lord Hutton of Furness, who talked in 2006 about a brand new system being in place by 2010. Actually, the facts and the reality of the situation are somewhat different.

We inherited a tragic child maintenance system that is still failing. It is doing so because of the number of children who have no effective maintenance in place and because the system is still running two parallel computer systems at great financial cost to the taxpayer, and at the great cost of taking people's efforts away from ensuring that we provide the best service to everyone. We must remember that we have a record number of clerical cases, which the two computer systems cannot cope with. A third contract is required with a computer systems provider to deal with those cases.

The system is not quite the strong and stable one that has been characterised in comments made by the hon. Ladies. The previous Government discussed the introduction of the new CMEC system with a fanfare, but we have not yet achieved all the objectives that were set out.

3.15 pm

Stephen Timms: Anyone who has held MPs' surgeries over a long period would agree that things are a lot better now than they used to be. What proportion of parents with care does CMEC currently deal with? My hon. Friend the Member for Stretford and Urmston provided a figure for the proportion of those whom CMEC does not deal with, who are not receiving any maintenance. What is CMEC's market share of the total number of parents with care?

Maria Miller: As I said, approximately 3 million children in this country live in separated families. Effective child maintenance arrangements are in place for only half of those. The vast majority—more than 800,000—of children who receive maintenance through CMEC do so through the statutory system, and around 90,000 receive maintenance that may have been loosely attached to the Options system. The right hon. Gentleman should keep those figures in mind.

I share the hon. Ladies' concern that although CMEC's role is to try and ensure that the maximum number of children have financial support in place, we still have great difficulty in making inroads into the many situations in which children do not have financial arrangements.

Margaret Curran: I am sure that this is a general point that we will discuss many times in future: what is the objective of the Government's provisions? Is it to reduce the number of those 800,000 children who rely on the statutory service, or is it to reach out to other children and parents with care who do not have any arrangements in place?

Maria Miller: I would say firmly and frankly that it is about getting more children to have the right financial support in place. I am sure that the hon. Lady would agree that there is enormous room for improvement in the system. That is a clear answer to her question.

To pull ourselves back to the specifics of the amendments, when the coalition Government took over, we were given an opportunity to reappraise the previous Government's progress in their much fanfared reform of 2006. It is fair to say that a great deal of work had been done to reform the IT systems, which, as we know from newspaper headlines, caused many problems in previous years. The previous Government had, however, somewhat lost focus on the important work that had been carried out by Sir David Henshaw on child support. He looked, in particular, at the type of maintenance system that might best support arrangements such as those that the hon. Member for Glasgow East is looking for.

Sir David Henshaw's report recommends creating

"a system that allows parents to make their own arrangements for child support, with quick and effective involvement from the state where such arrangements are not possible."

That system was at the heart of his recommendations—it may have been his prime one—but it was not at the heart of the work that was being done when we took over last May. The previous Government had drifted away from one of Sir David Henshaw's core recommendations, and they had drifted away from one of their important announcements on their plans for the way forward.

With the Bill we are trying to pull ourselves back on strategy and into the sort of space where we can effect the behavioural change that Sir David Henshaw talked about in his report, which will ensure that more children have the effective financial arrangements that we all want.

Kate Green: How would the Minister respond to the concern raised by the witnesses to the Select Committee, who said that at the gateway stage it will be difficult to assess whether a maintenance arrangement might be effective without talking to the non-resident parent, because whether the maintenance flows depends on his actions?

Maria Miller: It is difficult to give a general response to that question. Every family is different, as are the circumstances that they face. There is an overwhelming piece of research that shows that the vast majority of parents want to do the right thing for their children and get support in place, and do not want to do the wrong thing by their children.

