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Welfare Reform Bill: **Committee Stage** **Report**

This is a report on the Committee Stage of the *Welfare Reform Bill*. It complements Research Papers 09/08 and 09/09 prepared for the Commons Second Reading.

The Bill includes provisions to establish a 'work for your benefit' scheme, to pilot the 'personalised conditionality' regime proposed by Professor Paul Gregg, and to enable the future abolition of Income Support. Other social security measures relate to drug misusers; benefit contribution conditions; the Social Fund; and benefit sanctions for non-attendance at Jobcentre Plus interviews, benefit fraud and violence against Jobcentre staff.

The Bill also provides for the 'trailblazing' of a new right for disabled people to control how public resources are used to meet their needs; new powers to enforce child maintenance; and for the joint registration of births.

There was no division at Second Reading. There were nine sittings of the Public Bill Committee, with oral evidence being taken at the first three sittings. There were minor Government amendments to the provisions relating to sanctions for benefit fraud, and birth registration. No opposition or backbench amendments were agreed to.

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Summary of main points

The *Welfare Reform Bill* was published on 14 January 2009. Many of the provisions in the Bill stem from proposals in the Green Paper, *No one written off: reforming welfare to reward responsibility*, which were developed in the subsequent White Paper, *Raising expectations and increasing support: reforming welfare for the future*. The Bill covers four broad policy areas:

- Social security
- Rights for disabled people in relation to the provision of services
- Child maintenance
- Birth registration.

Social security

The social security measures in Part 1 of the Bill have been presented as steps towards realising the Government's vision of a 'personalised welfare state', where people are given more support to help them overcome disadvantage and move towards work, matched by higher expectations that they will take up that support. The Bill includes, among other things, provisions to enable a mandatory 'work for your benefit' scheme to be piloted for the long-term unemployed; to allow piloting of a 'personalised conditionality regime' along the lines proposed by Professor Paul Gregg; to direct Employment and Support Allowance (ESA) claimants to undertake specific work-related activity; and to pave the way for the future abolition of Income Support and the movement of claimants onto either Jobseeker's Allowance (JSA) or ESA. Other measures aimed at reinforcing obligations include new powers to require problem drug users to follow a rehabilitation plan, and benefit sanctions for JSA claimants who fail to attend Jobcentre Plus interviews, commit benefit fraud or are violent towards DWP staff. The Bill also includes powers to allow external organisations to provide Social Fund loans, but the Government has said that it does not intend to use the powers straight away and that the proposals will be subject to further consultation.

The Conservatives have broadly welcomed the welfare reforms in the Bill, though they argue that some of the measures do not go far enough and that given the Labour Government's term in office, many of the issues it seeks to address should have been tackled earlier. The Liberal Democrats, however, have expressed major concerns about the impact of "coercion and conditionality", and question whether the provisions in the Bill and in previous legislation represent a clear and consistent vision for welfare reform.

The Committee agreed a number of minor Government amendments to clause 19 and Schedule 4 (relating to 'one strike' sanctions for benefit fraud). No opposition or backbench amendments were agreed, though Ministers gave undertakings to consider further some of the issues raised by Members in Committee.

Disabled people: right to control the provision of services

Part 2 would confer regulation-making powers to allow adult disabled people to have a 'right to control' the way in which specified relevant services are provided to them. It extends the use of individual budgets for social care to allow disabled people greater control over how other services, such as further education, employment assistance and training, are provided. The Bill would also allow temporary 'trailblazer' pilots of the scheme to be set up to assess whether the concept should be given statutory force.

The Bill received broad support in Committee. A number of probing amendments were tabled to ascertain how individual budgets and the pilot phase would work in practice.

Child Maintenance

Part 3 would increase the enforcement powers of the Child Maintenance Enforcement Commission to allow it to disqualify parents from holding or obtaining a driving licence or travel authorisation without first applying to the courts. Further proposals in the Bill include extending the range of information offences relating to the withholding of, or giving false information in connection with child support.

The Committee debate concentrated on the powers to disqualify non-resident parents from holding or obtaining driving licences and travel documents, and the connected appeals process.

Birth registration

Part 4 of the Bill provides for the joint registration of births, as proposed in the June 2008 White Paper, *Joint birth registration: recording responsibility*.

In Committee, one Government amendment was made to Schedule 6 relating to the process for re-registering a birth to include the father's details. A number of probing amendments were debated.

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I Introduction

The *Welfare Reform Bill* was introduced in the House of Commons on 14 January 2009 and had its Second Reading on 27 January.¹ The Bill was committed to a Public Bill Committee, with proceedings to be concluded not later than 3 March. There were nine sittings of the Committee between 10 February and 3 March, with oral evidence being taken at the first three sittings.

Detailed information on the provisions in the Bill and the background to them can be found in the following Library Research Papers prepared for Second Reading:

- Research Paper 09/08, *Welfare Reform Bill: social security provisions*
- Research Paper 09/09, *Welfare Reform Bill: disabled people, child maintenance and birth registration*

Further material and links to the proceedings on the Bill can be found on the Library's [Bill Gateway](#) pages.

The sections in this Committee Stage Report relating to social security were produced by **Steven Kennedy**, with contributions from **Bryn Morgan**. **Manjit Gheera** produced the sections on services for disabled people, and child maintenance. **Catherine Fairbairn** produced the section on birth registration.

II Second Reading

The Bill received its Second Reading on 27 January 2009. The Secretary of State for Work and Pensions, **James Purnell**, said that the Bill was intended to “renew the partnership between the state and the individual by ensuring that virtually everyone on benefits is preparing for work, so that support is matched with responsibility”.² Governments in the 1980s and 1990s, he said, had made the mistake of reducing conditionality and investment during recessions, and as a result unemployment had risen more than it need have done. He denied that the Bill would introduce “workfare”, and said that increased conditionality for benefit claimants would be matched by increased funding to help people get back to work through the “invest to save model” suggested by David Freud in his report on the future of welfare to work.³ Mr Purnell also said that contracts with private and voluntary sector organisations providing back to work services would be sufficiently flexible to take account of the changing economic climate.⁴

The provisions in the Bill relating to child maintenance, the Secretary of State said, would ensure that fathers lived up to their responsibilities and would reduce child poverty. The joint birth registration provisions also underlined the importance of parental responsibility,

¹ HC Deb 27 January 2009 cc181-269

² HC Deb 27 January 2009 c181

³ *Ibid.* c193

⁴ *Ibid.* cc189-190

but included safeguards in situations where involving the father might pose a threat to the mother or child.⁵

The Secretary of State said that mandatory rehabilitation programmes for problem drug users would make sure the benefits system was not simply putting taxpayers' money into the pockets of drug dealers and would also help "break the cycle of crime and deprivation".⁶

