



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Welfare Reform Bill: Key Issues

13 November 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Ms Pam Brown
Mr Gregory Campbell
Mrs Judith Cochrane
Mr Michael Copeland
Mr Sammy Douglas
Mr Mark Durkan
Mr Fra McCann
Mr David McClarty

Witnesses:

Mr Maurice Byrne	Department for Social Development
Ms Martina Campbell	Department for Social Development
Ms Jane Corderoy	Department for Social Development
Mr Michael Pollock	Department for Social Development

The Chairperson: We will now continue our deliberations on the Welfare Reform Bill. We started to look at what the key issues may be for the Committee. We are not doing the clause-by-clause consideration today, but we need to follow on from the discussion that we started the other day, which was about identifying the key issues.

The Committee Clerk prepared an issues paper, which members have in front of them. We will continue to use that as a framework for identifying the Committee's key issues of concern, which we started to detail the other day. I want to make it very clear that members are totally free to suggest any other issues for consideration. This document is not the end of it, obviously; it is just a best guide.

Mr Copeland: I have a question about the meeting of 16 October 2012. It has already been said that this is a Northern Ireland Bill, yet the paper that we have that covers the meeting on that date quite clearly answers the question that I asked about Creutzfeldt–Jakob disease (CJD) and how it relates to clause 35. However, it also discounts payments to those who were tragically injured in the 2005 London bombings. If this is indeed a Northern Ireland Executive Bill, why does it refer to how the regulations will cover the London bombings but not any of the bombings that we unfortunately suffered?

Holder of the Victoria Cross and George Cross are also mentioned in that answer. I would be curious to know whether the joint and several principle applies to holders of the George Cross. In

other words, where multiple awards have been given to those who served in a particular organisation or unit, I would like to know whether the joint and several principle applies to the ownership of the George Cross for the purposes of the benefit.

Ms Martina Campbell (Department for Social Development): I do not know the answer to that, so I will have to come back to you on it.

Mr Copeland: I know that this is a Northern Ireland Executive Bill, but it just looks to me as though that provision has been lifted straight out of regulation 68(2) of the draft Universal Credit Regulations. Having gone through what we have gone through, I think that a substantial basis of our difficulty with some of these proposals is that the Bill is patently not a piece of Northern Ireland legislation, even though it is coming through the Executive. If some consideration could quite rightly be given to those who suffered in the 2005 London bombings, I would have thought that some should also be given to some of those who suffered in similar incidents here. Thank you for that, Chair.

The Chairperson: Not at all, Michael. The paper that the Committee Clerk provided contains the key issues that were raised in oral and written submissions to the Committee. Members can, of course, add to that anything that they wish as we go through it. Are people happy enough for us to continue working our way through that paper and to confirm or otherwise whether these are, indeed, the key issues for the Committee?

We intend to work our way through this paper and identify whether we are happy enough with it now or whether we want to add anything. The paper begins with Part 1 of the Bill, which deals with universal credit (UC). The first issue is the frequency of payment. I want to get some indication of the way that you want to deal with the process. Obviously, we are at the point where we want to indicate what we would like the Department to do on some of this material. In other words, at this stage of the game, everybody around the table is agreed that there is an issue with the frequency of payment. So, do we want the Department to, for example, come back to us and say that it is prepared to undertake to work on that? The Department is likely to tell you that the Minister is launching a consultation on the issues in Part 1 of the Bill on Thursday night and that everything is subject to that. I am stressing that we have a Bill in front of us, so we have to go back to what we actually have.

You might want to ask the Department various things. The purpose of this session is for us to start working our way through the Bill. Do we agree that the issues in the paper need to be addressed? Do members have anything else that they want to include? We can work through the paper, and, once we have completed that, we can go back to things that members want to raise but that are not in this document. For example, do we agree that more frequent payments should be made? The purpose of today's session is to identify the issue and to ask the Department whether it is prepared to deal with it and come back to us on how it intends to do so. On the basis of our garnering that information, we will then go through the Bill clause by clause. We will then have to make decisions that nobody else will take for us.

Mr Brady: We have been told that there may be concessions, if you like, or flexibility on the frequency of payment and recipient of payment. However, it seems that we will be getting regulations and guidelines that we have not seen. Can we not have written into the Bill specifically what we decide is the best way forward on the frequency of payment and the recipient of payment, whether that is the main carer or whatever? Where the frequency of payment is concerned, people should have choice. I think that that needs to be fairly clear in the Bill, as opposed to being affected by some nebulous guidelines that may come down the line. Somebody in a local office can decide whether somebody is vulnerable or in need of more frequent payments, and so forth. That should be written into the Bill as a choice for the person concerned. I think that that is the sort of thing that we should be looking at.

If we do not, the Department is going to tell us, "This will all be in the guidelines and the regulations." We do not know that yet, and we need to be sure. The point that you have made frequently, Chair, is that we can deal only with what is in front of us, not with what may come down the line in the form of a guideline or regulation or whatever. I just wanted to mention that so that we can focus on that kind of area initially when we are talking about universal credit.

The Chairperson: On the frequency of payment and the recipient of payment, there were different views from stakeholders on how you might split payments, for example, and whether payments should be made on a weekly or fortnightly basis. The common theme of agreement was that that would be the default position, in the same way that the direct payments will be made to landlords. I want frequency and split payments to be the default position. That is the common ground, whatever the

precise detail of who the recipient might be, such as the main carer or whoever else. If we are thinking about a way forward, that is a clue to the arguments that stakeholders have been making.

Mr F McCann: A number of aspects of the Bill stand out that people have tapped into with concern. One is split payments and how they will deal with weekly or fortnightly difficulties. The other issue is who the money is paid to, such as the main carer in the house. The Minister has dealt with that. Those three issues seem to sit together to form people's main complaints and problems. It would be good if we could get an agreement around the table that that is the course of action that we will push for.

Mr Douglas: I agree with Mickey. One person's flexibility is another's dogma. However, the documentation says very clearly that there will be flexibilities. I think that it was Martina who mentioned a number of weeks ago that, even if we get guidelines that we are happy enough with, in practice, it might work out that we need additional guidelines. That will then mean that we can come back to this at some stage. Is that not right? I think that the situation with all these clauses is that there will be an opportunity for us to come back to them if they are not working. I can imagine people coming into my office and saying, "You said that there would be flexibilities, but there is no flexibility whatsoever." They could have a good case.

I think that it will be very difficult to have guidelines that will cover everything. However, we definitely need some flexibility, which the Minister has agreed to. So, I certainly support Mickey on this point.

Mr Copeland: I just want to express some sympathy for Mickey's view. Knowing what you are agreeing to, deciding on or talking about in the absence of the regulations is like playing snooker with a bit of rope. There will be a policy intent behind most of these clauses. Is there a single policy intent for the whole Bill or is there a policy intent for each clause? Is there a difference between the policy intent for GB and that for here, or is the policy intent the same?

Ms M Campbell: Right. The overall policy intent of the Bill is, obviously, to make work pay and to make the system fairer and simpler.

Mr Copeland: I understand that.

Ms M Campbell: Those are all our overarching objectives. Each clause, obviously, has a policy rationale. However, they all interlink with the aim of meeting the overarching policy objectives. The original aim behind having the whole issue of monthly payments and direct payments to landlords and all those things in the Bill was to get people used to the world of work and to how people in work manage their money.

We also have to remember that we are going to have a new set of claimants as a result of this who are working and used to managing their money. We will make it the default position for everyone, with the exception of direct payments, which is the position, to automatically get their payments paid to the landlord unless they opt out. However, if you start to chip away at different elements, you will undermine the original policy intent. The Minister has listened to people and to members of this Committee, and he listened to what was said at the debate. He has secured flexibilities on monthly payments and split payments, as well as direct payments to landlords.

Mr Michael Pollock (Department for Social Development): Part of the rationale for the delay in the introduction of universal credit is to allow the IT functionality to deliver on those elements.

Mr Copeland: I understand all that. What I am asking is whether there is a document somewhere that explains the policy intent behind the Bill and the individual clauses.

Mr Pollock: The explanatory and financial memorandum is probably the easiest.

Mr Copeland: The explanatory and financial memorandum? Is that as far as it goes? Are there any differences between the explanatory and financial memorandum that is attached to the Northern Ireland Executive's Welfare Reform Bill and the one that is attached to the GB Act?

Ms M Campbell: There is not much difference. However, I have said consistently throughout my evidence sessions that we can put some of the issues that members are concerned about into the explanatory and financial memorandum rather than on the face of the Bill. That is because putting

them into the face of the Bill will, in many circumstances, restrict others who do not need that type of flexibility.

We are on record as saying that there is provision in the Bill for split payments. I think that that is in clause 99. I accept that members have not seen the claims and payments regulations yet, but there is provision in them for payments to be made more frequently. The Minister has committed to consulting on exceptional circumstances that would lead to people availing themselves of the flexibility of either split payments or more frequent payments. Members have been invited to that consultation, which starts this Thursday. Those circumstances will be defined in consultation with stakeholders.

Mr Brady: Obviously, one of the policy intents is to make work pay. However, one of the other policy intents is to cut benefits. They have said frequently that the system is costing too much, and the Bill is their excuse for introducing cuts.

Ms M Campbell: We see it as delivering efficiency savings and making the system fair to the taxpayer.

Mr Brady: With respect, you are not here to justify welfare reform. You are not a policymaker. The Bill has been made by a British Government that have a particular intent, which is to cut benefits. In an ideal world, everybody would love to be working. I have no doubt about that. However, we are in the deepest recession in living memory. To try to justify the Bill by saying that it is designed to get people back to work does not make sense. They are cutting £18 billion off the social security budget. That is the policy intent.

Part of the policy intent is, of course, to get people back to work. We all agree with that. However, do not sell the Bill as an altruistic measure that the British Government have introduced to help people. The Bill will affect the most vulnerable in our society, and we cannot get away from that, whatever way we dress it up.

Mr Pollock: With respect, there is a wider policy intent that stems from the fact that the present social security system is not sustainable. We have an ageing demographic, probably more so in Northern Ireland than elsewhere.

Mr Brady: With respect, Michael, they are not saying the same thing about Trident, and they are prepared to spend £100 billion on that. I do not want to get into policy discussions, but it is very difficult to justify what is in the Bill. We know that there is an ageing demographic, and there is a duty of care on the state to look after people as they get older. The state should not shove them to one side and say, "We are not going to look after you, because we have other priorities." It is a matter of priorities. We all agree that we should help people to get back to work. That is not an issue.

Mr Pollock: The balance for the taxpayer is part of that policy intention.

Mr Brady: We are taxpayers as well. We are all entitled to our views as taxpayers. However, that is another issue.

The Chairperson: We are dealing with a government Bill, and people will agree or otherwise with the intent of its measures as they see fit. There is no point in exploring that any further because it is a political argument. We have a Bill to deal with.

Mr Douglas: Going back to the policy intent, I think that Martina is right. We all agree that the system needs to be much more efficient, particularly for those who are receiving benefits or making benefit applications. I heard John Kyle from the PUP say recently that, as a doctor, the best thing that he could do for some people who come into his surgery would be to give them a job. I know that there is an imbalance between the number of people who are unemployed and the number of jobs that are available. I suggest that, as we go through this, our policy intent should be that we have compassion for the most vulnerable. It would be so easy for the perception to be that we are railroading this through on behalf of the Tory Government. There is little compassion in some of what has been handed down from Westminster, so I think that the most vulnerable in our community should be one of the overriding factors as we look through the Bill.

The Chairperson: This is it. In fairness to all members of the Committee, everybody has stated that on record. I have listened to the Minister, and I have spoken to David Freud. Both of them are

categorical that although they will be looking at flexibilities, it will not be the norm to do so. So, we will have to prove a point. That brings me back to the first concern I had about the Bill, going back a year ago, when Paula and I did a NICVA panel. One thing jumped out at me, and I am going to give quite a basic example. A man and woman are in a partnership in which the woman is often the recipient of abuse. That person is going to be expected, as was the case years ago, to go along and argue that there are special circumstances in her case. I think that this is disgraceful, personally speaking. It is a very socially and politically regressive step in the Bill, and I am not supporting it.

Is the Department prepared to look at split payments and the recipients of payments as being the default position? This is similar to the situation in which landlords are going to be paid directly. In my view, the landlord is now being facilitated because payments will be made directly to him. No landlord is going to lose out as a result of this. However, a person in a potentially abusive relationship will have to go along and fight their case. We reversed that situation 40 years ago. We are going back to it, and I do not want that to be the case.

Such a default position would not cost any money. The Government already agreed with the Minister for Social Development that they will look at the nature and types of flexibilities. In fact, implementation of universal credit has been put off for six months to facilitate that. I do not see why there cannot be a default mechanism. I want this to be the default mechanism, and then people can opt out of it if they wish to do so. It is very regressive and changing it is not going to cost any money. It has already been agreed that the IT can facilitate it. Why not just go ahead and do it? If we can sort things out for the landlords, why can we not sort things out for people in a potentially abusive relationship? For me, it is quite simple. That is my opinion.

Mr F McCann: Obviously, we argue every day about the drive for efficiency in all Departments. However, there is a big difference between driving efficiency in Departments and driving efficiency in a benefits system that pays people at subsistence level, which would automatically mean a reduction in the amount of money they have to live on and bring them well below the poverty line. That is the point I am making.

Martina, as far as fortnightly payments are concerned, there is no comparison between people on benefits and a person who was in a good job and who has lost that job. You would be able to manage a monthly payment if you were getting a good wage, but when you are getting £220 a month, there is a huge difference in trying to manage that amount of money. There are people who will not be able to do so. In their minds, they can do so only on a weekly or fortnightly basis. Monthly payments will lead to serious difficulties.

Ms M Campbell: I accept all those points. That is why the Minister secured the flexibilities that, in those circumstances, people will be able to avail themselves of a more frequent payment, namely a fortnightly payment.

Mr F McCann: However, concerns have been raised about the other flexibilities. We have not seen anything from Freud to really say that people will be able to tap into fortnightly payments "under certain circumstances", which were, I think, the words that the Minister used. This needs to be clarified because it could mean many things to many different people.

Ms M Campbell: That is why, on Thursday night, the Minister is kicking off the consultation to see what those circumstances should be.

Mr Brady: The difficulty with flexibilities is that — and going back to what Sammy said — it is all a matter of opinion unless they are actually enshrined in the Bill. If there were to be a different Minister next week, he could come out with a totally different view. However, if the flexibilities were enshrined in legislation, things could not be done in some arbitrary fashion in the future.

In many ways, this is not fair on staff because they have to make very pertinent decisions at the right time, whereas, if this was in the Bill and then in the regulations, staff could quote them. It was not that long ago, in the 1970s, when I worked in the Civil Service. They kept the legislation locked in a drawer, and you had to go and look at the wee bits. It was like the 'Book of Kells', and I am surprised they did not keep it under glass. Things have moved on, but, as Alex said, a lot of the Bill is regressive. We need to move on from that. If flexibilities were enshrined in legislation, people could say that they are in the legislation and that, therefore, this is the way that it is going to be. I think that this is important.

Ms M Campbell: I take on board all the comments, Chair. I will bring those back and try to get a definitive position for you before the clause-by-clause scrutiny.

The Chairperson: Thank you, Martina. I would like the Department to tell us whether it is willing to embrace split payments, and so on. The precise detail can be dealt with by way of the wider consultation, but I would like clarification on whether the Department is prepared to embrace the concept of split payments being the default position.

Direct payments will be made to landlords as the agreed default position. For the life of me, I cannot understand why any Department, Minister or Government would say: "We are going to sort out the landlords, but we are not going to sort out, as the default position, someone who could be in a possibly abusive relationship." To my mind, the basic problem is that the person in a potentially abusive situation will have to go along and argue their case. That was confirmed to me by David Freud. I am sorry, but I am not supporting this. That is another discussion, but I would like the Department to get back to us. Everybody seems to agree that they want this issue resolved. It will not cost any money. It is a policy decision, and the computers can fix it. I would like the Department to tell me whether it is prepared to deal with the frequency and recipients of payments — whatever about the precise detail — and that that will be the default position. I believe I know what the answer will be, but I have to wait until I get that answer. Then, I will make a judgement, when I am going through the clause-by-clause scrutiny.