There will be a system of support to help parents understand how they can establish effective communication, perhaps overcoming some of the problems that the hon. Lady outlined in her intervention. At the moment, it can be difficult for people to access that until many years after they have split up, which leads to difficult situations becoming entrenched and, in certain circumstances and cases, encourages leaving unchallenged the sort of negative behaviour that we have all seen and dealt with. With the gateway, we will put in place early intervention and support for parents immediately after separation, which could avoid some of the problems that the hon. Lady outlined in her intervention. That is at the heart of clause 128.

I will now address the amendments. Clause 128 allows us to require an applicant to take reasonable steps to make arrangements before making an application to the statutory maintenance scheme. Several questions have been asked about what those reasonable arrangements might be. Reasonable arrangements will depend on the individual circumstance. The gateway is not a cut-and-dried, hard "people are in or out" arrangement. It will prompt people to consider what they could do to reach the best arrangements for their children, and it will challenge them to think about their children from the start. The gateway will direct and signpost parents during those early days to the help that can make all the difference, rather than leaving a festering situation to become entrenched and difficult over several years, which is what happens now.

Kate Green: I want to press the Minister on that point. Clause 128 certainly requires the parent with care to go through that process, but there is no obligation on the non-resident parent that I can see. It is almost certainly his behaviour that will be predominantly important in determining whether maintenance flows.

Maria Miller: That is one of the questions that the hon. Lady asked earlier, and I will come to it. If she will let me get to it, I will answer her question in full.

Children are most likely to prosper when both parents are involved in their life—I am sure that no member of the Committee would disagree with that—but too often one parent becomes disengaged from a child's life. Often that is because of the friction and problems that are created by trying to ensure that financial arrangements are in place. We want to ensure that parents see that putting financial arrangements in place and co-parenting are the norm post-separation. It is right that we encourage parents to work together. The hon. Ladies may feel that that is the case at the moment, but if, as I did, they were to listen in on some of the conversations that Options has on a daily basis with parents who do not know where to go to for help, and who do not know how to resolve some of the circumstances they face, perhaps they would realise that all is not quite as rosy in the garden as they would like to think.

We are dealing with a sensible and adult section of the population when we talk about CSA customers. They are parents and are often in their late 30s. They have often been married for five to 10 years, or have at least been in a secure and stable cohabiting situation. It is interesting that six out of 10 parents have contact with their ex-partner. Most often that contact is through the children, but there is some contact. Unfortunately, the child statutory maintenance system can create situations that make it difficult for those people to maintain those sorts of relationships on an even keel.

Sheila Gilmore: Is it not the case that people resort to the statutory system, unless things have hugely changed in the past two to three years, because they cannot reach voluntary arrangements? A picture seems to be emerging that the only thing people do is rush off to the statutory system, creating a conflict and making their relationships difficult. In reality, many reach their own arrangements. Those who cannot do that have gone to the CSA for help. In some ways, there is no necessity to put another bit of process in place, which may discourage or delay those who cannot make their own arrangements.

Maria Miller: The data suggest that the hon. Lady is not quite right. Half of the people in the statutory system would like to make their own private arrangements, but they do not feel that the right support is there. In fact, some 75% of non-resident parents would like to do that.

Sheila Gilmore *rose—*

Maria Miller: If the hon. Lady allows me to finish the point. We are talking about ensuring that there is a gateway in place that can direct people to the right support, rather the current position, whereby those individuals go straight to the statutory system. Instead, they will be signposted to the help that could make all the difference. We will come on to talk about the calculation-only service, which will allow just the sorts of parents that the hon. Lady is talking about, who currently end up in the statutory system, to go and work with Her Majesty's Revenue and Customs data to understand what private arrangements might look like and to reach those themselves. That information, support, advice and signposting is simply not there today. It leaves too many parents grappling around for many years to get support to make good arrangements for their families.