The Shadow Secretary of State for Work and Pensions, **Theresa May**, broadly welcomed the direction the Government was taking on welfare reform and said that her party would support the Bill, which included many measures the Conservatives had previously suggested. She felt the Government was right to press on with welfare reform during a recession, but regretted their failure to act earlier.⁷ While there were some parts of the Bill the Opposition welcomed wholesale, such as the provisions giving disabled people the right to control the provision of services, in other areas she was disappointed the Government had not gone further. The Bill, she said, did little to help existing Incapacity Benefit claimants, and the proposal to pilot the "invest to save" model initially rather than proceed with full implementation would severely limit what the Government could do.⁸ The Government's plans for the Social Fund were unclear, and there was a lack of detail about the "work-related activity" requirement for lone parents with very young children. The Opposition would also be seeking further clarification about sanctions for absent parents failing to pay child maintenance.⁹

Mrs May reiterated concerns voiced by organisations about the extent of regulation-making powers in the Bill and asked for an assurance from the Government that draft regulations covering at least the "key proposals" in the Bill would be made available for scrutiny and debate in Committee.¹⁰

Speaking for the Liberal Democrats, **Steve Webb** noted that the Government had already made a number of attempts since 1997 to reform the welfare system and wondered where the Government thought it had reached on the welfare reform "journey", adding:

...I do not sense that there is a strategic road map, and incremental moves towards a carefully honed goal. It is more of a case of a series of botched reform attempts that have come unstuck.¹¹

He argued that the Bill would introduce greater complexity into working-age benefits and increase the scope for official error and claimant error.

⁵ *Ibid.* cc183-185

⁶ *Ibid.* c194

⁷ *Ibid.* c197

⁸ *Ibid.* cc197-198

⁹ *Ibid.* cc199-201

¹⁰ *Ibid.* c202

¹¹ *Ibid.* c208

As regards the reliance on regulation-making powers, Mr Webb noted, “as the Child Poverty Action Group put it, the Bill is not so much skeletal as invertebrate”.¹²

The Liberal Democrats supported the provisions to give disabled people greater control over budgets, but were concerned that individuals might be at a disadvantage in relation to statutory agencies when it came to purchasing packages of services at reasonable prices.¹³ In other areas, however, the Liberal Democrats were in “profound disagreement with the Bill on the coercive power of the state and the extent to which it is to be used.”¹⁴ Mr Webb had particular concerns about the provisions relating to problem drug users.¹⁵ He also had concerns about the impact of “coercion and conditionality” on lone parents with young children, and questioned whether it sent an appropriate signal to society about the value of parenting.¹⁶ Finally, Mr Webb voiced concerns about powers to take away driving licences and passports from non-resident parents failing to pay child maintenance.¹⁷ Nevertheless, Mr Webb said that his party would not vote against the Bill at Second Reading because they did not want to stand in the way of the measures to empower disabled people.¹⁸

The Bill received Second Reading without a vote. A programme motion - also agreed without a vote - provided that proceedings in the Public Bill Committee were to be concluded not later than 3 March.¹⁹

III Committee Stage

The Public Bill Committee had nine sittings between 10 February and 3 March, with oral evidence being taken at the first three sittings. At the first two sessions - on 10 February - evidence was taken from representatives of the following organisations:

- Royal Association for Disability and Rehabilitation (RADAR)
- Oldham Metropolitan Council
- DrugScope
- Barnardo’s
- Child Poverty Action Group (CPAG)
- One Parent Families/Gingerbread

Professor Paul Gregg of Bristol University, whose report on sanctions and conditionality in the benefits system has helped shape the Government’s approach to welfare reform²⁰, also gave evidence at the end of the second session.

DWP Ministers and officials gave evidence at the third session on 12 February.

¹² *Ibid.* c208

¹³ *Ibid.* cc208-209

¹⁴ *Ibid.* c209

¹⁵ *Ibid.* cc209-211

¹⁶ *Ibid.* cc211-212

¹⁷ *Ibid.* cc213-214

¹⁸ *Ibid.* c214

¹⁹ *Ibid.* c269

²⁰ See part II.B of Library Research Paper 09/08

Written evidence submitted to the Committee is available on the internet. This includes a memorandum provided by the DWP²¹ which shows, for each of the proposals in the December 2008 White Paper, *Raising expectations and increasing support: reforming welfare for the future*²², where the measure originated and how the Government proposes to implement it (i.e. whether it is in the Bill, or to be in secondary legislation, or if it is to be implemented by non-legislative means).

In the oral evidence session on 12 February, the Minister for Employment and Welfare Reform, Tony McNulty, was asked whether the Government would make available draft regulations for the Committee to consider. He replied:

As I have made clear, I want to make available as many of the regulations as possible during our deliberations. I hope that I can at least provide the Committee with a road map saying where in the Bill regulatory powers are taken. Furthermore, as much as I can, I want to provide either a framework and headline document of the regulations, or indeed the full regulations. That is a much more efficient way of working than just saying, "Here's the Christmas tree. There are loads of regulatory powers and you'll have to wait till the regulations."

[...]

I assure the Committee that, as far as I possibly can, I will provide at least an indication of what is going to be in the subsequent regulations, if not the draft regulations themselves.²³

A "road map" document was made available to the Committee on 24 February.²⁴ The document, *Welfare Reform Bill – Use of Regulation Making Powers*, can be obtained from the Vote Office.

There were Government amendments to clause 19 and Schedule 4 ('one strike' sanctions for benefit fraud) and to Schedule 6 (birth registration). No opposition or backbench amendments were agreed, though Ministers gave undertakings to consider further some of the issues raised by Members in Committee.

Further details are given below. Other significant areas of debate in Committee are also summarised.

A. Social security

1. 'Work for your benefit' scheme and the availability of childcare

The Labour backbencher John Robertson tabled an amendment (Amendment 65) to clause 1 requiring that the availability of good quality, affordable and flexible childcare be taken into account before imposing on a claimant a requirement to participate in a 'work

²¹ WR 04

²² Cm 7506

²³ PBC Deb 12 February 2009 cc88-89

²⁴ PBC Deb 24 February 2009 c104

for your benefit' scheme. Mr Robertson said that the amendment had been drawn up by the Scottish Campaign on Welfare Reform, which comprised more than 40 organisations concerned with poverty and social exclusion, and reflected widespread concern in Scotland about imposing new obligations on unemployed parents given the lack of appropriate childcare provision north of the border.²⁵ Mr Robertson pointed out that, while there was a duty on local authorities in England and Wales to secure sufficient childcare for working parents under the Childcare Act 2006, there was no corresponding legal duty in Scotland.²⁶ Replying for the Government, the Minister for Employment and Welfare Reform, Tony McNulty, said that while there were safeguards to prevent claimants being sanctioned for failure to participate in a 'work for your benefit' scheme because of a lack of appropriate childcare, he wanted to consider further the issues raised by Mr Robertson and asked him not to press Amendment 65 to a division, promising to return to the issue at Report.²⁷ Mr Robertson did not press the amendment to a division.