Ms M Campbell: Can I just clarify what you mean when you say default position? My understanding of what you mean by default is that everyone will automatically get a fortnightly payment and a split payment unless they opt out.

The Chairperson: That is what I mean, and it would not cost any money. The fact is that if two people are making a claim, there should be a split payment facility, which should be the norm unless they opt to say no. It will be the same as the situation in which a person's rent support will now go directly to the landlord. That is the default position in that situation unless people decide to take the money and pay the landlord themselves. It is their choice, but they are protected from day one.

Everybody made the argument that people will go into debt. How do you stop them going into debt? You do so by paying the money directly to the landlord. Somebody could be being abused. How do you stop that? My position is that you give them the money, and then they will not be financially dependent on anybody else. If people want to choose to get their money jointly, that is fine; that is their choice. For me, it is very regressive. If somebody has to go and make an exceptional circumstances argument.

Ms M Campbell: I just wanted to clarify that. Thank you.

The Chairperson: I appreciate that, Martina. I know the difficulty of what we are dealing with, but that seems to be the mind of the Committee so far, and certainly that of all the key stakeholders who presented to us.

Mr Douglas: Perhaps Martina could check whether there are any implications for the IT system if we go to the new default position.

Ms M Campbell: Yes, there are.

Mr Douglas: Will there be a cost?

Ms M Campbell: There is a potential cost. That is what we are trying to bottom out in all that.

Mr Pollock: There would probably be a transaction cost. Instead of one payment, there would be two. There would be some cost.

The Chairperson: That brings us back to the business case. I ask that you come back to us, in the round, on that.

I remind members who came in late that we are working through the paper presented, now dated Tuesday 13 November. Essentially, we are going through the bit on the way forward, which tries to encapsulate the arguments put to the Committee by the range of stakeholders. It is not a definitive

list. Therefore, as we work our way through it, members are free to raise any issue not included in the paper.

Are members content that we have dealt with the frequency and recipient of payment issues and that we await a response from the Department?

Members indicated assent.

The Chairperson: For members who were not here at the start, we are at the point of going through the list to determine the Committee's mind on the issues, and then asking the Department to come back and tell us what its deal would be. Subject to the answers we get, we will commence clause-by-clause consideration. If I remember correctly, there was an issue about whether housing payment would be paid in arrears. The issue we were looking at was whether the trigger would be set at six weeks' arrears, as it currently is, or eight weeks.

Ms M Campbell: It is set at six weeks, but the issue has been overtaken by events, with the default position now being that claimants have to opt out.

The Chairperson: OK, so it is not a problem.

Mr F McCann: On a point of clarification, housing associations said that if you are paid six weeks in arrears, then by the time they send out word to you that you are in arrears, you can actually end up being eight or 10 weeks in arrears. One thing that the voluntary housing sector said was that many people are often three months away from eviction. This near enough kick-starts a court case. Is there any way that the period can be reduced?

I think that, at one stage, the period was four weeks' arrears. I know that the Housing Executive, if someone were four weeks in arrears, automatically took them off the transfer list if they had applied for a transfer. It usually sent a letter telling people that they had been removed from the list because they were four weeks in arrears. Someone from the Housing Executive should sit down with people, explain that they have fallen into six weeks of arrears and ask whether there is anything that they can do to help.

Ms M Campbell: As I have said already, the vast majority of claimants are not going to be in that position because their payments will be going directly to their landlords. You are talking about a small minority of claimants who will opt out and receive the payment directly.

We already have a flexibility by virtue of the fact that when the IT system was being built, we negotiated that the current position should remain; that once the claimant hits six weeks' of arrears, payment automatically defaults to the landlord. Reducing the period further would require another intervention in the IT system, which would have a knock-on effect in two aspects: first, there is the time involved in trying to get this into place; and, secondly, there is the cost of developing the IT functionality for a number of cases that, in all likelihood, is going to be very small. I accept what stakeholders and the Committee are saying; that people are three months away from eviction. However, we feel that, by virtue of the flexibility that the Minister has secured, this will be a very small issue.

Mr Pollock: The six-week trigger here is a lot tighter than it is in the rest of the UK. It is eight weeks over there before anybody has defaulted.

Mr F McCann: I appreciate that, but some landlords would be at your door after four weeks if you had not paid, and many would tell you to get out. It was a point of clarification. It will have an impact on people because of the six weeks extending to 10 weeks or 12 weeks. Obviously, you are saying that —

Mr Pollock: It is an automatic default after six weeks.

The Chairperson: There was an issue with clause 2 about who is making the claim. If it is a joint claim, and one person does not sign the commitment, the entire claim falls. I think that you, Martina, said last week that there is no fallback position. I think that everybody was taken aback by that. I presume that the mind of the Committee is that this cannot be an acceptable position.

Mr Brady: I think that Martina said that there would be a cooling-off period of four weeks but that, during that period, people would not get paid.

Ms M Campbell: That is right.

Mr Brady: If a couple have a family, and one of them, for whatever reason, decides not to sign, there has to be a position in which the person who does sign gets — not rewarded, necessarily — their benefit for being willing to do so. If the other person, for whatever reason, decides not to sign, I am not sure why that should impact on the person who is willing to stay within the rules and regulations.

It seems grossly unfair. The person may have a good reason for not signing or they may have no reason whatsoever; they might just throw the head up. There are people like that, and we have all met them. They are out there. It seems grossly unfair. It has to be addressed. Sammy talked about compassion. This is showing a distinct lack of compassion. People may have no control over the situation.

Ms P Bradley: I agree fully with Mickey on this matter. Members of the Health Committee talk about duty of care when they discuss many things. It is a big thing in the Health Committee and in 'Transforming Your Care' and things such as that. Where is our duty of care here, especially for vulnerable children? If the scenario were that the male partner did not sign, for whatever reason, the female and the children are left. We are showing no duty of care whatsoever. Part of government's role is to do that. We need to look at that a bit more strenuously.

The Chairperson: Martina, I do not know whether you have been able to put any more thought into this issue since last week or whether the Department's position remains the same. You are hearing that the Committee wants you to reflect on this position because it is not content with it.

Ms M Campbell: We will take this back and look at it. I cannot give you an answer now.

The Chairperson: Fair enough.

Ms M Campbell: It would be breaking parity — that is the first time that I have used that word.

Mr F McCann: The first of many.

The Chairperson: It is one of those issues that does not appear to have a price tag on it.

Ms P Bradley: There is no financial implication because had the person signed it, they would have been claiming it anyway. There is not a knock-on effect.

Mr Brady: If people are paid at a lesser rate, such as for one person with children, for instance, the Department would be saving money.

Ms M Campbell: That is how it is in the current system.

The Chairperson: Thank you. We will move on to what is called third-party verification. A number of organisations have raised issues.

Ms M Campbell: Yes. We are actively considering the issue. We take the point fully. The Department for Work and Pensions (DWP) is doing some work with the Post Office to see whether we can find a way round it. It is under active consideration. I cannot give you a definitive position and I am unlikely to be able to do so before you come to the end of your report. However, I reassure you that it is a live issue.

Mr Brady: This ties in with what you said last week. With universal credit, if there are 10 pieces of information, they wait until the last piece is in before they pay you. Your claim does not date from the date on which you make it, it starts on the date on which your last piece of information slots in.

Ms M Campbell: The claim starts from the minute you push the button and submit it. You can go in and out over three days to complete the form if you wish, but your claim does not start from day 1, when you start filling it in; it starts from day 3 when you push the button.

Mr Brady: If it takes a month for the last piece of information, you will start getting paid only from —

Ms M Campbell: Yes.

Mr Brady: The difficulty is with homeless people particularly, because they are vulnerable by nature of their circumstances. They may not have access to any information because of their particular circumstances. That is why third-party verification is so important.

Ms M Campbell: I am not sure about this — Maurice may be able to help me out — but they may get a payment on account, which is like the old crisis loan.

Mr Maurice Byrne (Department for Social Development): There is the facility to pay short-term advances.

Mr Brady: Is that discretionary?

Mr M Byrne: Yes. They look at the possible entitlement, and, from that, if the person is in need, they will decide how much can be paid in advance of the entitlement being decided.

Ms M Campbell: Is that around clause 100?

Mr M Byrne: Yes.

Mr Brady: What you are saying is that there is a facility to —

Ms M Campbell: Yes, just the same as there is now.

Mr Pollock: The current provisions will be carried forward.

Ms P Bradley: You have probably just answered this question; it follows on from what Mickey said. There are various reasons why people have to leave their home. One of the big ones is because of domestic abuse. When people leave because of domestic abuse, they do not necessarily think that they must lift this and that because they will need them for whenever they present themselves at the office. You have answered the question for me: there are certain circumstances in which things will be taken into account when people do not have documentation. They will be highly unlikely to get that documentation within any time frame.

Ms M Campbell: The explanatory and financial memorandum, starting at paragraph 480, sets out the circumstances. Payments on account are recoverable. Paragraph 482 mentions a payment on account made in additional circumstances. It provides for where a claimant is in need — for example, where benefit has been claimed but the first payday has not been reached or where a claimant is receiving benefit but encounters difficulty in budgeting between benefit payments. That issue is probably covered well enough.

The Chairperson: Are members happy with that?

Members indicated assent.

The Chairperson: Last week, we sought more clarification on the entitlement of mixed-age couples to universal credit. That is in clauses 3 and 4. Do members want any more clarification on that issue or are you content with what you have heard?

Members indicated assent.

The Chairperson: We move to temporary absences, which is point 8 in the table.

Ms M Campbell: I was to come back to you, which I will, on that issue. I said that DWP was considering it, but we are doing so and are liaising with the IT people. There has been what we are calling a realignment of the periods of absence between all the benefits. As I understand it, there is no

change, and the only change will be for people who are getting tax credits, housing benefit and income-based benefits. I think that the rules are the same, but I will give you a definitive position on that.

The Chairperson: OK, Martina. Thank you for that.

We will move on to the issue of 16- and 17-year-olds. I am looking for some clarification on that. NIACRO suggested an amendment. Have you have been able to consider it?

Ms M Campbell: Yes, we have confirmed with DWP the issues about both cases of hardship payments for 16- and 17-year-olds. The first is where people have signed on for training but have not got a place, and the second is where they are coming out of care and, for whatever reason, the Department of Health, Social Services and Public Safety (DHSSPS) is not sufficient to meet their needs. In the current system, there is provision for them to claim a hardship payment under jobseekers' allowance (JSA). That provision has been removed, and it is partly to do with the whole government intent that people under 18 should be in education or training. Do we have figures on the number of 16- and 17-year-olds on JSA?

Mr Pollock: We just have the figures for employment and support allowance (ESA).

Ms M Campbell: I cannot give the Committee any more information on that. We are exploring with colleagues whether those people are able to apply for the new discretionary scheme, and we have not got an answer back on that. If they are not able to apply for the new discretionary scheme, they are out under the current legislation.

The Chairperson: The issue was raised by organisations such as NIACRO. It talked about the definition of "receiving education".

Mr Brady: Under the current system, child benefit is a controlling benefit. So, if parents are getting child benefit, they are responsible for the child for whatever reason, but, in cases such as this, nobody is claiming any benefit for that person. Surely, this again goes back to Paula's point that there is a duty of care to those children. At the moment, if you are estranged from the family home —

Ms M Campbell: That will carry forward.

Mr Brady: That would need to be one of the things—

Ms Campbell: That is in the legislation.

Mr Brady: — that would need to be addressed. Otherwise —

Ms M Campbell: These are two matters that are —

Mr Brady: Too specific?

Ms M Campbell: — over and above. The exceptions are for cases of estrangement, lone parenthood or things such as that, where those rules are carried forward. This is particular to these two sets of cases.

Mr Brady: It seems, again, unfair to single out two specific cohorts of youngsters who will be penalised through no fault of their own. They are probably in the position of waiting for a placement but not being paid. They will have absolutely no control over that placement.

Ms M Campbell: Yes; I accept that point.

Mr Brady: They must be included. I cannot see how they can be excluded. Surely, there are human rights and equality issues involved.

The Chairperson: I presume that Martina is restating the Department's decision.

Ms M Campbell: I am trying to see whether they will get in under the discretionary scheme. If that works, it should take care of that point.

The Chairperson: OK, fair enough. Members seem happy enough that we have explored that clause, so we will move on to clause 5, "Financial conditions". I think that this is to do with the cap.

Ms M Campbell: Yes; I have got figures for you on that. This clause would affect older people. Last week, I gave you figures based on the DWP briefing note. I told the Committee that to move the capital limit from £16,000 to £25,000 would cost £60 million and £500 million or something. We cannot yet give you figures for that. However, based on the 'Family Resources Survey' 2008-09, approximately 15% of benefit units with one or more persons over pension age had capital of more than £16,000. Although 7% of working age units had capital of over £16,000, the average working age household has capital of £7,100. I talked last week about the DWP figures for tax credit claimants. Again, based on the family resources data for 2008-09, 45% of tax credit claimants with capital in excess of £16,000 had earnings of over £40,000 per annum. A further 21% earned £50,000 or more. The majority of the 3,958 mixed-age couples — 3,620 — had capital of less than £6,000; 263 had capital between £6,000 and £16,000; 36 had capital of between £16,000 and £25,000; and 39 had more than £25,000 in capital. However, not all of those will be impacted because existing state pension credit claims by the younger person in a mixed-age couple will continue unless they work and have to make a claim for universal credit, in which case they will transfer over.

Mr Brady: I raised the point about the passported benefits.

Ms M Campbell: Yes.

Mr Brady: Are the figures that you have for us from —

Ms M Campbell: Northern Ireland.

Mr Brady: You know the thing about £40,000 and £50,000 earnings —

Ms M Campbell: Yes, that applied to Northern Ireland.

Mr Brady: How many people did that apply to here?

Ms M Campbell: Of tax credit claimants, 45% had in excess of £16,000 capital, as had a further 21% with earnings of over £50,000. That must be all the MLAs.

Mr Brady: Not if you are a Sinn Féin MLA that is for sure; industrial wage and all that.

Ms M Campbell: Ah —

Mr Brady: Yes; believe it or not.

Mr McClarty: Take that up with Sinn Féin and not us.

Ms M Campbell: I diverted you, sorry. *[Laughter.]*

The Chairperson: That is not in the Bill; you are right.

Mr Brady: It is a point that we do not make often enough, but that is another issue. My point is about what happens if you are 1p over. One of the suggested amendments is that it should not apply to people over 60.

Ms M Campbell: Yes.

Mr Brady: Obviously, working age people —

Ms M Campbell: We cannot give you the cost for that bit. I think that the cost of that in GB is somewhere in the region of £60 million.

Mr Brady: That kind of figure would not be relevant here.

Ms M Campbell: No, it would be much smaller here. Obviously, you would be talking about a smaller cohort.

Mr Brady: However, it has a big impact because of the loss of passported benefits, etc. That is my point.

Ms M Campbell: Again, I would say that the new capital provisions are slightly more advantageous to claimants in that the definition of what is reasonable in deprivation of capital is wider.

Mr Brady: It is a bit like quiz questions: they are easy if you know the answer. Savings are fine if you have them, but lots of people simply do not. It will be neither advantageous nor disadvantageous to them. Those who have sacrificed and saved and go 1p over the £16,000 will not just suffer monetarily but will lose out on all the other passported benefits.

Ms M Campbell: Yes.

Mr Brady: That is my point.

The Chairperson: So, you may come back with a bit more information on that.

Moving on, there were a couple of issues on the restrictions on entitlement. There was a specific issue about six days and three days and the general issue about whether the regulations intend to go further than the current exclusions under income support, JSA and ESA.

Ms M Campbell: Again, I will need to write to you to set that out. However, as I understand the position, there will be three waiting days as is the case in the current system. As there will be a monthly assessment period under universal credit, if the amount payable is for less than seven days, we will not pay it. The cost of administering that would, in all likelihood, exceed the amount of money the claimant is entitled to. The idea is that they should have wages that would tide them over. That is the theory.

Mr Brady: Again, the issue was about the passporting of benefits.

Ms M Campbell: Yes. I am checking that out. I think that that underlying entitlement will still be there, but I will try to get that resolved for you.

The Chairperson: Do you have anything further on clause 7, which deals with the basis of awards? There was a previous question from the Committee.

Ms M Campbell: I think that that goes back to the monthly payments and the whole issue of the banking products that we were sourcing for people. All those issues were about frequency and split payments. I think that we have covered that.