Sheila Gilmore: The scenario that the Minister is painting does not reflect my experience as a family lawyer. Very many people do and did make their own arrangements. If they were able to do so, they would not have been hammering at the CSA's doors. This picture of there being an awful lot of people who find themselves in the thrall of the CSA by some kind of system that pursues them is not one with which I am familiar. Maybe non-resident parents have found themselves in that position. To say that 75% of non-resident parents would rather make their own arrangements may simply mean that they feel that if they made their own arrangements, they would pay less.

Maria Miller: The hon. Lady makes an assertion; I was responding to her original intervention, based on a statistical fact that there are many people within the CSA currently, who, with the right support, would not be there. Given that we know that arrangements made outside the statutory system are more likely to endure and more likely to ensure that finance is flowing, the hon. Lady would probably agree that the evidence suggests that we should pursue those arrangements. That was the approach at the heart of Sir David Henshaw's recommendations to the then Labour Government in 2006. The then Secretary of State accepted them and worked on them as a platform on which to reform CMEC, as it is now.

Kate Green: The Minister says that many parents in the statutory system would prefer voluntary arrangements. We know that voluntary arrangements tend to last, which suggests that we could have a better picture if more of those people were removed from the statutory scheme and made a private arrangement. Will the Minister not respond to the evidence that the Work and Pensions Committee heard from Caroline Bryson about the characteristics of those who made successful arrangements? She said that they were more likely to have had a long-standing relationship, be from better-off socio-economic groups and to not have conflict in the relationship. Can the Minister be confident that those in the statutory scheme who say that they prefer a voluntary arrangement will have the right characteristics, even with support, to make that voluntary arrangement work?

3.30 pm

Maria Miller: I thank the hon. Lady for her intervention. Perhaps I can go back to the statistics. She implies that many people within the CSA's current case load would not fall into the category that she is talking about; people who have a good, long and enduring relationship with their ex-partner. I suggest that the statistics show that many people in the CSA's current case load have regular contact with their ex-partner. About three-quarters of CSA parents have had contact with their ex-partner in the past year, and of those, around half maintain contact once a week or more. The average age of a parent with care who is in receipt of child maintenance is about 39. As I said previously, many of them have

had quite lengthy relationships—up to 10 or 15 years is the norm—so I do not recognise the picture that the hon. Lady paints of CSA parents being in some way different from other people. In fact, they are pretty average.

Charlie Elphicke: In terms of efficiency, how much of every pound raised by the system is eaten up by administrative costs by the machine?

Maria Miller: I thank my hon. Friend for his comment. The downside to CMEC at the moment is that it is extremely expensive. It costs £440 million to the taxpayer every year, and for every pound that we move from one parent to another, it costs the taxpayer 40p. It is a very expensive system. I am not sure that anyone would resent that if they felt that the money was used in the most effective way possible, but going back to my comments to the hon. Member for Edinburgh East, we believe that at least half of parents with care and, research would say, three-quarters of non-resident parents would, with the right support, prefer not to be involved in the CSA, creating the sorts of costs that I have outlined.

Charlie Elphicke: My hon. Friend the Minister sets out the direct financial cost. Is there not an indirect cost as well, in the misery that the organisation is known to strew up and down the land, in all our constituencies? Even now, that has a cost—an emotional, personal cost deeply felt by many people. Is it not right that as many people as possible should settle their voluntary arrangements quickly and painlessly, so that they do not have to engage with the organisation and can use their money much more efficiently?

Maria Miller: I thank my hon. Friend for his contribution. The problems created by the CSA are probably to do with the way that it is set up, its structures and the failing IT system, which seems to have been ignored in earlier comments by Opposition Members. People strive as much as they can to make the system work for families, but if he is asking whether people would be better off making their own arrangements, the answer is, yes, many people would be. I stress, however, that it is important that we have a statutory system for people who simply cannot do that, for whatever reason. Perhaps they have had such an acrimonious breakdown that they cannot see through that at that stage in their life.