The Opposition Work and Pensions Spokesman, James Clappison, asked about the timetable for the 'work for your benefit' scheme, given that there had been a pause in the tendering process for the Flexible New Deal to allow potential providers to revisit some of their assumptions in the light of expectations of increased long-term unemployment. Mr McNulty confirmed that the intention was still to introduce the Flexible New Deal by October 2009 which would allow pilots for 'work for your benefit' to begin in 2010.²⁸

2. Regulations: parliamentary control

The Opposition tabled a series of amendments during the fourth sitting of the Committee on 24 February to provide that regulations under certain clauses and Schedules in Part 1 of the Bill would require the affirmative resolution procedure rather than the negative procedure.²⁹ The Minister for Employment and Welfare Reform said that he did not believe that in most cases making regulations subject to the affirmative procedure was "proportionate" to ensure sufficient scrutiny, given that the Department worked closely with the Social Security Advisory Committee. He also said that the Government would "study with great care" the Delegated Powers and Regulatory Reform Committee's report on the Bill and would "respond appropriately".³⁰ However, he did concede that the Opposition might have a stronger case with amendments 8 and 22. Amendment 8 related to powers under clause 2 to make regulations making provision for, among other things, conditionality for claimants placed in the 'progression to work' group and sanctions for failure to undertake 'work-related activity'. Amendment 22 related to Schedule 1, which amends the *Jobseekers Act 1995* to provide for, among other things, the conditionality framework for groups moved onto JSA who are not required to meet the basic 'job seeking conditions' (i.e. availability and actively seeking work). Replying to James Clappison, Tony McNulty said:

²⁵ PBC Deb 24 February 2009 c97

²⁶ *Ibid.* c98

²⁷ *Ibid.* c102

²⁸ *Ibid.* cc114-115; more details on the Flexible New Deal are given in Library Standard Note [SN/EP/4849](#)

²⁹ PBC 24 February 2009 c106

³⁰ *Ibid.* c109

Although I am not accepting the amendments—God forbid; I do not do that sort of thing—I think that the hon. Gentleman does, potentially, have a point. As we develop the model of conditionality during the Bill, amendments 8 and 22 may be ones that we should return to given the import and the substance of those regulations, and the significant shift that they will make. In that spirit, I still ask him to take the lot of them away, but with amendments 8 and 22 the hon. Gentleman does have half a point, at least. I need to reflect on whether it is more than half a point.³¹

The amendment was withdrawn.

3. ‘Work-related activity’ for lone parents with young children

In the Committee evidence sessions there was extensive discussion about the age limit of the youngest child after which lone parents and partners should be subject to the ‘progression to work’ regime.³² Later, during consideration of clause 2, James Clappison moved amendment 39 to provide that, for lone parents, the requirement to undertake work-related activity would not apply until their youngest child was five, rather than three as the Government propose. Mr Clappison argued that five was a reasonable age at which to ask a lone parent to commence work-related activity, since it left two years for the parent to prepare to return to work³³, and the child would have started school.³⁴ Paul Rowen, for the Liberal Democrats, thought that lone parents should not be subject to conditionality until their youngest child reached seven.³⁵

Responding for the Government, the Minister for Employment and Welfare Reform, Tony McNulty, said that not engaging with lone parents until their youngest child reached five would be “neglectful” and that the system should “start working with lone parents at the earliest opportunity”. He said that “work-related activity” was defined widely deliberately, in order to cover individual circumstances.³⁶ The age of three had been chosen, the Minister said, because it was the age from which, in England and Wales at least, the state increasingly provided full-time child care. He acknowledged however that childcare coverage for this age group was not universal, and said that the absence of childcare would be taken into account when discussing the details of work-related activity for those with younger children. Mr McNulty also said that he envisaged that as a lone parent’s youngest child approached the age of seven, there would be a “slightly stronger focus on the work element of the work-related activities rather than the broader skills and training element”.³⁷

In response, James Clappison said that it was important to have a debate about age thresholds, since the provisions in the Bill exposed more lone parents to sanctions. He

³¹ *Ibid.* c110

³² PBC 10 February 2009 cc43-45; 53-55; 57-58; 59-61

³³ Under existing Government plans, from October 2010 most lone parents with a child aged seven or over who are claiming out of work benefits will be subject to the Jobseeker’s Allowance regime, which means they will have to be available for, and actively seeking, work. For further details see the [DWP website](#).

³⁴ PBC Deb 24 February 2009 c118

³⁵ *Ibid.* c119

³⁶ *Ibid.* c120

³⁷ *Ibid.* cc120-121

added, “We need to reflect on these important matters and to think carefully about the question of age”.³⁸

The amendment was withdrawn.

4. Claimants dependent on drugs

Oral evidence was taken from representatives of the charity DrugScope at the Public Bill Committee’s first sitting on 10 February.³⁹ No amendments were tabled to the parts of the Bill relating to claimants dependent on drugs (clause 9 and Schedule 3), but in the stand part debates Opposition, Liberal Democrat and SNP members raised a number of issues including:⁴⁰

- The capacity of drug treatment services to cope with increased referrals, particularly in Scotland and Wales
- Whether problem drug users on benefits would take priority over other users of drug treatment services
- Concerns about information sharing and data protection
- The effectiveness of sanctions and their potential impact on claimants and their families

Replying for the Government, the Parliamentary Under-Secretary of State for Scotland, Ann McKechnie, said that it was the Government’s intention to pilot the scheme first and that it would only be rolled out across the country if health services had the necessary capacity to cope.⁴¹ There would be no question of “queue jumping” and decisions about who received treatment would continue to be made locally on the basis of clinical need. The Government did not want to create any significant increase in waiting times for treatment and would work closely with the Department of Health in England to monitor whether “pinch points” were occurring.⁴² The “sunset clause” and the requirement to report to Parliament on the operation of the pilots, the Minister added, offered additional safeguards.⁴³

The Minister said that discussions were still continuing with the devolved administrations in Wales and in Scotland. She was still hopeful that the programme would be introduced in Wales, though this was likely to be at a later stage. The Minister was surprised that the Scottish Government wanted to wait until the pilots had been carried out in England, and hoped they would reconsider their position.⁴⁴

Clause 9 and Schedule 3 were agreed without a division.

³⁸ *Ibid.* c121

³⁹ PBC Deb 10 February 2009 cc21-38

⁴⁰ PBC Deb 24 February 2009 cc151-165

⁴¹ PBC Deb 24 February 2009 c157

⁴² *Ibid.* c158

⁴³ *Ibid.* c159

⁴⁴ *Ibid.* cc159-160

5. Social Fund

Reform of the Social Fund was discussed during the second evidence session on 10 February.⁴⁵ On 23 February the Department published on its website its response to the *Social Fund: A new approach* consultation.⁴⁶ As well as confirming that interest would not be charged on Social Fund loans, including under any scheme set up by external providers in place of Social Fund provision, the document also announced that there would be further, more detailed public debate about reform of the Social Fund during summer 2009, and that a further consultation paper would be published before the summer recess.