The Chairperson: OK; fair enough.

Mr F McCann: I am a bit confused about what the banking products actually are and how it will work in practice. Do you have any information that would allow us to see how it will work in practice? I have raised this a couple of times in the Committee; people are unsure about what it actually means.

Ms M Campbell: I think that I came back to you and told you that DWP had issued what it calls a prior information notice, which is like an invitation to tender, on —

Mr F McCann: I thought that you were going to say a D notice for putting any information out to begin with.

Ms M Campbell: I cannot remember the date offhand, but it is in your responses. That notice set out DWP's request to financial institutions, including credit unions and the Post Office, to come up with

products. DWP's suggestion is that there should be what are termed jam jar accounts. That is where the money goes into a claimant's bank account and immediately fires off into — it is like direct debits, really. The money would automatically go into an account to pay the landlord, utility companies, mortgage providers or whatever else.

Mr F McCann: Forgive me, but it is a bit baffling. Given the amount of money, people will continuously be in arrears. Is the response from DWP? Have people been asked locally? Are we dealing with local credit unions and financial institutions? What response —

Ms M Campbell: We are hooked into that. All the Northern Ireland banks are members of the British Bankers' Association, with, I think, the exception of one of the Irish banks.

Mr F McCann: My understanding is that they have totally rejected any connection with facilitating this because of the costs involved.

Ms M Campbell: There will be costs attached to it. The invitation to tender has not yet closed, so we do not know. That discussion is still —

Mr F McCann: Do you expect a late rush?

Ms M Campbell: It is still a live issue. The Department is also working with colleagues in the Department of Enterprise, Trade and Investment on the financial capability strategy, which is a Programme for Government commitment. As part of the service that we can provide to customers, we are looking at giving them advice and helping them with budgeting and how to manage their money.

Mr Brady: Presumably, there will be a charge involved when benefits are paid through the banks in whatever way they are paid.

Ms M Campbell: To the Department?

Mr Brady: The question is whether it will be levied on the Department or the person. The population in the North, in British terms, is about 3%. So, the bigger banks would not see that as a huge way of —

Ms M Campbell: Yes; chicken feed.

Mr Brady: I cannot imagine them rushing to tender for something that may not be that profitable for them.

Ms M Campbell: Yes, but if, for example, Danske Bank, which owns Northern Bank, gets the contract in England, that product will be available in all their branches for all social security customers. I do not think that it is a question of a bank in Northern Ireland not participating. They are all members of that association.

Mr Brady: I suppose that it goes back to the issue of the charges.

Ms M Campbell: That issue is being looked at.

Mr Pollock: It would be a guaranteed income stream for the banks, in the same way that if you make default payments to landlords, you guarantee their —

Mr Brady: If you follow the logic of people getting paid monthly, they are more likely to go into arrears and have overdrafts and will be charged even more.

Ms M Campbell: I think that one of the conditions would be that they would not be allowed an overdraft. The accounts will be a bit like the Post Office accounts that exist at the moment and are very limited in their functions. As the accounts will have automatic direct debits — let us call them that — claimants will not get into arrears with their —

Mr Brady: My point, I suppose, is that banks make a lot of money out of bank charges. If you and I are overdrawn, we pay for that. One example of charging relates to the use of ATM cards. Some banks do not charge you if you are in credit, but if you go 1p overdrawn, you are charged for all your transactions. That is how they make money.

Ms M Campbell: Yes, but the whole point of the system will be that safeguards will be built in. A claimant will not be able to go overdrawn. As is the case now with the Post Office account, they will be able to withdraw only what they have in their account.

Mr Brady: It makes the argument even more for fortnightly payments.

The Chairperson: With respect, we do not have the arrangements in front of us.

Mr F McCann: That is the important thing; we need to know what the arrangements are.

The Chairperson: We are getting into speculation and all the rest of it. To be honest with you, I do not think that we can usefully explore that much further.

Mr F McCann: Chair, the general point is about managing the single person's allocation for benefit. I am not sure whether it is at £63 a week, but how do you actually manage that £240 a month? How will that money being put in the bank benefit a person or teach them how to deal with working out the money that they get? How is that going to work? Even if there was a bank charge against it, you already have paid a subsistence level. You are throwing people deeply into —

The Chairperson: The point was made about the frequency of payments, the ability or non-ability to budget and the policy intent. That was dealt with earlier. We do not have the banking promises, as they are nicely called, in front of us.

Mr F McCann: Can we get any information that is there?

The Chairperson: OK. At this stage of the game, we are still dealing with speculation. At best, it could be described as a work in progress.

Mr F McCann: If we wait until the tenders are won, we have no opportunity or possibility to include anything like that, from our perspective, in the Bill.

The Chairperson: We can specify that we want to have a view on that, if members are happy enough. OK, Fra?

Mr F McCann: Yes, certainly.

The Chairperson: We move now to the calculation of awards. This dealt with a range of issues, including the notion around EU workers, if I remember correctly.

Ms M Campbell: I said that I was going to write to you on that to try to explain it further because I seem to get myself in knots here.

The Chairperson: A number of issues were raised, and I am trying to look quickly at some of them. Citizens Advice, for example, talked about statutory sick pay, maternity pay, and so on.

Ms M Campbell: Those are treated as earnings.

The Chairperson: Are members happy to move on?

Members indicated assent.

The Chairperson: Clause 10 deals with the responsibility for children and young people. There was a suggested amendment, which was to insert:

"Such additional amount to be paid at a higher rate, a middle rate or a lower rate. The middle rate shall be no less than two-thirds of the higher rate as may be prescribed. The lower rate shall be no less than one third of the higher rate".

I think that that came from Disability Action; I am not sure, but it was a suggested amendment. Has the Department been able to look at that?

Ms M Campbell: Under universal credit, support for children will be provided in the form of a child element. That will replace child tax credit and be paid in addition to child benefit. The child element in universal credit will comprise two rates, unlike tax credits, which pay the same rate for each child, irrespective of the number in the family. That is the norm for all children. So, there will be one rate for the first or only child and a reduced rate for second and subsequent children.

The maximum amount of universal credit is to include an addition to the child element, which will be called a disabled child addition. That is similar to the current disability premiums under child tax credits. There will be two rates — lower and higher. The lower rate will be awarded for a child who receives any rate of either component of disability living allowance, apart from the highest rate of the care component. The higher rate will be awarded for a child who receives the highest rate of the care component. That, I understand, is the same position that exists in the tax credits.

I think that the issue is about the actual amount of the payment. The policy thrust of this is that it is intended that there will be greater support for most severely disabled children. Payments for disabled children and adults will be aligned, because, between 2003 and 2010, the uprating of child payments increased at a faster rate than it did for adults.

I told you that this was under review. There are 5,360 families receiving the severely disabled child element in child tax credit and 5,710 disabled children getting the severely disabled child element. Under universal credit, a non-disabled child would receive £3,180 a year, based on the current published rates, which may be subject to change in the autumn statement. A disabled child would receive £4,580 a year, and a severely disabled child would receive £7,200, which is double the amount that a non-disabled child would receive. There is going to be a phasing-in period for the higher rate for severely disabled children. I think that they are saying that it will be increased over time.

That is all I can say on that. Again, I will put it in writing.

The Chairperson: Thank you for that, Martina. Members have heard that, but the Committee will receive it formally in writing. Are members happy enough?

Members indicated assent.

The Chairperson: We move now to clause 11, which relates to housing costs. This is also relevant to clause 69. We touched on this issue earlier, when we were talking about the direct payments to landlords. The key issues raised are noted in your paper. I do not want to rehearse them. We need to discuss the proposals with regard to deciding on the Committee's way forward, on the back of the information that we had. It is more acute now, following the Minister's statement of the past couple of days.

Ms M Campbell: I can tell you very little on the bullet points that are listed. The Housing Executive has advised us on the proposal to defer general implementation of the clause — the first bullet point. The underoccupation figure for the social sector is estimated at 32,500 households. Given average current rent levels, that figure is estimated to equate to approximately £17.3 million per annum. That does not take account of any potential rent increases or provision of discretionary housing payments. It has undertaken some kind of a pathfinder analysis, which has identified that less than 10% of tenants affected would be willing to move to a smaller property.

Information is not held on the other bullet points in your paper, so the Housing Executive cannot get any information on that. As regards exempt separated parents who share caring responsibilities, it says that it cannot identify those impacted from the current housing benefit information, but pathfinder analysis has identified that approximately 9% of underoccupying households required an additional room to facilitate excess children. That comes with a heavy caveat. It also reckoned that less than 1% of underoccupying households required an additional bedroom to facilitate foster care arrangements, but that also comes with a heavy caveat.

I told you last week that DWP had just made an announcement on supported accommodation. We have written to the Minister about the way that DWP is going. Supported accommodation is outside UC, and DWP's intention is that it will be localised. We had a discussion with Mr Brady about whether that applies in Northern Ireland. All of that, and whether it should be localised here, needs to be explored.

I can tell you that there are 8,239 claimants in receipt of housing benefit for supported accommodation, which equates to £30 million.

That is all that I can tell you on those bullet points.

Mr F McCann: I have a couple of points. One of the relevant things being dealt with this morning was the Minister's stuff at the weekend. It puts back the information that we require. You said that that would not be until after Thursday night. Also, the Minister discussed the whole question of underoccupancy before some other things were happening.

It still throws into question the whole issue of deferring the likes of underoccupancy because, first, there is not enough accommodation to deal with people. Secondly, the legacy of the conflict here will have an added impact, and I wonder whether that was taken into consideration.

The Minister touched on something yesterday during Question Time in relation to room size. I have raised this a number of times; it is about the size of a box room.

Ms M Campbell: I think that it is 40 square feet.

Mr F McCann: What is that?

Mr Copeland: It is four feet by 10 feet.

Mr F McCann: I thought that he said yesterday that they would look at whether that would be designated as a cupboard or a large storeroom rather than as a bedroom. That would have a knock-on effect for many people, especially those who live in older Housing Executive and housing association houses that have those types of rooms. He said that during Question Time yesterday.

Ms M Campbell: Colleagues in housing division are carrying out two or three pieces of research on this.

Mr F McCann: Mickey said that you have to sleep diagonally in those rooms.

Mr Pollock: What Martina says is right. There is an awful lot of research activity going on to do with housing and the changes that have been made recently to housing benefit. The changes that are being put forward in this Bill, whether they are to do with underoccupancy or the operation of the consumer price index, are going to have an impact on that environment.

All the issues to do with the Troubles, such as segregated housing and the lack of suitable housing for people who would be deemed to be underoccupying, are exercising people's minds at the minute.

Mr F McCann: Do you see the point, Michael? It is said that 32,500 people will be affected. The figures that we have show that only 300 or 350 units will be built over the next two years to facilitate people. There is a huge gap between what is being provided and what is required.

Mr Pollock: We have come back to you on some figures. Before you get to the clause-by-clause consideration, so that you can take an informed decision, we want to give you the rounded picture on the numbers of people, on the fact of whether we will not count a box room or a 10 feet by four feet or a five feet by eight feet space as a bedroom, on exemptions for people of mixed age, and those types of things. We should also put into the mix all the other work that is going on as regards the advice that is available to people who would potentially be affected by all this.

Mr F McCann: There is just one other thing, which fell outside the remit of supported housing. I had asked a question about houses that were adapted, where the person may have need of a special

adaptation and where their family has moved on and they live alone or with a partner in a three-bedroom house. Would there be an exemption there?

Ms M Campbell: That is in the whole consideration. Obviously, our good friend, common sense, should prevail, because the money spent on adapting that house —

Mr Pollock: And the money that it would cost to provide suitable accommodation somewhere else —

Ms M Campbell: — should cancel each other out.

Mr F McCann: You and I know that unless it is down in black and white in the Bill, anything could happen.

The other issue, which I raised this morning, is the discretionary payments. The Minister talks about them a lot and says that we have increased discretionary payments to cover the cost of the change. However, it is a short-term solution to a long-term problem. We need to point out to people that the measure may not go beyond six months. I thought that it was two sets of 13 weeks, with one at full-rate and the other at 80%. I was told last week or the week before that it is a six-month thing.

Mr Pollock: It can be six months. As you say, it is discretionary. There can be an application for a further discretionary payment, which would be looked favourably on, as there is some money specifically carved out to identify —

Mr F McCann: It is £6.9 million to deal with those already affected by the shared-room allowance and the 32,500 people who will be affected — *[Inaudible.]* It is not a big amount of money.

Mr Pollock: It is pro rata but it is available in GB.

Mr F McCann: All I am really saying is that it is a short-term thing. It is discretionary. At the minute, it is allocated at the discretion of the heads of housing benefit in different areas. It needs to be pointed out to people that it is not the saviour because all you are really doing is putting the problem off for six months.

The Chairperson: The Housing Executive was referred to earlier. Its representatives made it very clear to the Committee that if people who were deemed to be over-occupying a house presented themselves asking for alternative accommodation, they would not be able to facilitate that. They also said that they were very anxious about a scenario in which people who had lost money towards their rent could be forced into non-payment and then face eviction. They were very concerned about the prospect of evicting people who did not have the "wherewithal" — that was the term they used — to pay their rent. You then get into the nonsense of people being forced into a position where they cannot afford to keep a roof over their head.

The Department has said that people will make sure that they pay their rent and have a roof over their head. However, the Housing Executive paints a dire picture in which we could be faced with forcing people from their homes as a result of the Bill's provisions. That goes back to Sammy Douglas's point earlier. I noticed last night that the Spanish Government have put a two-year moratorium on evicting any family from their home.

Mr F McCann: They have an agreement with the banks, too.

The Chairperson: A general concern has been expressed by the Committee routinely on this issue. I re-emphasise that that concern was presented to us by the Housing Executive officials, who are the people with the facts and figures in front of them.

Mr Brady: Michael, you were talking about going back and looking at box rooms and all of that. Presumably, if any decisions are made on that, they will become part of the Bill rather than some discretionary guideline.

Mr Pollock: Decisions on what?

Mr Brady: You were saying that you are going to look at the size of the rooms and decide whether they are box rooms.

Mr Pollock: That would not be in the Bill. It would be in regulations and guidance on the outworkings of the policy intent.

Mr Brady: The policy intent is to move people to smaller houses, if they are available.

Mr Pollock: The policy intent, allegedly, is to ensure that people on benefits are faced with the same sorts of decisions as people on low incomes.

Mr Brady: One of the ways of doing that would be to properly control the private-rented sector, where landlords can charge whatever they want.

Mr Pollock: That is the other side of the coin insofar as that criterion already applies in the private-rented sector; it is the social-rented sector that we are talking about.

Mr Brady: That is one of the issues that people will have to deal with. If the only alternative accommodation is in the private-rented sector, you are back to the same vicious circle.

Mr Pollock: Due to the spiralling costs of housing benefit, not just in Northern Ireland but UK-wide, one of the policy intents was to influence private sector landlords to try to push rents down.

Mr Brady: The example used was that of a three-bedroom terraced house in London, for which the landlord was charging the local authority £2,000 a week. That was given as an example of why housing benefit is so expensive, but it does not apply here.

Mr Pollock: It does not apply here, granted. However, by the same token, when it comes to the number of bedrooms, the size of accommodation, and so on, some of the thresholds that have been applied in previous housing benefit regulations have had little or no impact in Northern Ireland simply because our rents are decidedly lower than elsewhere.

Mr Brady: Therefore, the policy intent should not really apply here.

Mr Pollock: Why?

Mr F McCann: Picking up on the point that Mickey raised, you are saying that rents are lower here and comparable to rents in the north of England. The figures used for justifying this are predicated on the rents in the south-east of England, which are high. However, everybody who applies for and gets housing benefit has to top up their benefits to pay a landlord, and that point should not be lost. Sometimes, that can be £80 a month coming from someone's benefits to make sure that they have a roof over their head. People on housing benefit are already paying a top-up.

When Mickey was talking, I had a vision — look, Mickey is jumping back. You mentioned people looking at the size of rooms, five by 10, or four by 12, or whatever. If you go into a box room, there will be only a single bed, because you cannot fit in anything else. How do they work out the proper size of a room for people to sleep in? Some rooms may have two people sleeping in them. I cannot work out how they decide whether the size of a room is adequate for people to sleep in it. Do they go into a room and fit furniture into it?