It is important that we have both systems running in parallel, but that we get back to the recommendations that Sir David Henshaw made in his report in 2006. They were incredibly important, valid and accepted by the Labour Government at the time, but they are perhaps not now so much in line with Labour Members' thinking, I do not know. Unfortunately, the system can embed the sort of conflict that my hon. Friend has mentioned, and until recently some parents were compelled to apply to it. Parents might not be aware that they need not do so now.

In delivering the clause, we will develop a gateway that parents go through before an application to the statutory system. It will take the applicant through the various maintenance options open to them and support available. A significant proportion of parents feel that that would be an incredibly powerful thing for them to have access to. Where collaboration might be feasible, it is important that they are supported early on, before conflict becomes entrenched. The gateway could direct people to the further support that is provided in our communities and that, as we all know, is powerful and can make a real difference to people's family lives if it is known about and taken up.

Although in some cases the conversation will be a step towards the statutory scheme, in others it will be a step towards receiving more support to reach individual arrangements. At the point of the gateway, the conversation will vary according to what the applicant says. We can only ever ask parents to take reasonable steps, and the requirement of the clause is therefore self-limiting. We do not see the gateway as a complete barrier for people moving forward into the statutory scheme, but simply as a way to ensure that they take account of the available support and are aware that they have several choices about how to make maintenance arrangements, rather than thinking that the statutory system is their only option.

In addition to asking applicants to take reasonable steps to make family-based arrangements, the clause will make it easier for parents to access the range of support that they need. Research indicates that one key driver of child maintenance, whether or not a successful arrangement is in place, is the behaviour of and the relationship between the ex-partner and the non-resident. We know that separation is a time of huge distress, and it is not always easy for people to set aside their emotions and put their children's best interests first. To be able to identify effective support that helps parents work together at that point has to be in the best interests of all concerned, which is why the proposed system has been positively received by so many groups that are expert in this area.

Kate Green: I am sorry to ask the Minister again, but how are both parents to be engaged in the process when only the parent with care is required to go through the gateway?

Maria Miller: I was coming on to that in my responses to the hon. Lady's questions. The answer is just as we have now with the Options service: both non-resident parents and parents with care call in for advice. She is not characterising the situation with complete accuracy when she says that there is no support for non-parents now; there is, either through CMEC or the Options service. It is entirely proper and right for a non-resident parent to be involved in that process.

We are working actively with experts in the field, such as Families Need Fathers, Relate, One Plus One and the Centre for Separated Families. We want to do so to ensure that we can involve both parents in the process and that both parents can receive support that can make a difference. Unless both parents feel supported, it will not be easy for families to come to arrangements that, as we know from research, are in the best interests of the children.

The existing Options service goes some way towards doing what the clause is intended to provide, but it focuses primarily on child maintenance and we want to go further. That came home to me when I listened in to

[Maria Miller]

conversations between Options service personnel and parents. Parents showed their frustration—they know that they need to download so much of what is going on in their lives to someone, but the personnel can talk only about financial stuff and cannot even direct parents to the support that might make such a difference on the other issues that they face. We are talking about a service that will be a real progression from the existing Options service, and it will be even stronger because of the integral involvement of experts working in the organisations that I have mentioned.

I hope that hon. Members have found my briefing note on our approach of use and interest, and I certainly welcome their comments.

Margaret Curran: How will the gateway work where mediation is signposted to a family as the best way to resolve the dispute, but the non-resident parent does not turn up at that mediation? What are the implications for the parent with care? Are they then allowed to go straight to the statutory service?

Maria Miller: Absolutely; if that is what they feel is most appropriate at that time. As the hon. Lady will know from working with her constituents, every family situation is different. What will be appropriate for one will not be so for the other. Mediation may well be an option that some want to choose. We will work closely with our colleagues in the Ministry of Justice on the sorts of reforms that they are putting in place, to ensure that there is clear read across between the two. However, if any intervention or support is not helping to get to a resolution on child maintenance, a parent with care can, of course, opt to go into the statutory system.