The provisions in the Bill relating to the Social Fund were considered at the Committee's fifth sitting on 24 February.⁴⁷ Responding to an Opposition probing amendment tabled by James Clappison, the Parliamentary Under-Secretary of State for Work and Pensions, Kitty Ussher, said that in the Bill the Government was introducing powers to enable external organisations to provide Social Fund loans in the future but that it did not intend to use the power for the time being.⁴⁸ She added:

I would like to clarify that there will be two further sets of consultation. As the hon. Gentleman said, the first will simply give more detail about the type of arrangements that may exist if we use the power in the future, while the second will go into far more detail about how we would like to use the social fund to advance our aims of financial inclusion, and perhaps deal with some simplification measures, too.⁴⁹

In response to concerns voiced by James Clappison that covering the additional costs incurred by external providers might reduce the total amount of funding available for loans, the Minister said:

...we understand that, in addition to the provision of loans, additional costs will be incurred as a result of such contracts, and we intend to pay them. That is what proposed new section 140ZA(4) sets out. It will not necessarily reduce the amount available elsewhere because, of course, there will be costs for administering such loans anyway. Furthermore, we hope that, as a result of our policy, more people will be migrated off the social fund, which could also free up resources. However, those decisions will be made in the round, across Government, in order best to use taxpayers' money to achieve our public policy goals and in the overall public interest.⁵⁰

The amendment was withdrawn.

In the clause 15 stand part debate, the Minister said in response to Paul Rowen:

⁴⁵ PBC Deb 10 February 2009 cc45-47

⁴⁶ [The Social Fund: A new approach: Response Document](#)

⁴⁷ PBC Deb 24 February 2008 cc169-180

⁴⁸ PBC 24 February 2009 c173

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

Let me reassure him on the general point that if and when we enter arrangements in certain geographical areas, those arrangements will have broadly the same eligibility, and there will be no attempt to change eligibility for two identical customers who live in different places. This is precisely the type of issue that we will consult on further when we have more detail as to how those contracts might work.⁵¹

6. 'One strike' sanctions for benefit fraud

Government amendments⁵² to clause 19 and Schedule 4 were agreed to.⁵³ The amendments-

- provide that the loss of benefit provisions apply to people cautioned for a benefit offence in Scotland (in the Bill as introduced, the provisions only applied to cautions in England, Wales or Northern Ireland)
- apply the loss of benefit provisions to people who are convicted of a benefit offence, but who receive an absolute discharge
- provide that certain regulations made under new powers inserted in the *Social Security Fraud Act 2001* are to be subject to the affirmative procedure (correcting a drafting error in Schedule 4 of the Bill)

The amendments were agreed without a division.

7. DLA mobility component for blind people

Disability Living Allowance (DLA) is a benefit intended to help people with the extra costs of being disabled. There are two components: a care component, and a mobility component. The care component – for help with personal care needs – is paid at three levels. The mobility component – for help with walking difficulties – is paid at two different levels (from April 2009, £18.65 and £49.10 a week respectively). The current eligibility rules for the higher rate mobility component focus on those who are unable to walk, or who cannot walk outdoors without assistance. A person cannot become entitled to the higher rate mobility component on the basis of blindness or serious sight loss alone.

In August 2006 the Royal National Institute of the Blind (RNIB) published a campaign report, *Taken for a ride: Tackling the unjust exclusion of blind people from the higher rate mobility component of Disability Living Allowance*.⁵⁴ The report argued that the current DLA eligibility criteria were unjustifiable and that people with serious sight loss should be able to claim the higher rate mobility component. In late 2008 the Government indicated that, while accepting in principle the case for giving blind people with mobility needs greater help, it was not at present in a position to commit funds to implement the necessary changes.⁵⁵ It is estimated that change would cost around £45 million a year.⁵⁶

⁵¹ PBC 24 February 2009 c179

⁵² Amendments 94-98

⁵³ PBC 26 February 2009 cc183-189

⁵⁴ Further information on the *Taken for a ride* campaign can be found at the [RNIB website](#)

⁵⁵ See for example HC Deb 17 November 2008 c77w

The issue had already been raised at Second Reading.⁵⁷ In Committee, John Robertson tabled an amendment (New Clause 2) to change the DLA eligibility criteria for blind people. The New Clause, which was subsequently supported by the Liberal Democrat Work and Pensions Spokesman Paul Rowen, was discussed in Committee on 3 March.⁵⁸ The Minister, Jonathan Shaw, said that while the Government was “determined to end the exclusion of blind people from this important extra cost benefit when they face some of the greatest barriers to independent mobility”, the necessary funds were not currently available, given existing spending commitments. He said that the Government would however continue to work with RNIB and partner organisations to see how blind and visually impaired people could be helped further, but added:

I am not in a position to be able to give the Committee a time scale. When we are in a position to finance a change in the rules, we are firmly committed to make that change an urgent priority and to do so at the earliest possible time.⁵⁹

John Robertson said he was disappointed but added:

My head says I should press the new clause to a Division because I know right is on my side. However, I am going to overrule my head in this case and think about going away to fight another day. I want to ensure – and I say this to the Minister as a promise, not a threat – that such a measure goes through in this House, not the other place. I believe that if the other place considers such a measure, it will go through there. However, it is important that elected representatives make this decision. I want our House to agree to such an amendment, so with the promise that I will return to this on Report, I beg leave to withdraw the motion.⁶⁰

The amendment was withdrawn.

8. A ‘claimants’ charter’

At the final sitting of the Committee Paul Rowen tabled New Clause 11 to provide for a ‘charter’ setting out the rights and responsibilities of claimants and the obligations towards claimants of both Jobcentre Plus and organisations contracted to provide employment services.⁶¹ The Chairman of the Work and Pensions Committee, Terry Rooney, had mentioned the idea of a “claimant’s charter” at Second Reading; the Secretary of State replied that the proposal had “a lot of promise” and that the Government would give it further consideration.⁶² The idea was subsequently developed by Gingerbread, the Disability Alliance, the Child Poverty Action Group and Citizens Advice, who together drafted a document setting out ‘key principles’ upon which they would expect such a charter to be based.⁶³

⁵⁶ HC Deb 23 February 2009 cc56-57w

⁵⁷ HC Deb 27 January 2009 cc186-187

⁵⁸ PBC Deb 3 March 2009 cc266-271

⁵⁹ PBC Deb 3 March 2009 c271

⁶⁰ *Ibid.*

⁶¹ PBC Deb 3 March 2009 cc283-291

⁶² HC Deb 27 January 2009 c182

⁶³ The [Draft Claimants’ Charter](#) can be found at the Disability Alliance website

Replying for the Government in Committee, Tony McNulty said that while he had “some sympathy” with the notion of a customers’ or claimants’ charter, Jobcentre Plus already had responsibilities towards individuals and that mechanisms for redress already existed. He also added that there would be tension between a “rigidly drawn charter of rights and responsibilities for each and every customer” and the introduction of more personalised provision. However, the Minister said seminars had been arranged with Disability Alliance and others “to look at how we can ensure that, whether this is called a claimants charter, a customers charter or whatever, people are absolutely clear about what they can expect from Jobcentre Plus”.⁶⁴ He added:

I am absolutely with the hon. Gentleman in spirit, however, and I know that my hon. Friend the Member for Bradford, North (Mr. Rooney), the Chairman of the Work and Pensions Committee, is too. It is absolutely right that we should put out—far more readily than we have, because it is out there already—an overarching charter that states what customers or claimants, or whatever we want to call them, can and should expect in terms of behaviour, provision and service from Jobcentre Plus. Alongside it, there should be either programme-specific or more general approaches—probably both—covering responsibilities for claimants or customers. That is the way forward that we are trying to follow. As my hon. Friend the Member for Warwick and Leamington makes very clear, that includes saying, “You will not be abusive or violent to Jobcentre Plus staff,” with all that that entails.