Mr Pollock: The size of the room is fairly straightforward; it is whatever size it is. The size will determine whether the room is designated as a box room.

Mr F McCann: How do you decide that a room is a box room?

Mr Pollock: If it is decided that a box room is room that is 40 square feet or less, every room that is 40 square feet or less is a box room.

The Chairperson: The size for a box room has been set.

Mr F McCann: I am baffled as to how they come up with that. It was obviously done by people who do not live in houses with box rooms.

The Chairperson: You said that when you looked at Mickey, you had vision; I thought that you were going to say that you had had a nightmare.

There were a couple of other issues in respect of housing, namely the shared accommodation rate, support for mortgage interest, housing cost run-ons/extended payments. There are a couple of key issues there, and they are part of the housing cost part of the Bill. After we have addressed those issues, we will adjourn for lunch.

Mr Douglas: I want to clarify a few things about the so-called bedroom tax. You mentioned the moratorium in Spain, Chairman, which has come about as a result of two people who were going to be evicted taking their own lives.

The Northern Ireland Federation of Housing Associations talked about a two-year freeze. However, at its conference last week, its representatives talked about six months, so they have reduced it. Perhaps Martina or some of the team could give us an update on discretionary payments. I know that there is some work on that. Finally, as I mentioned earlier, I was told that implementation of the clause will happen on the same day right across the United Kingdom and that that was one of the biggest problems. As someone said, a switch goes on, so everybody goes on to the new legislation. Is that the case?

Mr Pollock: Yes, for the application of the underoccupancy provisions in clause 69. That is tied into the IT solution that we are talking about.

Mr Douglas: What about discretionary payments?

Mr Pollock: In what sense? Discretionary house payments or —

Mr Douglas: Yes, for underoccupancy. Will people get help through discretionary payments? I think that it was for six months, but there was talk that that could be extended. Has there been any work on that?

Ms M Campbell: Discretionary payments are now —

Mr Pollock: There are two. There is a new discretionary [*Inaudible.*] scheme, which is separate from this. Discretionary house payments can last for six months, but there can be further application. Again, that will be looked at. As I mentioned earlier, some money was earmarked specifically to address some of the impacts of underoccupancy.

Mr F McCann: All of that is predicated on the assumption that there will still be money in the budget to deal with this. The indications are that that will not be the case.

Ms M Campbell: As we understand it, the discretionary housing payment budget has not been exhausted for quite some years.

Mr F McCann: That is because it has not been hit by 32,500 people.

The Chairperson: Does support for mortgage interest affect people who may take part-time work? Will they be excluded? The final one is about housing costs and run-ons.

Ms M Campbell: I confirmed for you last week that anyone who does part-time work will lose their support for mortgage interest (SMI). That is the position. The policy rationale for that is that because of the earnings disregard and the taper, they will theoretically have more money from their earnings and they can direct that towards their support for mortgage interest. I have some figures for you. At the moment, there are 5,560 claims in income support, getting an average of £27.66 support for mortgage interest. In jobseeker's allowance, there are 1,850, getting an average of £38.77, and in pension credit, there are 5,000 people getting £14.35. Obviously, the pension credit support will continue. It does not apply to those people but only to UC claimants. I just did a very crude

calculation and I apologise as maths is not my forte. With 5,560 income support people getting an average of £27.66, I make that £15,378.96.

The Chairperson: No.

Ms M Campbell: Is that wrong?

Mr Pollock: We will do them again.

Ms M Campbell: I did say that maths was not my best point.

Mr Pollock: Thirty times 5,500 is *[Inaudible.]*

Ms M Campbell: OK, we will come back after lunch with those figures, because obviously my maths is not to be trusted.

The Chairperson: It would be OK to go home to you a fiver short in your wages.

Ms M Campbell: My apologies for that. That is all that I have on SMI. I again confirmed that there is no provision for extended payments. That is because when somebody starts work, the earnings disregards and the taper should mean that they do not need that additional protection because they will be keeping all their wages.

The Chairperson: OK. I think that you have already dealt with the issue of exempted accommodation in respect of supported housing.

Ms M Campbell: Yes.

The Chairperson: Are members content?

Members indicated assent.

The sitting was suspended at 12.10 pm.

On resuming —

The Chairperson: Welcome back, and thanks again to everyone. I ask everyone to switch off all electronic devices, including telephones. It is important to remind people that we are very tight for time. It is not going to happen today, but we need to move on as quickly as possible to the clause-by-clause consideration. That is on the presumption that there are likely to be a number of amendments, so we need to allow the Bill Office and the system here to turn around a report for us for completion by 27 November. That simply means that any information that we need from the Department will be sent as soon as possible. Therefore, we have to work with what we can get. Where did we leave off?

Ms M Campbell: We left off with support for mortgage interest and my counting. Following my learned colleagues' takeover of the calculator at lunchtime, I can confirm that my decimal point was in the wrong place. I told you that there were 5,560 income support cases, and the average support was £27.66. That equates to £153,789.60, as opposed to £15,000, which I told you. Jobseeker's had 1,850 cases at an average of £38.77. That equates to £71,724.50. Pension credit is not really relevant in this situation, but there are 5,000 cases at £14.35, which equates to £71,750.00. I should also have said that DWP is not due to finalise the policy on support for mortgage interest until January.

Mr Pollock: That is taking into consideration the waiting period for that.

The Chairperson: What do you mean by the waiting period?

Mr Pollock: It predates me in this post, but about two or three years ago, people had to wait for 39 weeks before they qualified for support for mortgage interest. That was reduced to 13 weeks because of the property slump and the economic downturn. That is an interim provision that would lapse in January if it were not extended.

The Chairperson: Thanks for that.

Ms M Campbell: That is all that I have for you. On SMI extended payments, I have confirmed that there will be no provision under the current legislation for extended payments. We have covered exempted accommodation.

Mr F McCann: I have read that people on income-based jobseeker's allowance will not be able to apply for help with mortgage payments. Is that right? Is it that they cannot go onto it or that it will stop after two years? What will happen to it?

Mr Pollock: That does not ring a bell.

Mr F McCann: We will come back to it.

Ms M Campbell: We will see whether we can get anything on that. Perhaps it is to do with the waiting time.

Mr Pollock: During the passage of the Welfare Reform Act in GB, there was a debate about only providing SMI assistance for a [*Inaudible.*] but I think that that was dropped.

Mr F McCann: It may have been in England, when people were on income-based jobseeker's allowance but were not eligible to apply for housing costs for mortgage payments. I do not know whether it applied here. I think that it may have come up in evidence from one of the groups.

Ms M Campbell: We will have a look at that. We are not aware of it, but we will check

The Chairperson: We move on to clause 12.

Ms M Campbell: Clause 12 is about the removal of the severe disability premium, which we have discussed already. I said that I will write to you setting that out and, hopefully, provide a little more clarification.

The Chairperson: You know that the Equality Commission suggested an amendment.

Ms M Campbell: Yes.

The Chairperson: So you will address that. We move on to clause 14.

Ms Campbell: This was about a situation in which one member of a couple did not sign the claimant commitment, so I have made that clear. There is no claim.

The Chairperson: We move on to clause 16.

Ms M Campbell: I am sorry: there are two other comments about material being considered within the work-focused interview. That is relevant and reasonable, and it is implicit. We have said repeatedly that the claimant commitment will be drawn up in consultation with the claimant and will take into account their particular needs and circumstances.

Mr Pollock: That is the same for the claimant commitment for jobseeker's allowance and under employment and support allowance. The same issues were raised in later clauses — clause 45 and, I think, clause 52 or 53.

The Chairperson: Thank you for that. Are we happy enough to move on?

Ms M Campbell: The Law Centre raised an issue about the need to reintroduce the work-focused health-related assessment. I told you that DWP was considering that issue. It is connected to the suspension of the work-focused interview under ESA. I will come back to you on that. We are waiting for confirmation from DWP on what the position on that is likely to be. However, we expect that before you conclude your deliberations.

The Chairperson: Thank you. Clause 17.

Ms M Campbell: With regard to the work search requirement, I totally take the point that the way in which an adviser will police — for want of a better word — that will be problematic, but the intention, at the moment, is that if claimants are deemed to be available for work 20 hours or 35 hours a week, they are supposed to be spending the same amount of time looking for work.

If there are no questions, I will move on to the work availability requirement. Again, I told you that I would come back to you on that from the regulations, and I have to do that. Therefore, I cannot really add anything there.

The Chairperson: OK. Thank you.

Ms M Campbell: We move on to the issue about the claimant being responsible for a child under the age of one and under the age of five. I explained that there is no change to that position. That is an operational flexibility that we are carrying forward, that lone parents will obviously be able to restrict their hours, and the main carer will be able to restrict their hours; they are available until a child is 13 years of age. Lone parents, however, have to be available for only a work-focused interview.

The Chairperson: Are you on clause 20 now, Martina?

Ms M Campbell: Yes. This is a comment from Disability Action that the regulations must ensure that disabled people are given the appropriate support. The claimant commitment will be drafted in consultation with claimants and reflect their particular needs and circumstances.

Clause 21 —

The Chairperson: Clause 22.

Ms M Campbell: Sorry, clause 22.

The Chairperson: We sought legal advice on that with regard to paragraph 7 of schedule 1.

Ms M Campbell: That is the EU workers again.

The Chairperson: Yes, the EU workers stuff. Are you still going to come back to us on that?

Ms M Campbell: Yes, I am. Clause 23 refers to work-related requirements in consultation with a claimant. *[Inaudible.]*

The Chairperson: I wonder whether that would be more suited for the guidance as opposed to *[Inaudible.]*

Ms M Campbell: It would be my advice that it is in the guidance. It is implicit that the claimant commitment has to be drawn up in consultation with a claimant.

The Chairperson: Clause 24, then.

Ms M Campbell: Yes, that was the domestic abuse issue. I confirmed that that term covers emotional, psychological and financial abuse. It is the same as in the current jobseeker's, so I think that that point is covered. We note the comment that 13 weeks is considered too short for any disregard in relation to work-related requirements. Again, that can be considered within the claimant commitment. There will be a change that includes violence in the home, which we are taking to cover hate crime.

Mr F McCann: Will it clearly state that, in case it is misunderstood by office staff? When staff deal with various people, they could look at an issue differently unless it is stated clearly.

Ms M Campbell: Yes. It does not specify that in the regulations. We have not heard back yet from DWP. We got it from a stakeholder website. I can come back and clarify.

Mr Durkan: Violence in the home?

Ms M Campbell: The issue is rehousing. If, for example, a house has been attacked in a hate crime, the residents should fall under that because it comes under the definition of violence in the home.

Mr Durkan: So, in a similar way to the earlier suggestion on the same clause, would it cover abuse in the home?

The Chairperson: The Department's paper gives five definitions of domestic violence, listed as a, b, c, d and e.

Ms M Campbell: Again, this will all be done in regulations. I am seeking clarification from DWP, and I will try to get back to you this week with a firm decision.

The Chairperson: Next is clause 25.

Ms M Campbell: Clause 25 is on compliance. Stakeholders recommend a case-by-case approach in ensuring compliance. We would have a case-by-case approach.

The Chairperson: Fair enough, happy enough. Next is clause 26.

Ms M Campbell: Clause 26 is on sanctions. People who have been sanctioned will be able to claim a hardship payment. That will be recoverable. Last week, Conrad spoke to you about the double whammy. Can you remember whether he has come back with anything further on that?

Mr Pollock: Nothing definitive.

Ms M Campbell: We do not have anything further on that. We did say that five working days is not long enough for people to provide evidence. That is generally accepted, but it is only a guideline, and in practice we will obviously, within *[Inaudible.]* whatever is reasonable.

Mr F McCann: Yesterday morning, I phoned to make an appointment with my doctor and was told that it would be 10 or 11 days. That comes into play for producing medical evidence. Sometimes, when you ask a doctor for a letter, there is a cost attached. That also has an impact.

Ms M Campbell: Yes.

Mr F McCann: Will that be taken into consideration? Sometimes five working days would not be long enough.

Ms M Campbell: Yes. We have all experienced that when we phone a GP. That is a reasonable reason why someone cannot comply with the five days. It is back to our good friend common sense and good cause — sorry, good reason. I have to get with the programme.

The Chairperson: Martina, the Welfare Reform Group proposed an amendment around sanctions. I suppose that the key issue around sanctions is that some people believe that they are disproportionate, too long, and so on. The Welfare Reform Group proposed an amendment on that. Have you had a chance to look at that and think about it?

Ms M Campbell: We are trying to get figures on the number of people sanctioned at the moment, and, as I understand it, this issue is about people being sanctioned when they do not have childcare. I have told you that there are existing protections for lone parents of children under the age of five and main carers being able to restrict their availability around school hours. That is still there. When somebody does not have access to childcare, we are saying that that is acceptable as good reason. I do not know that that needs to be in the Bill. I think that it is better in the guidance; that is the position. We said that we became aware only last week that there was a blip in one office where some people were sanctioned, but we are investigating that. It is in the guidance that a lack of childcare is an acceptable cause.

Mr Pollock: One of the main things that came across when Conrad spoke to you about fraud and sanctions was that the sanctions regime is not meant to be punitive. It is meant to be a deterrent. When we were last here, I think that I mentioned that, irrespective of the reform agenda, the sanctions regime was not deemed to be effective as it set out to be. So the sanctions in the Bill are set at a level that is designed to be much more of a deterrent or to prevent people from committing benefit fraud. That said, we do not see cases that involve client error or genuine mistakes as being sanctionable. That is not the reason for the sanctions regime. The sanctions regime is for repeated offences when people do not comply with their commitments under whatever benefit entitlement they claim.

Mr F McCann: We opposed a past batch of sanctions when they first came in. How can anybody say that they are not punitive? The very fact that people are being sanctioned and are losing their benefit is a punishment.

Mr Pollock: They are not intended to be punitive.

Mr F McCann: That is what they are. Let us not get into a debate about that.

There will obviously be a serious increase in the length of time that sanctions last. Was any analysis done the last time on the impact of the sanctions to bring you to the conclusion that those did not work and that you need additional sanctions to punish people?

Mr Pollock: Conrad is probably better placed to speak on the detail of that sort of thing. The levels of sanctions are regularly looked at and reported on. There is something in the Bill that says that we will lay a report in the Assembly. That is in there too. The agency itself goes behind the broad number and looks at the number who are repeat offenders, and so on.

Mr F McCann: The Committee is of a mind to table an amendment that the present sanction regime remain and that we do not go ahead with the additional sanctions. First, I take it that the Department will not support that. Secondly, will there be any cost attached to this? Thirdly, we constantly talk about people being sanctioned and repeat offenders. Can we get exact figures for the number of people who have been reported, the number who have been sanctioned and the number of repeat offenders? That would certainly give us a good outline.

Ms M Campbell: We have asked for those figures.

Mr F McCann: I think that the sanctions came in three years ago. If we could get figures for each of the past three years, that would certainly allow us to look at how those people have been dealt with and how many have been affected.

Mr Pollock: It will give you a more informed position. As Martina says, we have asked for those figures. Again, I think that Conrad mentioned some headline figures for the loss due to fraud and error when he was here last week providing evidence. So all that should give you a better insight into where we are coming from.

Mr F McCann: He might have given us that, but we did not agree with it.

The Chairperson: I suppose that if we are being told that fraud, for example, has been going down — that is a good story — it is reasonable for us to say that if you are going to put a more severe sanctions regime in place, we would like to satisfy ourselves that if the previous sanctions regime did not work, at least it would be good to know how many people were sanctioned.

How do you make the assessment that if sanctions do not really work, they should be made worse? How will they work? If fraud is going down, the number of people being sanctioned must be relatively small. The evidence that is being given to us is that a lot of those people may fall into particular vulnerable categories, and they are going to have this very severe sanctions regime imposed on them.

On the one hand, you are saying that sanctions do not really work, so we have to put these very strong deterrents in place. However, if they do not work, give us some evidence to say that they do not work. Fraud is going down, so something is working.

Mr F McCann: I want to make a point about the existing sanctions regime. There is a difference between those who have been reported for sanction and those who have actually been sanctioned. I asked questions about that a year ago. Thousands of people were reported for sanction but were not actually sanctioned. *[Inaudible.]*

The Chairperson: OK. *[Inaudible.]*

Ms M Campbell: Do you wish to look at clause 27, "Other sanctions"?