As I have said from the outset, the gateway is there not to prove an insuperable barrier for parents going forward into a statutory system, but to allow people to intervene at a really timely moment in the family's life to ensure that they get the right support. Currently, many find it takes almost years to identify and get hold of such support, often too late, when the sort of negative behaviours that we are only too aware of have become entrenched.

I hope that that outlines some of our thinking in this area. I will now try to answer some of the issues that the hon. Ladies have raised. The hon. Member for Glasgow East set out very useful criteria for us to evaluate whether our policies go in the right direction, and I completely agree with her. Fairness, sustainability and effectiveness are criteria that I would also use to analyse whether our policies are working: fairness, because we are trying to make sure that we keep both parents involved in a child's life and get the right outcome for the child; sustainability, because whatever arrangement is put in place, it will be something that will last into the future; effectiveness, because only effective financial arrangements will make the sort of difference to children's lives that all members of the Committee want.

The hon. Lady also asked about the number of people who are already making voluntary arrangements. I may have already talked about the figures, but of the people who go through the current system, only about one tenth will make their own family-based arrangements. Yet we know, as I have already said, that more than half of parents feel that their own arrangements would be what they want first and foremost, but that the support is not there.

The hon. Lady asked when it is not appropriate to make a family-based arrangement and how we would characterise that. As I said—I hope that she feels that this has been clarified—we can only ever ask parents to take reasonable steps to make their own family-based arrangements. If they and the people whom they deal with in the gateway feel that a reasonable step has been taken, the clause will be self-limiting; they can opt into the statutory system. It will be important to have extremely well-trained people involved in the gateway, but I have been very impressed with the training and support that people already get through the Options service. We have a good point from which we can movement forward. Regarding when the gateway is not appropriate, the hon. Lady asked the same the question in two different ways, and I hope that she feels that I have answered it.

The hon. Member for Stretford and Urmston talked about a number of different issues regarding priority. She asked whether the intention is to get maintenance flowing, and I would agree; it is. At the moment, the average payment to a family is some £30 a week, which can make a real difference to children's lives. However, the shocking situation—to use her own words—is that currently 50% of children in separated families do not have that money flowing. The system is not working for them, and that is why we need to consider how we can encourage people to make their own arrangements if they are able to do so, and perhaps leave more space in the statutory system for those who are finding it very tough.

The hon. Lady talked about the need for a range of advice. I hope that she felt that my comments earlier showed my recognition of that need. We must give parents a real opportunity to get a wide variety of support and advice—something that Options is currently unable to do. She also discussed the importance of fathers being a part of the process, and I hope that the question asked by hon. Member for Glasgow East has helped me to answer that. I see fathers as being active participants in the gateway process if that is what they choose to do. I hope that they choose to do that, otherwise will be difficult for families to reach such co-operative arrangements.

3.45 pm

On child poverty, it is important to say that the hon. Lady was absolutely right that the Government's analysis of the impact of this policy is that it will not have a negative effect on child poverty. That is probably predominantly because all parents with care keep 100% of their benefits when they are in receipt of child maintenance, so child maintenance is over and above the benefit level, which, from memory, is some £219 a week for an average lone parent with two children after housing costs. Maintenance is on top of that, whether it is done through a private arrangement or the statutory system. If a parent is in work, it is a tax-free lump sum, which shows that the Government recognise the financial straits that lone parents are often in.

I have mostly covered the other points that the hon. Member for Stretford and Urmston raised. She talked about funding in terms of support for services. Obviously,

the Government already make a great deal of funding available for services such as family support, parenting support and relationship support. The Department for Education is currently spending around £30 million over the next four years on relationship support, and that also includes support for separating couples. The hon. Lady will no doubt be aware that my Department also spends some £5.6 million a year on the Options community service, so a great deal of support is going in there. To reassure her, let me say that as we look at the geographic spread of that support, we will ensure that there is good information, support and advice on the ground locally as well as centrally and I will be looking at that with the Department for Education. We are working together to ensure that the support is available not just down the telephone line or on a website, but face to face as well.