Although we are all broadly sympathetic, I ask the hon. Gentleman to withdraw the new clause. I know that the team has been contacted by the Disability Alliance, which was slightly concerned that the new clause would put more into legislation than the organisation had intended. It was worried that the new clause, if accepted, would push the Department away from its positive sentiment regarding of a charter.

As I say, I will furnish Committee with details. There is a forthcoming stakeholder seminar—God knows what we called these people before they became “stakeholders”; an awful word. It is a people seminar to discuss what should go in the overarching customers charter or citizens charter—good Lord, not John Major’s citizens charter! We are very much with the hon. Gentleman in spirit, but I ask that the proposal is not pursued in such a fashion.⁶⁵

The amendment was withdrawn.

B. Disabled people: right to control provision of services

The Public Bill Committee heard oral evidence from the Royal Association for Disability and Rehabilitation (RADAR) and Oldham Metropolitan Council on Part 2 of the Bill on the ‘right to control’. The clauses were considered by the Committee at its sixth and seventh sittings on 26 February 2009. No amendments were made to Part 2.

⁶⁴ PBC Deb 3 March 2009 c288-289

⁶⁵ *Ibid.* cc290-291

1. A duty to co-operate

At the Committee's sixth meeting, Paul Rowen tabled a probing amendment⁶⁶ to clause 28 to clarify whether local authorities would be under a duty to co-operate when an individual requires a relevant authority to provide services.⁶⁷ He stated that it had to be "abundantly clear to authorities that they have a duty to co-operate".⁶⁸

The Minister for Disabled People, Jonathan Shaw, reassured the Committee that secondary legislation would have the effect Mr Rowen sought:

The intention is that the delivery of the right to control should be as seamless as possible for the individual, so that authorities and agencies will need to be aware of their obligations under the right to control. It is therefore implicit in the duty to consult that the result of the consultations should take account of the views of the individual. The authority in question will have to co-operate with them in order to reflect the person's needs and wishes properly. We expect authorities to be supportive in delivering their obligations, so we will ensure that the requirements and expectations of the new right are clearly communicated.

With those words of assurance, I hope that the hon. Gentleman will withdraw his amendment. He was right to move the amendment, to seek assurances from the Government, but it is about achieving a balance, about ensuring that there is some autonomy and decision making locally—I am sure he supports that for local authorities, and perhaps a little more than I do generally, hence what I am saying about the amendment—but also some for the individual. That is what we are concerned about today, and what we are doing with the regulations will get the balance about right.
⁶⁹

Mr Rowen withdrew his amendment.⁷⁰

2. The exclusion of social care

During the oral evidence sessions, the Service Director for Adult Social Care at Oldham Council, Paul Davies, expressed disappointment that the Bill excluded funding streams for health and social care from individual budgets.⁷¹ When the Committee heard oral evidence from the Minister for Disabled People, he explained that direct payments for social care were already covered in other legislation⁷² and if the Bill was too prescriptive there would be a danger of duplication.⁷³

The issue of the exclusion of social care was raised again during the Public Bill Committee debates. Mark Harper moved an amendment to clause 29 to include

⁶⁶ Amendment 71

⁶⁷ PBC 26 February 2009 c198. A 'relevant authority' is defined clause 30

⁶⁸ *Ibid*

⁶⁹ PBC 26 February 2009 c199-200

⁷⁰ *Ibid*, c200

⁷¹ PBC 10 February 2009 c4

⁷² See clause 29

⁷³ PBC 12 February 2009 c72

community care in the list of relevant services for which individual budgets would be provided.⁷⁴ A consequential amendment would remove the exclusion of community care services in clause 29(5) and (6).⁷⁵ The Member explained:

Social care will be one of the significant areas, important in enabling the disabled person to achieve almost any of those matters. If we do not have adequate, flexible and responsive social care, someone will clearly have barriers to their education and issues about securing training, getting to work and living independently. Excluding social care services leaves a big hole.

The Bill seems to look at things from the Department's point of view, rather than that of a disabled person. We should have one common framework for accessing all the services, and potentially we should put together all the funding streams and resources, so that they can be directed in a way that suits requirements.⁷⁶

Although Paul Rowen informed the Committee that the Liberal Democrats supported the amendments, he proposed a different amendment to clause 29 which would, in effect, allow community care services to be excluded, unless doing so prevented the delivery of the other relevant services listed in clause 29(2), such as the provision of further education and training.⁷⁷

The Minister assured the Committee that the exclusion of social care from the individual budgets pilot would not affect the aim of making the provision of services more flexible. He also set out the Department of Health's plans for health budgets:

The Department of Health is currently introducing legislation to pilot health budgets that will allow people to take direct payments, with patients being given a budget to manage themselves, with regulations providing clear guidelines. That is important. Personal health budget money may be spent, for example, on social care where it is likely to improve health or well-being. I think that all Committee members would support that.

With the right-to-control trailblazers we will be exploring the more flexible use of funding streams, too. People will be able to have more choice and control over how they achieve their outcomes. We will be looking for alignment or collocation with other similar pilots, such as on individual budgets for children and health budgets. We hope to present as seamless a provision of services as possible for people—for the customer—receiving social care direct payments, personal health budgets and a right to control services.

[...]