The Chairperson: *[Inaudible.]* I think that we can move to clause 28, unless you feel that there is a need to give us some more information. *[Inaudible.]*

Ms M Campbell: No. I have nothing further to say about that. That was just about travel time to the South of Ireland. We confirmed that it is limited to Northern Ireland.

The Chairperson: This is about recoverable —

Ms M Campbell: Oh yes, this is about a hardship fund. There is no such hardship fund. It is demand-led. I should also point out that claimants who are in the vulnerable group, which will be defined in regulations, will not be required to repay a hardship payment, but others will.

That is about all that I wanted to say about that. That point was about a fear that this was like the social fund at the moment — that it is cash-limited and depends on people paying back. It is not; it is demand-led.

The Chairperson: All right. Shall we move on to clause 29?

Ms M Campbell: Clause 29 deals with Department for Employment and Learning (DEL) functions. I think that we have answered that.

The Chairperson: OK. We will move on to clause 30.

Ms M Campbell: The concerns around clause 30 are a fear about the privatisation of a public service and the personal independence payment (PIP). I want to point out that this clause refers only to privatisation of the functions that are currently carried out by DEL on training and employment programmes. It does not relate in any way to PIP.

Mr F McCann: Has a decision been made? I sit on the Committee for Employment and Learning, which has been told that there will be a big privatisation of the contracting-out of services. I take it that you are saying that a decision has been made to contract out some of the DEL services that affect training.

Ms M Campbell: No. It just gives the Department the right to do that. There are training providers in place already.

Mr F McCann: That goes through various job schemes or training schemes.

Ms M Campbell: Yes. It is those programmes, so that facility can still —

Mr F McCann: The Department still retains the core of the scheme.

Ms M Campbell: Yes. That would still be the intention — that the Department would retain the core schemes but would contract out some of the services.

Mr F McCann: This goes back to a question that Mark asked earlier. If it is contracted out, will that affect jobs? One of the questions that I asked about ESA and the migration of people across is this: is DEL fit for purpose to deal with the expected huge number of people who will be brought across, especially those with mental illness and severe disability?

Ms M Campbell: You would probably need to see the DEL business case.

Mr F McCann: It will be a bit difficult getting an answer out of DEL.

Ms M Campbell: We accept that DEL could not provide all the programmes that are necessary to meet demand and that it has to contract out some of those functions.

The Chairperson: The Human Rights Commission suggested to the Committee that we put in a clause to make sure that private contractors adhere to human rights provisions.

Ms M Campbell: I will write to you to confirm this but, as I understand it, although the function is contracted out, the claimant will have the same rights as if the Department were carrying it out. Therefore, any issue that they have about their human rights is with the Department rather than the provider. The contracted providers will not be making any decisions on sanctions or anything like that. They are merely performing training or employment programmes. They are not making any decisions. That still rests with the Department.

The Chairperson: OK; thank you for that. Clause 31 goes back to the capital rules, which we have covered.

Ms M Campbell: Clause 32 is consequential. There are two issues here: passported benefits and —

The Chairperson: The older claimant in a couple.

Ms M Campbell: — the older claimant.

I will deal first with the mixed-age couple. If the older person who has reached state pension age is entitled to a contributory pension, he or she can still claim that, and it is taken into account as unearned income. If the older person is entitled to be means-tested, he or she falls under the universal credit programme.

I told you that the agency is chairing a cross-departmental group to look at passported benefits. I told you that the issue of deciding criteria for receipt of passported benefits lies with the individual Departments. I also told you that the Executive subcommittee is looking at passported benefits. Ultimately, in most cases, decisions will rest with the Executive because it will cut across. I imagine that it will come under paragraph 2.4 of the ministerial code. Have I answered that for you?

The Chairperson: I think so.

Mr F McCann: This question may have been answered earlier. It relates to the younger person in the relationship who is still claiming benefit. Is the older person still eligible for sanctions because his or her claim is directly tied into it?

Ms M Campbell: No; the older person is not subject to any work conditionality at all. The sanction will apply only to the younger person.

The Chairperson: Your paper states that the member of the couple who has attained the qualifying age for state pension credit may not receive state pension credit if the other member of the couple has not attained that qualifying age.

Ms M Campbell: The issue there is the difference in money. The point that I think Age NI made is that there may be a difference in the amount that the mixed-age couple receive under universal credit as opposed to state pension credit, which has slightly higher rates. The policy intent is that the younger person will be working and that the higher earnings disregards — the taper, and so on — will make up for it. However, on the face of it, people will possibly have lower incomes than they would if they were claiming state pension credit.

I will say that existing couples will continue on state pension credit. They will not be affected unless the person decides to take up a job and claims universal credit. That is the only way in which they can get into universal credit.

The Chairperson: As someone mentioned last week, that could mean that there are two sets. Is there also a transitional arrangement?

Ms M Campbell: Yes. They will stay on state pension credit until —

The Chairperson: Until they change their claim and are into that new system. So, you would have two similar types of people on different levels of money. It seems unfair that the senior partner ends up disadvantaged because he or she is helping a younger partner. It is like saying that separating would make you better off.

Mr F McCann: It is also wide open for fraud. People will sit down, look at it, and say, "I might get £40 or £50 more if I do not claim as a married person." It throws up all sorts of possibilities in that regard.

Ms M Campbell: It does.

The Chairperson: Clause 33.

Ms M Campbell: Clause 33. Citizens Advice made the point that the cash top-up will be eroded by inflation unless it is index-linked. I explained last week that the only thing that people will lose is their transitional protection. If they get £100 under the current benefits but are entitled to only £80 under universal credit, they will continue to get £100, but that £100 will not be uprated. They will get it on a marked-time basis. All benefits are being uprated by the consumer price index as opposed to the retail price index, as the Government think that that reflects inflation better.

Clause 34, "Abolition of benefits": the points were about child tax and restoring the 10%, which I think we have covered.

We move to clause 37, which is migration. We have told you that there will be a migration strategy. It has not been finalised and is still under discussion. Migration regulations will be brought forward to the Committee. I am not sure what more I can say on that.

The Chairperson: Clause 38 then.

Ms M Campbell: The point in the paper is noted. I have said that DWP is reviewing the work capability assessments. There was an issue about giving medical records primacy. They will be considered along with other evidence. The point about "and/or" relates more to the regulations. I will confirm whether it is either physical or mental or both.

The Chairperson: OK; fair enough. Thank you for that.

Ms M Campbell: Clause 40 concerns couples who choose to live together, the test of co-habiting in the current system will presumably be carried forward. There was an issue about whether underoccupancy applied and to which of the couples the underoccupancy reduction would apply. We are still trying to bottom that out. I suppose that the first answer is that it is for whoever's name is on the tenancy, but if the tenancy is in joint names, we are not sure how that will work in practice.

The Chairperson: Let us turn to clause 42 then.

Mr G Campbell: I am sorry, but, just on that issue, I understand that if it is a joint tenancy, you are still working out what will happen. However, if it were a couple and the tenancy was in a single name, as a result of which a perceived disbenefit was being accrued, what would happen if an attempt was made to change the tenancy? Would account be taken of the circumstances in deciding whether the tenancy could be changed?

Ms M Campbell: I am sorry. Did you say joint tenancy?

Mr G Campbell: No. If the tenancy was in the name of one person, and then —

Ms M Campbell: Yes. What happens if a couple about to get hit with the underoccupancy penalty changes the tenancy to the two names has to be bottomed out. I think that that is one of the —

Mr G Campbell: Imponderables?

Ms M Campbell: The known unknowns, yes.

The Chairperson: Try to ponder on it quickly before we get to the clause-by-clause consideration, if you do not mind.

Ms M Campbell: The clause on pilot schemes is about making sure that Northern Ireland is included and taking account of our circumstances, and so on. We agreed that Northern Ireland will feed into any pilot schemes, and we will undertake to consider whether it is appropriate to have our own pilot schemes. However, any pilot schemes will need regulations, which will need to come before the Committee.

Mr F McCann: Does that mean that if, after all this, we decided that we wanted to run a pilot scheme, you could do that within the confines of the Bill?

Ms M Campbell: A pilot scheme has to meet three conditions, which I cannot remember off the top of my head. As long as it meets the policy objectives outlined in the explanatory memorandum, it can be run. I have found the conditions. A pilot scheme is:

"to test whether the regulations would:

*Make universal credit simpler to understand or administer;
Help people to remain in work, obtain work or increase their pay or hours; or
Affect the behaviour of claimants or others."*

So if the pilot scheme satisfied those conditions, in theory, that is what clause 42 allows us to do. Then, obviously, you are into the whole question of whether a pilot scheme is viable in terms of cost.

Mr F McCann: Obviously, cost comes into everything. We have already identified, during a number of these meetings, that many factors and features of life in the North are completely different from other regions. Every one of them has its own twists. However, pilot schemes have been run in England that bear no relation to what life is like here. So would it not be better to run our own pilot scheme? If, for talk's sake, that was the road that we wanted to go down, could you suspend the Bill until such time as the pilot scheme was running?

Ms M Campbell: No, because you need the Bill to have been passed to give you the power to run the pilot scheme.

Mr F McCann: How will it run in England?

Ms M Campbell: In England, the Act was passed in March.

The Chairperson: I think that the general point has been made that, to look at, review, manage and decide policy, etc, we need a baseline. Members are saying that a whole range of pilot schemes have been run, none of which have been run here, and yet all our work here is extrapolated from them. Their point is that, surely, at some point, it must be reasonable for the Department, given its size and the fact that we have NISRA, and so on, to run some bespoke pilot projects here. Why not? I think that that is a reasonable question, and we have had no answer to it.

Ms M Campbell: What I am saying is that you can have a pilot scheme here when the Bill is in place and gives you the power to do that.

The Chairperson: Every single Department throughout government runs pilot schemes routinely. Are you saying that the Department for Social Development (DSD) is the only Department that does not? No matter what I have managed to get done over the years, it has always been predicated on the basis of a pilot scheme.

Ms M Campbell: The agency is running pilot schemes on the payment of benefits: the simple payment card, PayPoint, and so on, so that is already happening under its current powers. However, if

you want to run a pilot scheme on universal credit, you will have to get the Bill and the regulations through before you have the statutory authority to do that.

The Chairperson: I am a bit confused. I am just making a general point on pay schemes, such as the pay-as-you-go scheme for oil. As most elected representatives will know, when trying to shift a policy or get a Department to do something, that Department may not be able to do it by way of a generalised policy, but it will agree to run a pilot scheme. So it can do what it has been asked but under the guise of a pilot scheme. It seems to me that government here often runs on the basis of pilot schemes, which might be fair enough. It is a learning exercise, but we are trying to establish the general principle that, surely to God, we can run pilot schemes here.

Mr Pollock: Most Departments have generic powers that allow them to run pilot schemes in a particular area. The impacts of this Bill are so wide that it is difficult to envisage a particular pilot scheme that would make a difference. DWP has run some pilot schemes, and we are trying to find out what it learned from those. The particular reference in clause 42 is to how to make universal credit work better as it moves on. That is what the pilot schemes relate to.

Mr F McCann: It is certainly not working better for the benefit of people.

A precedent set in DSD goes back to the local housing allowance. A pilot scheme was run to establish whether the scheme would have a negative impact on people. Let us move the scenario on. If the Bill goes through, regulations are passed and we decide that we want to have a pilot scheme, which then shows that the Bill is detrimental to people here because of all the issues that we have raised, where would that leave you?

Ms M Campbell: The Minister would have to make the decision and come forward with a proposal for a pilot scheme.

Mr F McCann: To change the Bill?

Ms M Campbell: No, not to change the Bill. The Bill must be in place to get the power.

Mr F McCann: I have moved on from there. If everything has been passed and a pilot scheme proves that we were correct in raising all our issues and concerns because the Bill was having a seriously detrimental impact on constituents, what powers would we have to rectify that?

Mr Pollock: Basically, you will be in the same position as you are now. If you say that you do not like underoccupancy, for example, you can decide either to break parity, which will cost x amount, or the Executive as a whole can put in place other programmes to mitigate any adverse impacts. Those, however, are decisions for the Executive table. What you are talking about here is in the context of the social security system. If you approve the Bill as it is, those provisions stand. However, if you decide on mitigating actions that would impact on the rest of the Departments, you would have to get Executive colleagues around the table to tell DEL, the Department of the Environment and the Department of Education to do certain things. That is where you change things.

The Chairperson: We can have a debate on that, but the two pillars in this debate in the past year have been flexibilities at the front end and mitigation at the back end. At the front end, we have been told by David Freud and others that we can get all those flexibilities because of our difficult, different circumstances. At the back end, mitigation is to try to pick up things that cannot be changed in the Bill. Our starting point is to get flexibilities in the Bill, not to have to resort to mitigation, if you understand what I mean, Michael. Our task is to try to get the Bill changed so that the burden does not fall either on the more vulnerable people in this community or on the block grant. We were told, "Do not worry, you will get flexibilities in the Bill", but we have not seen too many so far. Those are the decisions that we will face shortly.

We have exhausted that issue for now, so we will move on to clause 43.

Ms M Campbell: Clause 43 is about applying different levels of support for housing costs in different areas of Northern Ireland. That is the same as the position now in that the local housing allowances rates apply. It will just carry that forward into UC.

The Chairperson: Clause 44 is the timetable for the regulation. Are members happy enough to move on?

Members indicated assent.

Clause 45 is the first clause in Part 2, working-age benefits.

Mr Pollock: That is over to me, Chair. Clause 45 relates particularly to the claimant commitment for jobseeker's allowance. We went over that ground pretty comprehensively this morning when discussing the claimant commitment for universal credit, and I mentioned the claimant commitment later under employment and support allowance. Are you happy enough with that?

The Chairperson: Some union representatives were concerned about the use of the phrase "or such other person". Their concern is outlined at point 48(ii) in our paper.

Mr Pollock: They are concerned about contracting out.

The Chairperson: Is there a particular problem with that?

Mr Pollock: There are no immediate plans, as far as we are aware. Martina mentioned earlier that DEL has training providers, but they are employed and contracted purely to deliver particular programmes and job schemes on the ground. The primary responsibility still rests with DEL.

The Chairperson: Do you think that the phrase "or such other person" does not imply what the unions are fearful of?

Ms M Campbell: The decision on whether to apply a sanction still rests with the decision-maker in DSD, not with DEL. That will remain the case.

Mr Brady: Michael, you said that there are no immediate plans. I accept that the decision rests with the decision-maker in the Department at the moment. However, we were told in 2007 — forgive me for being sceptical — that privatisation was not an issue. Yet privatisation happened within a relatively short time. So although the decision-maker may be in and part of the Department now, who is to say that, in a year or so, the decision will not lie with a private contractor? Medical support services were in-house and, suddenly, we have the likes of Atos. Civil servants should be wary.

Mr Pollock: Civil servants are wary. You are talking about office jobs in jobs and benefits. Yes, we are conscious of that as an issue.

Mr Brady: I am not being facetious, but you sometimes need to be more than conscious of it, because much of this is geared towards making the transfer to privatisation that much easier, particularly in relation to the whole IT concept and people going online. Let us be honest: people with good IT experience processing claims online would not have to have the experience that very good Social Security Agency staff already have. We need to be very careful about that, from all our points of view.

Mr Pollock: The line that we have consistently taken when discussing this with the Committee is that DEL and the Social Security Agency do not have any immediate plans. I cannot quantify "immediate", as I do not have a crystal ball, but they do not have any plans to change from face-to-face situations in which claimants interface with jobs and benefits staff and their particular circumstances are taken into consideration.

Mr Brady: The Bill refers to a remote interface.

Mr Pollock: Yes.

Mr Brady: What does that mean? That takes away from the face-to-face situation. It is a bit like telemedicine, whereby somebody in Craigavon assesses somebody with a sore stomach in Daisy Hill. I am not being funny.

Mr Pollock: I know what you are saying, Mickey. Again, all I can tell you is that the policy intent is to future-proof the legislation to facilitate people. Nowadays, lots of people want to access claim forms

remotely. My kids rarely go anywhere: everything is done remotely, whether applying for jobs or accessing whatever information. That is what that type of future-proofing is about in the benefits system here.