The hon. Lady talked about parents with care entering into maintenance arrangements that are not necessarily in their best interests. That point was reiterated by my hon. Friend the Member for Redcar and the hon. Member for Edinburgh East and they are absolutely right; that probably does happen. There is no longer a compulsion for people who are on benefits to be part of the statutory system. They can come to their own arrangements, but the support and advice are not always there for them. There is a good online calculator service, but it does not have access to the real income data of non-resident parents. I fear that there may well be people who are not making the best sorts of arrangements for themselves, which is why we wanted to make these changes and why we think the revisions in the Bill are so important.

The hon. Member for Stretford and Urmston also asked for some assurance that we are not establishing a payment-by-result regime. Again, that is not something that we are pursuing. We are listening to the third sector about how we can best shape this support. I do not want to move away from where the expertise lies, which is in the sorts of organisations that we all work with day in, day out in our own local communities.

Sheila Gilmore: Does the Minister see a place in all this for legal advice? I am not saying that the voluntary and third sector, if properly funded, do not do a good job on this. One of the ways in which we have kept people out of the statutory system has been good legal advice at the beginning of separation—the drafting and preparation of separation agreements that can be legally binding on people. I wonder what conversations the Minister has had with her colleagues in the Ministry of Justice about being able to facilitate that approach.

Maria Miller: The hon. Lady mentions a very important point. Having a legal background herself, she will know that the vast majority of people in this country do not go near the court system. Some 95% of separating families do not use the courts to resolve their situation, although, interestingly, many go to a solicitor in the first instance to ask for the sort of advice that I hope they will be able to receive through the gateway.

The Ministry of Justice is currently undertaking a family justice review, and I have met the people conducting it. I will continue to work closely with them to ensure that there is clear read-across to the work they are doing on mediation and on the reform of the services for which the Ministry of Justice is responsible, and that people are aware of the different options that are open to them, as I hope the hon. Lady would expect.

Ian Swales: The Minister refers to the voluntary and third sector. Is she confident that the existing voluntary and third sector has the capacity to accommodate that new regime? If not, what does she propose to do about it? Is she satisfied that voluntary and third sector availability will be sufficiently uniform across the country to provide the level of service that she would like?

Maria Miller: I will answer my hon. Friend's two questions in reverse order.

It is always difficult to ensure that services are uniform. Perhaps they are not uniform because the need for services is not uniform. We are working with many, if not all, the main third-sector organisations in this area, so I want to ensure that we can provide a national touch point for parents, be it over the telephone or through websites, as well as a local touch point.

A great deal of innovation is already going on. Recently I was privileged to see the work that Relate is doing. Some of the face-to-face chat support that it offers—if it can be face-to-face down an internet line—is leading the way for the personalised support that we can provide to families in crisis situations.

On capacity in the sector, I have been overwhelmed by the almost uniformly positive support we have had from the sector for our proposals. We are co-working with those organisations to ensure that there is the right capacity. As I have already mentioned, my colleagues in the Department for Education will invest £30 million in the sector over the next four years. Although I am sure that there will always be a need to ensure that we have that capacity, I am hearing that there is a desire to work together.

I want to bring my comments to a close and move the debate forward. The hon. Member for Edinburgh East said that we are legislating by assertion. I hope that the detailed nature of my response to the comments that have been made shows that that is far from the case. We are going back to the basic principles that were set out by Sir David Henshaw, and we are looking at the research on our current customer base at CMEC and on the behavioural issues faced by separating families. Based on that evidence, we are introducing what we believe is an important reform of the current system, which will help more parents come to the sort of arrangements that make a positive difference to their children's lives.

With those assurances and details, I hope that the hon. Lady will not press her amendments, which I think were probing amendments, safe in the knowledge that many of the issues that Opposition Members have raised are things that we have worked on, are working on and will continue to work on.