⁷⁴ Amendment 24

⁷⁵ Amendment 71

⁷⁶ PBC 26 February 2009 c200-1

⁷⁷ Amendment 70

We will be piloting personal health budgets at the end of 2009 until 2012 and the aim is to build on the success of the social care individual budgets to give people greater choice and control over the money spent.⁷⁸

On the basis of the assurances offered by the Minister in relation to the pilots, the amendments were withdrawn.⁷⁹

3. Extension of pilots

Mark Harper moved amendments to clause 34 which would remove sub-clauses (4)(c) and (6).⁸⁰ Sub-clause (4)(c) would allow individual budget pilot schemes (set up under regulations made under clause 31) to apply only to persons selected by reference to prescribed criteria or on a sampling basis. Sub-clause (6) would allow any initial pilot scheme to be replaced by a further pilot scheme. The Member explained that he objected to sub-clause (4)(c) because it would place limitations on the pilots, thereby giving an inaccurate picture of how individual budgets would work in practice:

...(4)(c) defines whom the scheme applies to, and it can apply either to a geographical area or to a specific class of individuals. The provision that I seek to delete states that the scheme can be applied even more narrowly—to particular people by reference to prescribed criteria or on a sampling basis. One danger with pilot schemes is that if they are chosen to run in an area that is particularly hospitable to them, where all the local authorities, primary care trusts and other statutory bodies are gung-ho about making it work, it may be successful but that will not give us a realistic view of what will happen if we introduce it throughout the country, where those factors may not all hold true.⁸¹

He also set out his concerns in relation to sub-clause (6) which would, he argued, allow rolling pilots to be set up:

Amendment 31 would leave out an objectionable aspect of the clause—subsection (6). The Minister knows from the evidence-taking sessions that I have some impatience with pilot schemes—perhaps it is just from being in opposition, and it will be knocked out of me in due course. I object to the fact that once a pilot scheme has been running for up to 36 months, it can be replaced by a further pilot scheme making the same or similar provision. I have a vision of perpetual pilot schemes—without our ever coming to a decision. If we are going to run a scheme, we should run it and then, at the end, or earlier if we have some clear data, make a decision. We should decide either that something does not work or is not practical and therefore stop doing it, or that we have enough evidence, on the balance of probabilities, to move forward—we should not have another pilot scheme.⁸²

The Minister, Ann McKeichin, provided the Committee with further details of the proposals and reassured the Committee that the trailblazing pilots would be robust:

⁷⁸ PBC 26 February 2009 c210-11

⁷⁹ PBC 26 February 2009 c213

⁸⁰ Amendments 30 and 31

⁸¹ PBC 26 February 2009 c229

⁸² PBC 26 February 2009 c230

It is the Government's intention that the trailblazer phase will involve eight local authority areas. We have not yet chosen the locations and we want to discuss that with our advisory group, disabled people and authorities. No decision will be announced until the Bill receives Royal Assent. However, we have allocated £5 million on the basis that the trailblazers will commence from 2010 in England and we anticipate that the results will be available in 2012-13.⁸³

She also assured the Committee that it was not the Government's intention to run additional pilots and cause undue delay to the roll-out the programme. The broad powers in clause 34(6) were intended to cover a situation where it might be necessary to collect additional evidence on the right to control:

... there could be a genuine problem if, for example, the Government agreed to roll out the programme in 2014 and a local authority found that the 36-month period of its test ended in October in the previous year, because that would mean that there would, in effect, be a three-month gap. We intend to cover that possibility, not to provide an excuse or an undue delay. We want to cover technical issues during an interim period.⁸⁴

The Minister also clarified that all regulations relating to individual budgets and their pilots would be subject to the affirmative resolution procedure.⁸⁵

Mr Harper welcomed the clarification given by the Minister and withdrew the amendment.⁸⁶

C. Child maintenance

Part 3 of the Bill concerning child maintenance was touched on briefly during the oral evidence sessions by the organisations Gingerbread, the Child Poverty Action Group and Barnado's. Of the written evidence submitted to the Committee, only one – a joint submission from Families Need Fathers, Resolution, the Centre for Separated Families, Jewish Unity for Multiple Parenting, Mothers Apart from their Children – was concerned with Part 3.⁸⁷ No amendments were made by the Committee to Part 3.

1. Disqualification orders

The child maintenance provisions were examined during the Committee's eighth sitting. A significant proportion of the debate was centred around clause 40, which contains powers to allow the administrative disqualification of driving licences and travel authorisation documents (disqualification orders). A number of probing amendments were moved by the Conservatives and the Liberal Democrats, with the intention of clarifying the Government's intentions in respect of the provisions.

⁸³ PBC 26 February 2009 c232

⁸⁴ PBC 26 February 2009 c233

⁸⁵ *Ibid.* The provision is contained in clauses 34 and 38.

⁸⁶ PBC 26 February 2009 c233

⁸⁷ WR 3

For the Conservatives, Mark Harper tabled an amendment to clause 40 to remove the new subsection 7 that would be inserted into section 39B of the *Child Support Act 1991*. Subsection 7 would require the Child Maintenance and Enforcement Commission (the Commission) to serve a copy of a disqualification order on the person subject to the order.⁸⁸ The amendment probed whether proper procedures would be in place to ensure that the order was served on the correct person.⁸⁹ The Minister, Kitty Ussher, confirmed that in practice a notice of a disqualification order would be sent by registered post or hand delivered.⁹⁰ She added:

I was relieved to hear that this is a probing amendment. I would have been slightly worried by the possibility that this subsection could be deleted because that would have meant that we could take away people's passports or driving licences without notifying them that that was our intention. I am therefore grateful for the opportunity to explain how it would work.⁹¹

The amendment was withdrawn.⁹²

Mr Harper tabled a further amendment to clause 40 to remove new subsection 3(b) to s39B of the 1991 Act, relating to disqualifying individuals from holding or obtaining travel authorisations. The purpose of the amendment was to probe the Government's intentions behind removing a person's Identity (ID) card, which will be used as travel authorisation:

Are they proposing to remove just the travel feature of the card—I am not entirely certain how that would work—or are they proposing to take the ID card away altogether? Given what the Government have said about their future plans—that ID cards will be the way that people access public services—we would not just be taking away travel authorisation; we would potentially be taking away the means of accessing a whole range of public services, including health care and education.⁹³

The Minister explained that where the Commission makes an administrative disqualification order, the Identity and Passport Service will replace the non-resident parent's normal ID card with one that does not specify that the parent is a British citizen:

It is removing that part of the ID card that is equivalent to a passport and a travel document, while retaining all the other entitlements that could, hypothetically, be accessible after a future Act of Parliament. It is residence, not citizenship, that denotes entitlement to public services, so I can reassure the hon. Gentleman that people will not be disentitled to those. They will, however, be prevented from travel. That works in the same way as the legislation applies to football hooligans.⁹⁴

⁸⁸ Amendment 33

⁸⁹ PBC 3 March 2009 c239-40

⁹⁰ PBC 3 March 2009 c240

⁹¹ *Ibid*

⁹² PBC 3 March 2009 c242

⁹³ PBC 3 March 2009 c241

⁹⁴ PBC 3 March 2009 c242

Mr Harper was grateful for the Minister's explanation and withdrew the amendment.⁹⁵

2. Recovery of the Commission's costs

Mr Harper moved an amendment to remove what he described as a "particularly unjust" provision.⁹⁶ Clause 40 would insert a new section 39DA into the 1991 Act concerning the recovery of the Commission's costs in cases where a disqualification order is made. Section 39DA(3) would allow a court to order a non-resident parent to pay the Commission's costs on appeal against the order, even if the order was successfully overturned. The Member argued:

It seems to me that this is not just. If the commission seeks a disqualification order and is successful, it is not unreasonable that it can recover its costs. However, if the person appeals and is successful, the commission should have to bear that cost. Clearly, if the person appeals and is unsuccessful, which demonstrates that the commission took the right steps, it does not seem unreasonable that they should bear the cost. However, if they are successful it is not at all just that they are expected to bear the cost of the commission's behaviour.