Mr Brady: I do not want to draw this out, but my point is that I have no problem with experienced staff dealing with people. My difficulty is with the parachuting in of people who have no knowledge of the situation. We now see the outworkings of that in the work capability assessment, in which the parachuting in of such people has caused and continues to cause problems. This is an enabling Bill. If it is built into the Bill that there is a possibility — even, if you will excuse the pun, a remote one — the difficulty is that it could happen. That is my problem. It could happen in six months or two months, and therein lies the difficulty. We are talking about staff in local offices who need reassurance on this because they have a difficult enough job as it is.

Mr Pollock: I understand, Mickey. It is a point well made, and it is very relevant to us as civil servants. You appreciated the assurance that we gave you last week, which was that the same type of people would be dealing with the social fund. Again, that is as much as we can give you at this time.

Mr Brady: The point that I am making is this: therein lies the need to build in safeguards. That is what the unions are talking about, and rightly so.

The Chairperson: The concern that some of us have is with the phrase "or such other person". Is that future-proofing or providing for privatisation further down the track? If that is implicit, why does someone not make it explicit? If they want to privatise it, why not come and tell us that they are going to do that and that it is a policy intent? If that is what they support, why should they be afraid to tell us? If people are concerned about creeping privatisation and feel that they may be walked into that, they may want to take that bit out of the Bill.

Ms Jane Corderoy (Department for Social Development): It is worth saying that it is stated specifically that it is by regulations, so we would have to come back to the Committee anyway if there was any intent to privatise.

The Chairperson: Yes, but it is still provided for, so any regulations will be governed by what was provided for in the primary legislation.

The other wee point on clause 45 came from Citizens Advice. You may have dealt with it earlier by saying that claimant commitments are done in consultation with the claimant, but people are obviously looking for these things to be highlighted more explicitly.

Mr Pollock: Clause 46 allows interviews to be conducted remotely. Again, the assurance that we have at present is that we are not aware of any intention to do that at any time in the future, but it is a future-proofing issue. Some employers, for example, may want to be able to interview people from a remote location.

The Chairperson: OK. Clause 47.

Mr Pollock: Clause 47 deals with sanctions. We had a fair run over that ground this morning. Is there anything else on that?

The Chairperson: No.

Mr Brady: As an aside, Chair, would it be possible to get some in-house research on the current sanctions regime and what is being proposed? A sanctions regime is in place at the moment, which is quite —

Ms M Campbell: We have that, and we will get it to you.

The Chairperson: Thank you.

Mr Pollock: There was nothing on clause 48 or clause 49.

There was a stakeholder comment on clause 50, which relates to responsibilities for jobseeker's allowance. I do not have that information this afternoon, Chair, but I do not envisage a marked difference between the current responsibilities for jobseeker's allowance and what is envisaged under the new regime. Clause 50 replaces provisions that relate to the responsibilities that jobseekers must meet and the imposition of sanctions. Again, the sanctions regime and the claimant commitment all hang together. In that sense, it will bring a bit of clarity to the system in so far as the individual or claimant will know what is expected of them under a particular benefit and what the outcome would be if they did not comply with that.

The Chairperson: OK.

Mr Pollock: Clause 51 relates to the ESA dual entitlement. Last week, a member wanted to know what sanction would apply to people entitled to ESA and universal credit. We now have some clarity on that. Basically, they would be subject to the conditionality of universal credit. Invariably, that would be beneficial to them, because they would be subject to losing only the amount of the universal credit award, and their ESA would not be touched.

The Chairperson: OK.

Mr Pollock: Clause 52 deals with the period of entitlement. This is time-limiting for ESA. I mentioned last week the amounts that attach to this. The costs of not implementing this clause would be pretty hefty. In 2013-14, it would cost £36.5 million; in 2014-15, it would cost £51 million; and, in 2015-16, it would cost £62.2 million. That condition is already in place in GB. Although those are significant amounts, it is also a parity issue — apologies for using that word — in so far as it relates to the conditionality under which people receive their benefit. Therefore, if I am in Newcastle upon Tyne as opposed to Newcastle, County Down, I can receive my ESA for 365 days. However, if I am in Newcastle, County Down and the Executive decide to do something different, I can receive it ad infinitum or at least for a longer period. It relates pretty closely to the conditionality of the benefit, and it is an issue that would cause some consternation because of the amounts involved in non-implementation and basic changes in client conditionality.

The Chairperson: Fair enough, message understood.

Mr Pollock: Clause 53 deals with further entitlement after time-limiting. Again, I do not have the particular document, but we did come back to you on how individuals would qualify for a further period of ESA. It is tied into the 12 weeks.

The Chairperson: OK.

Mr Pollock: Clause 54 relates to ESA and the youth condition. There were some questions about the amounts involved and whether the £390,000 saving was net of displacement costs. We received some confirmation that that was the case. We also received some information on the numbers, but we are trying to bottom those out. We will come back to you formally on the number of 16- to 24-year-olds who will be affected by it, but the figures that I have show that 695 ESA live load customers below the age of 20 and 2,977 customers aged between 20 and 24 will be affected. There is still some work to be done on who is on what in the ESA youth contribution, but we will come back to you when we get it all figured out.

Mr Brady: The young people who will be affected and who no longer qualify for youth incapacity will be placed in the larger unemployment pool. In my experience, most of those youngsters have learning disabilities, and some will have quite severe learning disabilities. As part of the migration, a decision will be made on what a person may or may not be capable of doing. Will their particular disabilities be factored into their claimant commitment, as will be the case in all claimant commitments? I am not necessarily asking for special attention, but the fact that their condition qualified them for a benefit from the age of 16 — the old severe disablement allowance — needs to be factored in and addressed, perhaps even more so. Everyone's needs should be addressed, but a lot of those kids may not be able to articulate their needs because of their condition.

Ms M Campbell: They will still be able to claim income-related benefit. We expect that almost all of them will transfer to that.

Mr Pollock: That is the case. Their personal circumstances will certainly have to be taken into account.

The Chairperson: Does that also cover clause 55, Michael? Did we move between the two?

Mr Pollock: Yes.

We provided some information on the work experience requirement in clause 56. I do not think that I have anything else on that at the moment.

Clause 57 introduces hardship payments for the ESA regime. Previously, those were not available. In most cases, hardship payments will not be recoverable.

Clause 58 deals with claimant responsibilities and commitments for employment and support allowance. We have nothing new to add on that. The Law Centre mentioned that the new claimant responsibilities will not be introduced until the introduction of universal credit, etc. However, there is a process through which many of the working-age benefits are being aligned to facilitate the introduction of universal credit in that respect.

Mr Brady: I have a question on the work experience issue in clause 56. Essentially, it deals with work experience and placements for sick and disabled people who are declared fit to move towards work. That clause will permit officials to make people who are sick and disabled do work experience as a condition of their benefit. On one hand, they say that people are not necessarily capable of work; on the other hand, they say that they will put them in a situation in which they have to move towards work even if they have a particular condition. Is that right?

Mr Pollock: No, I do not think so, Mickey. Whether an individual is placed in that category and whether they are required to undergo work experience will depend on their condition. As mentioned earlier, the individual's circumstances will be taken into account.

Mr Brady: I suppose that what I am saying is that some of those people will be identified as being too sick to work, but they may be expected to attend placements and move towards work. It seems to be a contradiction in terms.

Mr Pollock: I do not get —

Mr Brady: Perhaps we can draw that out at a later stage.

The Chairperson: Fair enough. Michael, I think that you were moving on to clause 58. The Committee is concerned about sanctions coming into play earlier than the introduction of universal credit.

Mr Pollock: We are working closely with DEL on interviews and other aspects of the work programme. It stands to reason that we would not commence any of the sanctions attached to particular aspects of the work programme if we did not have that provision in Northern Ireland. They would not be introduced until the provision is in place.

The Chairperson: OK. We will move on to clause 59.

Mr Pollock: Clause 59 relates to lone parents —

Mr F McCann: Are you saying that you are working towards a time frame for the introduction of universal credit? Is there any indication whether any of the high-level sanctions will come in now, next year or the year after? Has a decision been made on when the sanctions will be brought in?

Mr Pollock: I do not think that we have anything definitive on the commencement of those particular provisions, Fra.

Ms M Campbell: I think that it is covered in the table that we gave the Committee on the regulations. However, I will check again.

Mr F McCann: It is just a concern. Those who work in the Department may have the best intentions. However, people are looking towards universal credit, and, perhaps as a result of a mishap or something with the way in which a benefit has been paid, they may receive a letter saying that they will be sanctioned for one year or three years. I take it that there will be pre-publicity and that people will be informed that the sanctions are about to come in and about how they will be hit.

Mr Pollock: I think that I mentioned previously that the sanctions regime was being reviewed, irrespective of universal credit and the reform agenda. I envisage that the sanctions will probably be in place before the introduction of universal credit. However, I will have to come back to you on the exact timing.

Mr F McCann: It is important that people know when this punitive measure will come into play.

Mr Pollock: It is a deterrent.

The Chairperson: All right. We are now on clause 59.

Mr Pollock: The Department predicts that the change in lone-parent conditionality will save £11.73 million in 2012-14. I do not have a specific answer at the moment, Chair. I will come back to you on that.

Mr Brady: I want to ask about parental flexibilities. One of the big issues in all of this is the distinct lack of childcare — certainly formal childcare. Eventually, the age of the child will go down to one. If I am right, we will move from "good cause" to "good reason" —

Ms M Campbell: It all means the same.

Mr Brady: Presumably, the flexibilities that we are talking about would have to be built in around that. Otherwise, an arbitrary decision could be made by the person who is doing the interview, who may think that he or she knows more about childcare provision in the area than the person can access. There are all sorts of issues around that.

Mr Pollock: As Martina has said on more than one occasion, childcare is deemed to be a good reason for not taking up a particular job or training opportunity. There are other provisions that allow lone parents to restrict their availability to school hours or when childcare is available. Ministers are discussing the whole issue of childcare and the provision of adequate and affordable childcare to address the differential between here and other parts of the UK. Therefore, mitigating action against some of the adverse impacts of welfare reform is being taken.

Mr Brady: Knowledge about childcare in a particular area is an issue. Childcare varies from area to area, even in the North. One of the issues is that somebody interviewing a lone parent may have childcare responsibilities and think, "Well, if I can do it." Therefore, knowledge tends to become more subjective sometimes. Having something in a local office that clearly outlines what is available in an area is important. To my knowledge, that has not been a feature to date.

Ms M Campbell: That is a good point. You have reminded me of something. At the minute, you can phone the health trust for a list of childcare providers in your area, but there is no central database. The Department of Health, Social Services and Public Safety is undertaking some work on that at the minute and is looking at developing a central database. The information-sharing provisions in the Bill will allow us to access that database. That would obviously support someone's decision.

Mr Brady: I just wanted to make that point because it has not really been addressed properly. In some areas, there is not great childcare provision, but it may be better than the provision in others.

Ms M Campbell: According to DHSSPS, a lot of childminders have come off the register because they have no children to mind. We obviously view that as an opportunity for people to start up their own business.

Mr Brady: Years ago, I was involved in going out with the trust to try to encourage people to become registered childminders.

Ms M Campbell: The Department of Agriculture and Rural Development has done a whole big thing on that as well.

Mr Brady: It is a very prescriptive procedure. That needs to be addressed properly.

Ms M Campbell: That is in the childcare strategy work of the Office of the First Minister and deputy First Minister.

Mr Brady: Child protection is paramount, but there is still room for manoeuvre.

Ms Campbell: That is a big issue, but all the different parts of the Executive are working together on mitigation. That is a good point, and we have been working with colleagues to address it.

Mr Brady: I am glad that I came up with one good point for you today.

Ms M Campbell: You always make good points, Mickey.

The Chairperson: Do not encourage him.

Members, we have a wee bit of information from the Department in front of us on clause 60, so you do not need to deal with that unless you want to, Michael.

Mr Pollock: OK.

The Chairperson: If members are happy enough, we will move on to clauses 61, 62 and 63. The Law Centre and NICEM commented on clause 63 in their submissions. They are opposed to some of those clauses.

Is that still the EU? We kind of dealt with that this morning, so are members happy enough to move on? We have dealt with that, but we will obviously come back to it formally.

Members indicated assent.

The Chairperson: We will move on to clauses 64 to 68.

Ms Corderoy: Clauses 64 to 68 are technical amendments relating to industrial injuries. They remove unequal treatment and extend, simplify and rationalise existing schemes for those under 18 and for trainees. We had a couple of queries, but we answered those last week.

The Chairperson: That is fair enough.

Mr Pollock: Clause 69 deals with housing benefit changes, which we spent quite a bit of time on this morning when discussing underoccupancy and the consumer price index uprating. As I mentioned, you asked for some figures, and we have provided them. However, I think that we need to put the position to you formally so that you get as full a picture as possible of what everybody is doing.

The Chairperson: Thank you for that.

Ms Corderoy: Clauses 70 to 73 are to do with getting rid of the previous social fund. Last Thursday, you heard from Leonora McLaughlin about the plans for the discretionary scheme. She went through most of the questions that were in the table.

The Chairperson: I thought that we may have had something in our tabled items, but we do not. Fair enough.

Clause 74 is titled "State pension credit: carers".

Ms M Campbell: I did confirm that. That is not changing.

The Chairperson: We dealt with clause 75 earlier. A number of recommendations were made on clause 76, so there is a bit of discussion to be had on that. We had a number of recommendations from stakeholders, including a recommendation that the severest cases be dealt by a paper exercise, as it was described. There was also a suggestion to amend clause 80 to change the required waiting condition.

Ms Corderoy: On the first clause that you mention, it is the legislation's intention that the severest cases will be dealt with by a paper exercise. Legislation allows for that in exceptional circumstances.

Last week, we said that, in clause 80, the limit of three months and six months has already been changed as a result of consultation. It aligns with the definition of "long-term disability".

Mr Brady: How will it be determined what are the severest cases? Will it be based on medical evidence? There are degrees of severity. Sometimes the decision can be subjective rather than objective. Will there be anything there to suggest that there is medical evidence from a GP or a consultant, or from a person's medical history. A lot of the people who will be moving over from disability living allowance (DLA) to PIP have long-term chronic conditions. In many cases, they will have progressive conditions that could get worse within the month. I am thinking of rheumatoid arthritis and such conditions. There could be people with multiple sclerosis who are in remission only to see their condition change very quickly. People with motor neurone disease can get worse. There are many such conditions. Sarcoidosis has been mentioned in the past. You could have one good week out of four. It is a very severe condition.

Mr Pollock: The medical evidence will be one aspect of the overall consideration. Jane, do you want to comment?

Ms Corderoy: My operational colleague, Mickey Kelly, is not present today. However, I can come back to you on that. Fluctuating circumstances are dealt with elsewhere in the legislation.

Mr Brady: To extend that point slightly, if it is going to be a paper exercise, it seems logical that the best available medical evidence should be there. I do not dispute that other factors may be considered. If someone has a long-term, chronically severe condition, medical evidence will be there, and it will be long-term medical evidence, probably going back many years and possibly containing a prognosis.

Mr Pollock: It is down to our good old common sense again, Mickey.

Mr Brady: Sometimes it is not so common.

Mr Copeland: Under the existing benefit, there is a mechanism called "special rules". It applies to people who are facing end of life within a set time frame. Will that be replicated?

Ms Corderoy: Yes.

Mr Copeland: Are there any changes to the timescales and the criteria that have to be satisfied?

Mr Pollock: I do not think so. There is something about cancer sufferers.

Ms Corderoy: Bits of DLA are tried and tested on how to take forward the same rules, so the same rules apply on terminal illness.

Mr F McCann: One of the groups raised the point that DWP has proposed that, after four weeks, DLA or PIP should not be paid to people who have travelled abroad. Does that take in pensioners and older people, quite a few of whom, mainly for health reasons, go away for a month or two in the winter? This will restrict their doing that.

Mr M Byrne: The plans at the minute are that PIP will not apply to pensioners. PIP will apply only to people of working age.

Mr F McCann: I did say older people, too.

Ms M Campbell: Over 50s, say?

Mr F McCann: I have not quite said that, but it will not affect people of pensionable age?

Mr M Byrne: It will not affect people over 64. PIP will apply to 16- to 64-year-olds.

Mr Brady: On that point, it really depends on defining what "medical treatment" is. Many people with arthritis go abroad for the sun. Is that, in the broadest sense, medical treatment? I suppose that it comes down to semantics.