Margaret Curran: I thank the Minister for a full response to some of the issues, although I disagree with some of it. I will flag things up as I move on.

The length of this debate gives some indication of the scale of concern about the Government's proposals. They need to have a detailed appreciation of the full impact of the proposals, and we have not yet closed off

[Margaret Curran]

the debate. We have some way to go before we get the full answers. A central point that I raised, which I do not think the Minister explored fully, was that there is an explicit motive in the Government's proposals of creating disincentives to reduce the commission's case load. If that is not the case, I am more than happy for that to be clarified.

Maria Miller: I should like to pick up that point. I reviewed some of the remarks made by Lord McKenzie of Luton when he was commenting on the initial Bill to introduce CMEC, and I think that this issue was put to him. I would concur with his view, which is that we are trying to ensure that there are choices so that families can come to the right conclusions. We are not trying to stop people who need to use the statutory system from doing so, nor are we forcing people who need it to make their own family-based arrangements. We are trying to provide choice, but also to encourage parents to take responsibility when they can, which we think is more than they currently do.

Margaret Curran: I thank the Minister for her reply; those are exactly the issues that we want to explore. In later amendments we will pick up on comments made by Lord McKenzie during the progress of the previous legislation. My noble Friend also emphasised a point that I would emphasise, which is that the best interests of the child must be enshrined in the legislation. That must be the drive, and must be sacrosanct, not the particular operations of an agency or the need to reduce the case load. I am sure that that discussion will continue.

I was interested in the Minister's comments about the operation of the gateway. She was perhaps more flexible than I had expected, and I want to continue to explore the impacts with her. For the Opposition, a particularly outstanding element of the discussion is the profound inequality whereby it is mandatory for a parent with care to engage with the gateway, but the non-resident parent may choose. That is what I extracted from the Minister's comments. Again, if she wishes to correct that, either now or later, I would be more than happy for her to do so.

Maria Miller: I recall the words that I used, and the hon. Lady is absolutely right; I did say that. To clarify, that is only because the vast majority of people who make claims for the statutory system are the parents with care. Of course, if we are trying to encourage more collaborative working, that cannot happen without the non-resident parent's involvement. By definition, we need both parents involved in the process to get the result that I would like to see more often, which is the sort of collaborative family arrangements that I have set out.

Margaret Curran: Yes. Obviously that would be the case—I had assumed that. The nature of mandating people and how we compel them to engage in the system will flavour many of the comments and discussions in future. No sensible person would dispute what is at the core of the Minister's comments. I think she said that some people in the system would not be in it if they had the right support. It is certainly disappointing if that is so.

We should, of course, do all we can and use every labour to ensure that such people are not in the system if different services and support could be available. The Minister has my very best wishes for that objective, which I support. However, I am trying to focus debate in my contribution on those people for whom the system does not work. With the greatest respect, the Minister has genuinely underestimated the impact on parents with care of the delay that the measure might kick into the system. We must think that impact through. A degree of manipulation is inherent in how these processes are used and we must be aware that some parents manipulate the system to avoid payment. We must not create systems that allow them to do so and it is vital that we address that.

I shall not press the amendments to a vote, although many of the Minister's points require further explanation. I am not reassured about the system, because in an effort to improve matters for the vast majority, we might make them worse for the most vulnerable. I would like to return to that argument, because it has not been answered. The core principle behind the purpose of a child maintenance agency should be protection for women—essentially, it affects women, but not always—who cannot access proper maintenance support anywhere else. We must send the message to men—predominantly men, but not always—who are unwilling to pay that they cannot get away with it. The shift is not in Labour policy; we may be witnessing a shift in Tory policy this afternoon, but the Minister has not convinced me that she has understood that matter. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned. *—(Miss Chloe Smith.)*

4 pm

Adjourned till Tuesday 24 May at half-past Nine o'clock.