It could be that the commission was completely unjustified in seeking to disqualify the person from having a driving licence or travel authorisation and had no grounds to do so, and the person appealed to the court to put that right; I do not see why the person should be expected to pay the costs. Given that this whole piece of legislation is about getting more money from non-resident parents to their families, in a case where it is not shown that they have behaved in a way that warrants removing their driving licence or travel authorisation, taking money from them seems perverse. Will the Minister explain why this apparently unjust measure is contained within this otherwise perfectly acceptable clause?⁹⁷

The Minister explained that the power would allow the courts to award costs against a non-resident parent, but it was not something they necessarily had to do. She gave the following example in order to illustrate why the provision was included in the Bill:

Let me turn this around. You can construct an argument where even if one of those criteria is met—the non-resident parent could be one of the people that the hon. Gentleman characterised in a previous amendment, who perhaps is routinely ignoring any correspondence or attempt to communicate and find out the facts from the Child Support Agency. The parent may well need their driving licence in order to earn a living, but has never bothered to communicate that despite numerous attempts to ascertain the situation. It is only when presented with the last possibility to ensure this does not happen that they actually engage. At this point, I think it would be wrong that the taxpayer should pay the costs. In such cases, it should be at the court's discretion—it should have the option of imposing costs. The fact that a non-resident parent may have to pay costs—which is obviously something that would be communicated to them at an earlier stage—would also help prevent manipulation of the appeals process. It would raise the stakes slightly, so perhaps fewer cases would come unnecessarily to court. That would also be a good use of taxpayers' resources.

⁹⁵ PBC 3 March 2009 c242

⁹⁶ Amendment 35

⁹⁷ PBC 3 March 2009 c243

It is not always the case that the non-resident parent would have to pay costs, but I can envisage circumstances where a court acting with the discretionary powers we are giving it may consider it fair to award costs to the non-resident parent. That is why the subsection is in the legislation.⁹⁸

Mr Harper was not convinced by the Minister's explanation. He said:

It sounded remarkably as though the Minister is talking about using the appeal costs as some sort of punishment. If she wants to have a form of punishment in the legislation, it should be explicit; the costs of the appeal should not be used as a back-door method of punishment. I am concerned about non-resident parents who have done nothing wrong but end up having a disqualification order sought against them, who successfully appeal against the order because the commission has taken the incorrect steps, and then find that they have an award of costs against them.⁹⁹

He added that the Bill also lacked a safeguard requiring the costs of an appeal to be reasonable. He asked the Minister to consider the situation and report back to the Committee:

We do not want the commission, using taxpayers' money, to spend a lot of money on these processes, at the end of which non-resident parents who have done nothing wrong and have successfully won their appeal are hit with a significant bill. That is the danger with this type of legislation: if we are not to create a lot of martyrs, it is sensible to ensure that these powers are used proportionately.

The Minister is correct that the subsection just gives the court the ability to award costs—obviously we are depending on the court's looking at all the facts of the case and being reasonable. Given that that safeguard is in there, and given the Minister's explanation about where she thinks this power is likely to be used, I am quite happy to seek leave of the Committee to withdraw my amendment. But I would like to ask her to go away and have a look to see whether any check is needed—whether in the legislation or the regulations—on what the commission is allowed to spend on appeals, to make sure that it is reasonable.¹⁰⁰

The Minister confirmed that she would examine the powers and “perhaps write to the hon. Gentleman”.¹⁰¹

3. Other areas of debate

During the eighth session, Paul Rowen asked the Minister about general aspects of Part 3 of the Bill, including the Government's decision to remove reference to the courts in relation to disqualification orders since enacting the *Child Maintenance and Other Payments Act 2008*.¹⁰² In response, the Minister informed the Committee of the new evidence that had been taken into account by the Government:

⁹⁸ PBC 3 March 2009 c243-4

⁹⁹ PBC 3 March 2009 c244

¹⁰⁰ *Ibid*

¹⁰¹ *Ibid*. Mark Harper's office had not received clarification on this point at the time of writing.

¹⁰² PBC 3 March 2009 c245

We did say that we would continue to consider which decisions needed to be made by the courts, and which needed to be made administratively. In the intervening period of time, more international evidence has come to light that makes it clear that it is an extremely effective policy. Between July 2006 and August 2008, for example—this is extra data that we did not have during the passage of the previous legislation—an additional 11 million Australian dollars was collected in child maintenance payments brought about by the use of around 1,800 prohibition orders relating to Australian travel documents. A review of a sample of 124 cases where such an order had been made indicated that 88 per cent. of customers had continued to pay the right amount of child support 12 months after the order had been lifted, whereas they had previously simply disengaged with the process.

We think that makes the case for legislating even clearer than before. But I also have to say—I am repeating the point made by my right hon. Friend the Secretary of State—that, in a sense, we had no option but to withdraw our proposals on administrative disqualification of a travel document, because the main Opposition party had made it quite clear that it would not support the rest of the Bill unless that was removed. There was a touch of realpolitik in it that was extremely regrettable. I am very glad that the main Opposition party now appears to have done an elegant U-turn, hopefully enabling this clause to go through. I hope that that is sufficient to allow the Committee to agree to clause 40.¹⁰³

D. Birth registration

One Government amendment was made to Schedule 6 relating to the process for re-registering a birth to include the father's details. Where a man acknowledges to the registrar that he is the child's father, he could be required to provide the registrar with the information needed to re-register the birth.¹⁰⁴

Members also debated a number of probing amendments.

The Bill would specify a number of situations in which the mother would not be required to provide information to the registrar about the identity of the father. This would include where the mother does not know the father's whereabouts. For the Opposition, Mark Harper felt that this was too wide an exception and that not knowing the whereabouts of the father should not affect the requirement for the mother to declare the father's identity. The mother might know who the father was even if she did not know where he was.

Kitty Ussher replied that the Government's approach was that no data should be recorded unless it was verified, that if the registry office had no way of checking whether the data was correct it should not be recorded, and that there was no point in collecting unverifiable data:

It is not the purpose of the registry function to become a private detective agency, to use partial information to go out and proactively find people. That is the role of

¹⁰³ PBC 3 March 2009 c246

¹⁰⁴ PBC Deb 3 March 2009 c263

the CSA; different legislation applies. The registry registers things and information is not valid if it cannot be verified.¹⁰⁵

Kitty Ussher said that if further details of the father's whereabouts became known later, there was a mechanism for adding his details to the birth registration.