Mr M Byrne: I think that it would have to be medical treatment that has been recommended rather than just —

Mr Brady: Your doctor may tell you that it would be a great health benefit if you could to Santa Ponsa for two months or whatever.

Ms M Campbell: We are all going to go to your doctor. *[Laughter.]*

Mr Brady: I was thinking of somebody else's.

Mr F McCann: I think that Jane was working her way through a number of other issues when she got sidetracked.

Ms Corderoy: We clarified last week that clause 86, which contains the comment about people being held on remand and subsequently being released or people having their convictions quashed, is not about presumption of guilt or innocence but to prevent there being double provision and to ensure that their medical care is met while they are in prison or wherever.

The Chairperson: Then there is the issue of statutory access to independent advice. It says "mandatory" here, but it was really to make provision for access to independent advice to be put on a statutory footing.

Ms M Campbell: Apart from the fact that making independent advice statutory could prove expensive, it would be problematic. How would you determine that the increase in cases was directly related? However, the Department is discussing with the voluntary and community sector what that sector's role will be in the implementation of welfare reform.

Ms Corderoy: As Maurice said, people of 65 or of pensionable age who are in receipt of PIP should continue to get it, and that is the case.

The next point was that current rules allow people who come off DLA to reclaim the benefit within two years if they need it again, but the plan is to limit that to one year under PIP. We said last week that if the Committee feels strongly about that, we can look at it. We can go —

Mr F McCann: I was thinking of Mickey when I raised that point.

Ms Corderoy: There is another question related to clause 86, and it is to do with people who are on remand. Again, it is about over-provision and avoiding paying from the public purse twice.

Last week, we also dealt with the recommendation to bring the mobility component for adults into line with that extended for children. The 84 days relates to disabled children and is linked to child benefit. I do not get any sense that there is any interest in changing that.

Under clause 88, a report of the assessment must be laid before the Assembly within two years. Last week, my colleague from the agency said that time was needed for PIP to bed down and for lessons to be learned as we look at the number of people going through it. We also said that we would be willing to take on some of the other suggestions from stakeholders about involving disabled people and organisations in that, and that would need to be in the legislation.

Clarification on cross-border issues is there. We said that the social security entitlement of people in the EU is determined in accordance with European legislation. EC regulation 883/2004 co-ordinates

member states' social security schemes. The competent state for the award of sickness benefits is determined in accordance with the regulation, and is normally based on the European Economic Area state where the person is insured, regardless of which state in which that person resides. We are told that it is exportable if a person moves across the border. That was a particular issue that the Committee raised. We will ensure that we get clarification that that is the case.

We were able to confirm the final point about the definition of a "care home". Those in sheltered accommodation or supported housing come under the normal rules and entitlement. Proposed rules mirror those for the DLA care component. Particular concerns were raised about supported housing, but people affected will continue to get the PIP component.

The Chairperson: Are members content with that?

Members indicated assent.

The Chairperson: We move now to clause 95.

Mr Pollock: Clause 95 relates to the benefit cap. The latest figures that we have show that 620 households in Northern Ireland would be affected by the benefit cap. We have provided the Committee with some information on the exemptions proposed under the legislation. A lot of it is to do with the vulnerable categories, which we have talked about today. We are doing some more work on the finance that is being attached to the introduction of the benefit cap and what would be saved from there. We should have that for you very shortly.

Mr F McCann: When the cap comes in, it will obviously be an amalgamation of quite a number of benefits. I think that something like 30 benefits are being pulled together. Would the Department consider listing in the Bill all the benefits that will and will not be affected by the benefit cap?

Ms M Campbell: That is in regulations.

Mr Pollock: There is a list of what is to be included and what is not. Perhaps, for the stake of stakeholder engagement, it would be an idea for the Department to have something. I am sure that Tommy's people and the communications people have in mind something that will be available to customers to tell them that if they are getting DLA, attendance allowance or carer's allowance, for instance, it will not be included in their overall benefit cap.

Ms M Campbell: The list is on the NI Direct website. Receipt of work and tax credits, DLA, PIP — when it comes in — attendance allowance, the support component of ESA, industrial injuries, and equivalent war disablement pensions and payments under the armed forces compensation scheme, war widow and war widower's pensions automatically exempts people. From memory, we gave a figure for households that came under the benefit cap at something like 13,000, but when you weed those out, the people in receipt of the exclusion benefits brought it down to 620.

Mr F McCann: There are very few people who will know that there are 30 benefits out there. Most people would not know what they are. Can we have that recorded in the Bill? Can we have a list of the benefits that are going to be amalgamated into universal credit?

Ms M Campbell: I am with you now.

Mr Pollock: It is in there now, Fra. We are told what universal credit is going to replace.

Mr F McCann: It would take you three months to find them all. It would be a good idea to have a list of those benefits that are going to be amalgamated and those that are not. I think it would simplify the thing. If people want to see it, they will see it there.

Mr Pollock: I understand, but it will not be benefit claimants who will be reading this.

Mr F McCann: That is like saying to Mark Durkan this morning, "Now you should read the business case", yet there are 20,000 pages in it or something like that.

Mr Brady: One of the stakeholders proposed that carer's allowance, widow's and bereavement benefits and contributory-based ESA be added to the list of benefits exempted. It seems to me that it would be a great opportunity to make carer's allowance a stand-alone benefit going into all of this, because it should have been from the beginning. I say that because it is so related to DLA or attendance allowance.

Ms M Campbell: Carer's allowance?

Mr Brady: Yes. If you are on benefit, carer's allowance is taken in against your benefit. It is taken in as income. It should never have been, because DLA is not taken in as income and neither is attendance allowance. There was always the argument that carer's allowance should be a stand-alone benefit, because a carer is caring, irrespective of whether he or she is working. That is the point that I am making. It was resisted because of the obvious financial implications. Carers in the North save the Government £4 billion a year. What would happen if all the carers decided that they were not going to do it any more. I am sure that they will not, but it is an opportunity. There had been suggestions about such benefits as bereavement benefit, for instance, but it seems to me that carer's allowance is an obvious benefit to be exempt.

Mr M Byrne: Carer's allowance is an income-replacement benefit. It is there to help people who cannot work full-time.

Mr Brady: With respect, Maurice, that is what we were told. I would never accept that it is an income-replacement benefit. If you were working for 35 hours a week for an income of £1.24 an hour, and that is an income-replacement, you are being short-changed.

Mr M Byrne: People in receipt of carer's allowance can still work.

Mr Brady: They can earn only £100, so they are restricted.

Mr M Byrne: They are not able to work full-time or to work to their full potential, so that is a benefit to compensate for that.

Mr Brady: I cannot accept that argument. Sorry.

Mr F McCann: I think that you said that 620 big families would be affected. At one of the meetings, you also said that 13,500 would be affected, because they are in receipt of DLA and that they could be impacted on by the changes from DLA to PIP.

Mr Pollock: They are exempt.

Mr F McCann: They are exempt at present but will that 13,500 still be exempt when the changes come in?

Mr Pollock: Yes, they will still be exempt. They are in the categories that will be exempt.

The Chairperson: The question that you were asked related to the headline figure of the benefit cap and the 13,000 that Martina said would be affected.

Ms M Campbell: It is 13,300.

The Chairperson: When you take out all the proposed exemptions, you take that down to 620.

Ms M Campbell: Yes.

Mr Copeland: I interpreted the question differently. There are 13,000 people, many of whom may be exempt because they are on DLA. Let us say that 25% of those do not transfer satisfactorily from DLA to PIP, so that figure could be 3,000 people instead of 600. That is the potentiality.

Mr F McCann: That is the point that I am making.

Mr G Campbell: I have a query on what its presentation will be when it ultimately rolls out. Your presentation about the cap of £500 a week is well-rehearsed. The rationale for it is that it is approximately the average GB wage.

Ms M Campbell: It is not our average wage. The point about the figure used in the cap is that it is the GB median wage, which is an advantage to Northern Ireland claimants, because the median wage in Northern Ireland is lower, as you know.

Mr G Campbell: Yes, I know that. From a presentational point of view, particularly when part of the rationale is to make it more productive for people to work, is it not true to say that if you had an identical couple, one of whom was on benefit at or close to the maximum cap of £500 a week, and another couple in work, the couple in work would have to earn an awful lot more than £500 a week to be the same as the recipient of the benefit, in net terms? Would it not be better to say that the cap of £500 is equivalent to a couple who would have to earn £30,000 a year, or whatever it is?

Ms M Campbell: I think, from memory, that the figures are £26,000 to £32,000.

Mr Pollock: That is £26,000 net and £32,000 or £33,000 gross.

Mr G Campbell: Yes, but when you use the term "equates to", the working person will say, "Forget about the 'equates to'. That is what I have to earn to get what the person who is on benefit can get under the cap. The 'equates to' is out of the question. That is what I have to earn in wages. I have to work to earn up to £32,000 per year to get the same as someone in identical circumstances to me can get in benefit, and the cap cuts in then." Just for presentation, maybe, at that point, you could say something else rather than just say it is the equivalent of £500 per week.

Ms M Campbell: Yes.

Mr Brady: I suppose that that is the argument that Freud was using in the House of Lords.

The Chairperson: Let us not have an argument about propagandising or promoting the Bill. Let us deal with the clauses of the Bill.

Mr Brady: Sorry; it is about the point about the gross figure as opposed to the net figure. In fact, the figure that he gave was £35,000. I just want to clarify that.

My question is on the transfer. Are we any closer to finding out who will get the contract for the PIP assessments? We have been told several times that we are near that magic contract.

Mr M Byrne: I have not heard anything further on that.

Ms Corderoy: No. We hope, Mickey, that it will be soon enough, within the next month or so, but we will let you know as soon as we know.

Mr Douglas: I have two points. Someone told me that there were six people in for the contract. Is that right?

I come back to a point that Fra made. It is a more general question and may be better left to the end. He talked about listing all these benefits in or out. We have talked before about the importance of communication. There is a lot of fear out there at the moment. What are we doing about that? For example, we talked earlier about underoccupancy. In discussions that I have had with people, I have heard their fears that this is going to happen next week and that everyone will be put out of their home. We definitely need to do something. Some people think it will happen next week.

The Chairperson: Our dilemma at the moment is that we are simply processing a Bill. Until the Bill completes its passage, theoretically, you cannot say what the outcome will be. So, we are in a bit of a dilemma. There is nothing I can really do at this moment to assuage the fears of a lot of people. I am getting it every day of the week, like everyone else around the table. There is little I can do to assuage people.

Arguably, if a lot of the submissions had been more widely publicised, there would be a lot more concern out there. We had the likes of the Housing Executive telling us that if all the people deemed to be within the remit of this new Bill and living in inappropriate accommodation presented themselves for appropriate accommodation, it could not meet that need. It expects that if the proposed Bill goes through as it is before us, more people will be more likely to face the prospect of being unable to pay the rent and losing their home. It is quite concerned about that in its evidence

Those are the concerns. I do not know what we can do, as a Committee, to assuage them. I am not even sure what the Department can do because it is proposing the Bill.

Ms M Campbell: What we could do is ask the Social Security Agency's communications people to talk to you.

Mr Pollock: The agency has a wider communications strategy in place. A lot of that will kick off immediately the Bill goes through the Assembly. However, it is predicated on the legislative process, and the agency does not want to prejudice that, I suppose.

Mr Douglas: Some of us had a chat over lunchtime. If you look at the 'The Independent on Sunday', you can see that it shows that there are clearly major problems at the moment. I had another look at it, and it relates to the whole IT system. If half of it is true, it will put the whole process back another year or 18 months. The longer this goes on, the more the rumour-mongers will get to work and the more people will talk. I understand that it is a very difficult situation. As Martina says, it might be an idea to chat with that part of the Department.

The Chairperson: We can certainly do that. There is no difficulty about that at all. I am just sounding a wee note of caution. The Department and the agency will have their communication strategies, but I do not want to subscribe to a communication strategy that is propagandising for something. It is difficult. We have told people who have made arguments to the Committee over the past year to make their case and to be evidence-based if they can be. Some of the outworkings of the Bill will be very challenging and difficult enough for a lot of people. You do not need to elaborate on that or make it sound worse; the outcome might be difficult enough. That is obviously in the minds of all the parties that have opposed elements of the Bill until now. We could have a discussion about communication, but you will be limited in what you can do. Although there is an argument that says, "The Bill is a good thing; it is about simplification and being fair to the taxpayer", there are counterarguments that say, "Yes, but an awful lot of vulnerable people are going to fall foul of the Bill." How do you square that circle? I am not so sure, but, yes, we can have a discussion on communications with the relevant agencies.

Mr F McCann: There is a valid point in what Sammy said. There seems to be indications that there are serious problems, whether they are to do with computers or other aspects. However, we are pushing ahead. When we are finished, we will go into the Assembly and vote on the Bill. If it passes and they get more and more problems over there, where does it leave us?

The Chairperson: We have to deal with the Bill in front of us and bring those judgements to bear. When we come to the clause-by-clause scrutiny, which will start very shortly, we will have to make our judgement on the Bill based on the information that we have received from stakeholders and with the Department. That is the process that we have been involved in during the Committee Stage. The first phase was to satisfy ourselves that we know every provision of the Bill and what it was intended to do, and all the rest of that. There was a lot of discussion, and people teased out what things might mean. We have done that. We then had stakeholder evidence sessions, and now we have reverted to talking to the Department. That is what we are working on. We clarified what the Bill is supposed to be about, and we took evidence. Now, having had the benefit of that evidence, we are taking that evidence up with the Department again to clarify aspects of it and to tease out some of the arguments. The phase that we are now in is that we are asking the Department whether it will be able to take on board some of the concerns. We have already addressed some, and we are going to come back to others. When that is completed in a day or a couple of days, we will do the clause-by-clause scrutiny. We will have to make our judgements based on what we believe the Bill to be and what our views on all that are. We will have to make our decisions on that. People have already expressed their concerns; they are worried about the impact of the Bill. It is in our hands to make decisions on the Bill. That is all that we can do, Fra.

Mr G Campbell: We are aware of the media hype over the weekend. Is any information being fed from DWP about the scale and nature of the problems that are being encountered, and, more importantly, about what impact they may or may not have on us?

Ms M Campbell: You would have to ask the agency. It is closer to the IT; it handles all the communications. We, obviously, are in touch with policy colleagues about the regulations, but the agency handles the specifics around the IT.

Mr Pollock: There does not seem to be any hiatus in bringing forward the regulations arising from the Bill that passed there in March.

Mr Douglas: Let me just quote 'The Independent on Sunday':

"The programme's director, Malcolm Whitehouse, and the DWP's head of IT, Steve Dover, last week announced they would be leaving the department."

Those are two key people. It also states:

"The senior civil servant on the project was described as being 'on extended sick leave'."

It just shows you —

The Chairperson: I am going to be the director general of the BBC. That is not true, by the way.

Mr Douglas: I know that that is in the paper, but those are facts and figures. They are definitely big difficulties. The longer that this goes on, the more of a mire we get into. That is particularly the case for elderly people, who will wonder what is going to happen and what is not.

The Chairperson: It is a point well made. Obviously, we will have to bear all that in mind when making our decisions on the Bill. That is the dilemma that we will face. Thank you for that.

The issue in clause 96 was around the ability to appeal the decision if you felt that it was wrong.

Mr Pollock: I think that we have come back to you on that. Basically, the only aspect that you cannot appeal is the right to apply the benefit cap. Everything else would be appealable.

The Chairperson: Good enough. We move on to clause 97.

Ms Corderoy: I think that the issues with clause 97 and clause 99 were dealt with this morning. We spoke about clause 98, which was just verification of the type of organisations that you could get information from.

Clause 100 deals with payment on account. We clarified last week that that is not to do with the social fund replacement and that that would be an additional Government amendment.

Clause 101 deals with the mandatory reconsideration before appeal. With regard to the third bullet point at paragraph 77 of the paper, the Department would appreciate it if the Committee could let us know which bit of the time limits you are talking about so that we can make sure that we are answering the right query.

The Chairperson: It is the 42-day time period.

Mr Brady: May I just clarify a point? Does that mean that you have 42 days within which to appeal or that the Department will deal with it within 42 days?

Mr M Byrne: We are not aware that there is a proposal to introduce a 42-day time limit.