Mark Harper also questioned the exception which would excuse the mother from identifying the father if she had "reason to fear for her safety or that of the child if the father is contacted in relation to the registration of the birth". His probing amendment would have replaced "reason" with "reasonable grounds". Paul Rowen said that the Liberal Democrats supported the principle of joint registration but sought to extend this particular exception so that the mother would also be able to withhold information about the father if she had reason to fear for the safety of other children living with her.

The Labour Member Meg Munn was concerned that the exceptions were too widely drawn:

The Government need to be fundamentally clear whether they accept that in principle, wherever practicable, a child has the right to know, through its being recorded on their birth certificate, who their birth parents are...

...it is enormously important to separate birth registration from the mechanisms by which we protect mothers and children from violent fathers. We have processes through the court which allow people to take out injunctions. Over the last few years we have dramatically improved the processes to protect families and children. This should not prevent registration of a father's name on a birth certificate...

Our view needs to be that, wherever possible, the father's name should be on the birth certificate; where there is a need to protect a family, because there may be a threat of violence, that should be pursued through other legislation, not this legislation.¹⁰⁶

Kitty Ussher rejected Mark Harper's amendment saying that it was "not the role of the registrar to perform some kind of quasi-judicial function in determining whether the mother is behaving reasonably". She set out why this particular provision had been included:

what concerns me is a situation ... where the very act of contacting could lead to violence. It is not that the father is generally a violent person, but the act of contacting almost makes the state complicit in increasing the risk of violence against the mother, the child or other children. Where we know that is likely, or where the mother genuinely fears it, I do not think we should be doing that. ... In those circumstances, if the father wants to put his name on and go through the appropriate procedure to do so, the mother cannot prevent it. The key question is whether the act of verifying will lead to greater violence...

¹⁰⁵ *Ibid.* c256

¹⁰⁶ *Ibid.* c253

If the person was violent anyway and it was not in the child's interest for them to have parental responsibility—regardless of anything else that was going on—the courts would be able to deny parental responsibility. That would apply regardless of what was on the birth certificate.¹⁰⁷

Paul Rowen said that at present, the mother could prevent the father's details being registered and the father would then have to go to court to acquire parental responsibility. In the future, it would be the mother who would have to go to court for an order restricting the father's rights where he had acquired parental responsibility automatically by being named on the birth certificate.

Kitty Ussher said that she was not going to reconsider the position because “existing legal protections through the courts are sufficient to address the problems”:

I think that putting the man on the register is not the act that is going to make him a dangerous person. In a sense, the dangers are already known and the procedures for protecting a family are already known and can be commenced at an early stage. If an unmarried father is unfit to exercise parental responsibility, it is for the courts to restrict or remove that responsibility.¹⁰⁸

Kitty Ussher rejected Paul Rowen's amendment saying that it was difficult to envisage a situation in which other children, but not the child in question and/or the mother, would be at risk.

Mark Harper further queried why it was necessary to specify that no-one could be required to participate in a scientific paternity test. He asked whether this changed the existing position where parents could already agree to use a test to establish paternity. The parents could then agree to joint registration. Kitty Ussher replied that where there was a dispute, it would be dealt with through the courts. She said that when the situation was not adversarial, the registry office would be able to offer advice and facilitate the taking of a paternity test.

IV Joint Committee on Human Rights announcement

On 27 February 2009 the Chairman of the Joint Committee on Human Rights wrote to the Secretary of State for Work and Pensions asking for further information on the Government's views as regards the compatibility of the Bill with human rights obligations.¹⁰⁹ The letter requested a response by 13 March. The Joint Committee has also issued a general call for evidence.¹¹⁰ The Joint Committee's website outlines the main areas of concern:

¹⁰⁷ *Ibid.* cc257-258

¹⁰⁸ PBC Deb 3 March 2009 cc 259

¹⁰⁹ [Letter from Andrew Dismore to James Purnell](#), 27 February 2009

¹¹⁰ [Joint Committee on Human Rights Press notice No. 20, Session 2008-09: Welfare Reform Bill](#), 4 March 2009

The Committee has decided to focus on a number of matters in the Welfare Reform Bill which it considers are capable of raising significant human rights issues. These relate to:

- Whether the safeguards identified in the Committee's report on the Bill which became the Welfare Reform Act 2007 are operating effectively;
- Whether changes to require ESA claimants to undertake specific work-related activities will be administered, without discrimination, and in a way which is compatible with the right to respect for private and family life and property rights (Article 8, Article 1, Protocol 1 and Article 14 ECHR);
- Whether draft regulations will be made available in order to allow the Committee to commit the social security proposals in the Bill to an appropriate degree of scrutiny for compliance with Convention rights;
- Whether powers in the Bill to contract out functions of the Secretary of State or others, and provision for direct payments, will provide adequate protection for individuals who might seek redress for breaches of their Convention rights under the HRA 1998;
- Whether the proposals in the Bill which would introduce conditionality for benefits claimants who are, or may be, dependant on controlled drugs or alcohol, are compatible with the right to respect for private and family life, property rights and the right to enjoy those rights without discrimination;
- Whether the proposals to enable CMEC to make administrative orders in respect of the suspension of the passports and driving licences of non-resident parents are compatible with the right to a fair hearing (Article 6 and the common law);
- Whether the proposals to require joint registration of births strikes the appropriate balance between the rights of women to respect for their private and family life, the rights of unmarried fathers to be acknowledged on the official record of their child's birth and the right of any child to know the identity of its parents (Article 8 ECHR).

Further details of the Committee's concerns are contained in its letter of 27 February 2009 to the Minister, James Purnell MP.

Submissions of no more than 1,500 words on the human rights compatibility of this Bill on these three issues are requested by 15 March 2009.¹¹¹

¹¹¹ [Joint Committee on Human Rights: Bills under scrutiny](#)

Appendix 1: Members of the Public Bill Committee

Chairmen:

Mr Jim Hood and Mr David Amess

Members:

Banks, Gordon (*Ochil and South Perthshire*) (Lab)

Baron, Mr. John (*Billericay*) (Con)

Clappison, Mr. James (*Hertsmere*) (Con)

Harper, Mr. Mark (*Forest of Dean*) (Con)

Howell, John (*Henley*) (Con)

Jones, Helen (*Warrington, North*) (Lab)

Lilley, Mr. Peter (*Hitchin and Harpenden*) (Con)

McKechin, Ann (*Parliamentary Under-Secretary of State for Scotland*)

McNulty, Mr. Tony (*Minister for Employment and Welfare Reform*)

Mason, John (*Glasgow, East*) (SNP)

Munn, Meg (*Sheffield, Heeley*) (Lab/Co-op)

Plaskitt, Mr. James (*Warwick and Leamington*) (Lab)

Robertson, John (*Glasgow, North-West*) (Lab)

Rowen, Paul (*Rochdale*) (LD)

Shaw, Jonathan (*Parliamentary Under-Secretary of State for Work and Pensions*)

Ussher, Kitty (*Parliamentary Under-Secretary of State for Work and Pensions*)

Committee Clerk:

Liam Laurence Smyth