Mr Brady: It is 28 days at the moment.

Mr M Byrne: Twenty-eight days for the Department to deal with —

Mr Brady: No, for a person to appeal —

Mr M Byrne: Yes; that appeal time limit remains at 28 days.

Mr Brady: So the 42 days would then —

Mr M Byrne: We are not aware that there has been talk about 42 days.

Mr Brady: I am just wondering how enforceable that would be, considering the number of appeals you are going to get.

Mr M Byrne: You are under the impression that that 42 days is for the Department to handle the appeal.

Mr Brady: It is ambiguous. It does not really say. It says:

"A time limit should be applied to the Department to ensure an appeal is dealt with in a timely fashion. [The Department of Work and Pensions and HMRC are both considering a 42 day time period in Britain.]"

Mr M Byrne: I know that, under the appeal regime across the water, when the appeals were taken over by the Ministry of Justice, it tried to impose a 28-day time limit on DWP to get submissions to it within 28 days of the date on which the appeal was lodged. I think that there was opposition to that, in that DWP could not have met that timescale. As far as I am aware, the current rules state that the response to the appeal should be provided within such time as may be reasonable. As far as I am aware, there are operational targets and whatnot in place that require that submissions should be provided to the appeal tribunal within a certain time. However, once it goes to the appeal tribunal, it is up to the appeal tribunal to decide how long or how many sittings it hears. There is no time limit for it to get the appeal heard. So, I do not know just how workable a time limit would be in the process of getting an appeal lodged and then cleared. There are too many variable factors involved.

Mr Brady: There are operational difficulties, too, because sometimes appeals require a departmental officer to be there. At one stage, the appeals people were actually sending out subpoenas to the Department to have an officer at every appeal. It did not work. The only reason I am raising that issue is that it throws up the inherent difficulties in trying to get appeals through in a reasonable time. The difficulty in this case is that, under this legislation, there will be so many more appeals than there are already.

Mr M Byrne: The whole idea of clause 101 is to reduce the number of appeals going to the appeals tribunal. Hopefully, they will get the decisions right in the first instance.

Mr Brady: Room 101 might be more appropriate.

The Chairperson: The issue was raised by the Law Centre specifically.

Mr M Byrne: I suppose it has an interest in trying to get the appeals heard as quickly as possible. At the minute, we are not aware that there is going to be a time limit for it.

The Chairperson: Fair enough. Did we skip clause 99?

Ms M Campbell: That was covered this morning under the payments to joint claimants.

The Chairperson: Clause 102 was about data protection.

Ms Corderoy: It makes it easier to include in regulations provision for electronic communications in relation to claims to benefit, notification regarding claims to benefit and notification regarding change of circumstances, rather than us having to go through a separate order under the Electronic Communications Act (Northern Ireland) 2001.

The Chairperson: The main concern was about data protection, is that right?

Mr M Byrne: I do not think that it is anything to do with data protection. It is not to do with the electronic sharing of information between Departments or anything like that. It is just a simplification measure to allow the Department to make provision in regulations for electronic communication as regards making claims and changes of circumstances. Currently, that has to be done by an order under the Electronic Communications Act, whereas, under the new regulations for universal credit, we can include in the claims and payments regulations all the provisions for claims and payments, including electronic communications.

The Chairperson: People were just concerned about security, that was all.

Mr M Byrne: As far as I am aware, there have been electronic claims since 2006, and I am not aware that any issues have been raised with the Department over the security of information given in that way.

The Chairperson: That is fine.

We will move to clause 103, which is about recovery of benefit payments.

Ms Corderoy: The issue that the Committee raised last week was to do with whether the recovery of benefit overpayments would be detrimental to the claimant. We came back with some information that, where reasonable evidence is available that the recovery of an overpayment would be detrimental to the health and/or welfare of the debtor and/or their family, particular criteria would need to be satisfied in order to waive recovery of the overpayment.

Mr F McCann: How is that determined?

Ms Corderoy: It is in guidance. There are different rules for different aspects depending on whether you are on contribution-based benefit or means-tested benefit. At the moment, there is a set limit on what is considered a small overpayment, and that is deemed to be non-recoverable. At the moment, the guidance says that an amount of less than £65 will not be pursued. I think that if a claimant were getting more than £65 and there was a difference in what they get under universal credit, they would probably notice that amount early on. You were concerned about the welfare considerations and that it may push somebody into further debt.

Mr Brady: The point was made that, historically, there have been more recovered overpayments here than in Britain. That kind of skews the parity angle, and the difficulty is that, under this, even if the person is not responsible for the overpayment, they are still penalised because the Department has made a mistake and has overpaid them. The argument that people should know when they are getting more does not wash because, in my experience over the years, as I said last week and as I continue to say, people think that the Department knows what it is doing. They think that if they get extra money, they must be entitled to it because those people are almost infallible. I did qualify that.

The Chairperson: OK. I admire your confidence.

Happy enough to move on to clause 105?

Ms Corderoy: There was no comment on clause 104.

Mr Pollock: Clauses 105 to 115 are about fraud.

Mr Brady: There is a 40% maximum for deductions from earnings. Will the level of earnings be taken into account? We have a low-wage economy here as opposed to what might exist in Britain.

Mr M Byrne: As in any case where recovery is being pursued, all the circumstances of the case will be taken into account before the level of recovery is determined. If the person will be faced with greater hardship, a lower deduction would probably be more appropriate.

Mr Brady: The 40% figure is there to be used, and the Department can use it if it so desires.

Mr M Byrne: I think that the 40% figure is only for fraud cases where there has been proven fraud. The maximum in the other cases is, I think, 25%.

Mr Brady: It is still a fair bit.

Mr M Byrne: It is still a fair bit, but that is the maximum. It is not necessarily the automatic deduction.

The Chairperson: OK. Let us go back to the fraud section.

Mr Pollock: Conrad is best placed to speak to this issue. He has provided some clarification, which he spoke about last week. Basically, the Department's duty is to protect public funds and recover overpayments and social fund loans. That is right, and it should be able to do so over an extended period. Again, he pointed out that there could be higher repayment rates, which would enable the debt to be recovered sooner.

There were no particular comments on clauses 106, 107 and 109. There was a comment on clause 110 in relation to the penalties for fraud. Conrad pointed out last week that the claimant still has the choice to go to court rather than accept the penalty. The amount involved — the £350 or 50% of the overpayment, an increase on the current 30% — is deemed reasonable in the circumstances.

The Chairperson: I presume that there is no change in the Department's thinking around the penalty. It will be on top of the recovery. Is that right? That was a concern that members had. It is a bit of a double whammy.

Mr F McCann: In what circumstances would the maximum penalty of £2,000 apply?

Mr Pollock: I imagine that it would be in extreme cases.

Mr F McCann: Can you give me an example?

Mr Pollock: I cannot because it is not my particular area of expertise. However, as an ex-auditor, I have to say that it would be proportionate to the amount of fraud.

The Chairperson: Conrad may have mentioned a figure last week, but we can check that.

Mr Pollock: We can check to see whether we can give you an example, but, as I said, I envisage that it would be an extreme case, maybe involving organised fraud or whatever.

The Chairperson: Clause 111?

Mr Pollock: Clause 111 relates to the cooling-off period. We are trying to get the balance right by reducing the period during which the customer can withdraw their agreement to pay the penalty from 28 days to 14 days so that the process is a wee bit more streamlined. Withdrawal means that the penalty need not be paid but also that the Department's agreement not to prosecute will no longer apply. These penalties can only be offered where there are sufficient grounds to bring proceedings. Acceptance is on the basis that, by agreeing to pay the penalty, there would be no prosecution. The offer of a penalty must be accepted in writing, and, once accepted, the additional cooling-off period applies, during which time the person can reconsider their decision to accept the penalty and seek further independent legal advice. We believe that 14 days is sufficient time for the claimant to seek any advice. Customers retain the right to seek independent legal advice and to participate in face-to-face interviews where the penalty is offered.

The Chairperson: The issue was that if you wanted to see a solicitor, you might not get one within 14 days. Again, Conrad dealt with that, but I am trying to recall the specifics and whether there is discretion to allow a longer period. I think that he said yes.

Ms M Campbell: I think that he did say yes.

The Chairperson: I think he did but maybe I will stand corrected.

Mr Brady: It goes back to that whole issue of failure to disclose, and there is a valid argument that if you do not know something, you cannot disclose it. There has been a long-running argument about misrepresentation because you can misrepresent something, but it is more difficult to disclose something that you do not know. People will be penalised for that.

Mr Pollock: Penalised, yes, but I think Conrad was trying to bring out the fact that most fraud proceedings are not about genuine mistakes. This is not about genuine mistakes.

Mr Brady: The point is that there are genuine mistakes, and we need to cover all aspects. If somebody is committing fraud, it is their problem if the issue is resolved through a court case or whatever. I know from dealing with people over the years that a lot of people were done for failure to disclose when they simply did not know that the issue was relevant or pertinent to their benefit. They could not disclose something that they did not know. I know what you are saying about somebody going out to commit fraud, but there are a lot of people who do not.

Mr Pollock: Hopefully, the likes of the claimant commitment and claimants' responsibilities being spelled out a wee bit more clearly will help in that regard.

Mr F McCann: I raised this with Conrad because I have dealt with a number of cases where people were asked whether they had read the information on the back of the form; the small print that outlines what people have to do when claiming benefit. You and I know that the vast majority of people do not read it. As a matter of fact, there may be serious literacy or other problems. If they fall into that category, they are being penalised, as Mickey said, for something that they have no knowledge of at all.

Mr Brady: The classic example of that was the old order book, where you were supposed to read the yellow pages every time. If everybody had done that, it would have taken you a week to get your money because there would have been a queue in Newry, down Hill Street and round the corner. That is the illogic of this.

The Chairperson: OK, fair enough. The issue with clause 111 was the number of days being reduced to 14 and whether you would accept a prosecution. We have been advised that if someone is not able to make that decision within 14 days, discretion is available to them. We just need to make sure we can confirm that.

Mr Pollock: We will come back definitively on that. Again, if they can show they have a good reason as to why they could not get legal advice within that period, I am sure that would be taken into consideration.

The Chairperson: We will have to decide on that in a few days, so we need to have that confirmed.

Mr Douglas: Will that be in the guidelines? I think it was the Northern Ireland Association for Mental Health that talked about people who are under stress and leaving letters lying in the hall for weeks on end because they cannot face opening them. We will be looking at those vulnerable people as well. Will there be a list of those types of vulnerable people, Michael?

Mr Pollock: I have not seen the way the regulations will be shaped, but, yes, there would be consideration of particular circumstances if there were mental health issues or whatever. That would be taken into consideration.

The Chairperson: OK, thank you. Clause 112.

Mr Pollock: Clause 112 deals with civil penalties for incorrect statements and failures to disclose information. The penalty is £50. It is what it is, and I think Conrad outlined the detail behind that. It is for claimants who negligently make incorrect statements or who fail, without reasonable excuse or good reason, to disclose information about their claim. That is where the face-to-face relationship with the Department comes into play in the individual circumstances and what is deemed as reasonable.

Mr Brady: The housing groups have an issue about a third party providing documentation or information. Would the third party that gives information on behalf of the homeless person be subject to the penalty? Or, would that revert to the vulnerable person who was not in a position to do that?

Mr Pollock: The penalty can be imposed only upon the individual who makes the claim.

Mr Brady: I see, and, again, they would not have provided the information. The information would have been provided on their behalf, which goes back to not being able to disclose something that you do not know. It is a technical issue that could affect a number of people. If it is accepted that a third party can give that information, the person whose information it is may not be aware of the particulars of the information given. That may need to be addressed. Perhaps you will look at that.

Mr Pollock: I think that we mentioned this morning that we are trying to bottom out the third-party verification.

Mr Brady: That is just an additional thing to consider.

Ms M Campbell: Another element of it, yes. Good cause would probably come in there, too, but we need to bottom that out.

The Chairperson: We are now into clauses 113 and 114, about which the issue is, again, disproportionate approach. The Committee was generally concerned about the question of sanctions being disproportionate, but we have touched on that already. Unless you can offer any more, I think that the Department is wedded to the idea of this sanctions regime.

Mr Pollock: There were concerns about the three-year sanction and that offences subject to such a sanction would be listed in regulations and be linked to trigger points. Those trigger points are clearly defined in the Bill and include an overpayment of at least £50,000; a custodial sentence of at least one year; or being found by a court to have committed an offence over a period of at least two years. Those are additional safeguards to ensure that a three-year loss-of-benefit sanction is not applied for anything other than something that is considered to be serious benefit or tax credit fraud offence. Full withdrawal does not apply to all benefits. Some benefits are subject to partial withdrawal, and there is also access to hardship payments, where appropriate.

I am not speaking on behalf of Conrad, but what he tried to say last week about that aspect of the sanctions regime was that these are serious offences. A lengthy court process is gone through in any event to prove fraud. Cases such as these are at the serious end of the spectrum, where time in prison is imposed and/or which involve the loss of £50,000 or more.

Mr Brady: Cautions are being taken away, presumably because more severe sanctions than that are to be imposed. Is there not a case for retaining cautions for what may be considered minor misdemeanours? A caution is cost-neutral in the sense that you take somebody into the office and give them a verbal warning of what they have done and should not repeat or whatever. It seems to be that, otherwise, another more expensive process may be undertaken.

Mr Pollock: I do not know the details of that, Mickey. Conrad covered it when he was here last week. Is there something further?

Mr Brady: On the minor, innocuous stuff, could the person involved be given a verbal caution rather than have it taken any further? Essentially, the Bill does away with cautions altogether. Therefore, an informed decision about whether to take the case further, either in processing the civil penalty or taking the person to court, has to be made. I am trying to make the point that the administration of that may prove more expensive.

Mr Pollock: I was here and heard the rationale, but, for the life of me I cannot recall it. I thought that we had clarified that with you at the time.

Mr Brady: Maybe, we are just getting to that stage where memory lapses are becoming more frequent.

Mr Pollock: OK; we will come back to answer that definitively.

Mr Brady: I have to say that I include myself in that.

The Chairperson: We move on to clause 116.

Mr Pollock: Clauses 116 to 120 are in relation to information sharing.

The Chairperson: You were going to check about the argument from housing associations that they should be included on the list as a relevant body.

Mr Pollock: Ordinarily, it is public bodies that share information and are facilitated by data-sharing clauses, particularly because of security information where you are dealing with personal information. Therefore, I do not envisage that housing associations would need the level of data sharing on personal information that is envisaged in these clauses. Obviously, communication channels with housing associations, the Housing Executive and bodies that provide services to or information on the housing sector are vital. Quite a bit of work is ongoing to ensure that that is all in place. Other than that, I do not have anything to say.

The Chairperson: I thought that we had agreed last week that we would ask the housing associations why they are saying that they expressly need this.

Mr Pollock: I hold my hands up; I did not have the chance to speak to anyone about that.

The Chairperson: It would help us if someone were to come back to us on that. I know that you already dealt with it there, Michael.

Mr Durkan: What disadvantages might there be to the Department of sharing the information? There are already people with whom this information is shared.

Mr Pollock: Information sharing is governed by data protection legislation. When we are opening data-sharing gateways, we will be looking to ensure that the rights of the individual are protected. If, for example, the Department of Education were to look for information on benefits to passport a family or an individual onto a particular benefit, it would only have access to that snapshot of the benefit databases, so there are protections in there.

Ms M Campbell: There are also costs attached to providing gateways.

The Chairperson: No one sought any specific information on clauses 118 to 120, so we move to clause 121, which deals with supporting maintenance. This is around the consultation on separated families.

Ms Corderoy: We have received the Committee's response as well. We are in the middle of analysing those responses, and we will be putting the Northern Ireland issues that were raised on that to DWP. I do not think that any particular points were raised on that. As we have said before, the issue of fees is still being explored here. It is not in relation to this Bill but in relation to the 2008 Act. The Committee raised two specific queries, and I hope that you received the response to those this week.

The Chairperson: No.

Ms Corderoy: It should have issued last week. It was to do with the cross-border issue of a non-resident parent who is living in another jurisdiction and on the issue that Mr Copeland raised about directors' drawings.

The Chairperson: We do not seem to have received it yet, Jane.

Ms Corderoy: We can chase that. Maybe it will come tomorrow or something. Those queries were separate to this legislation. They were general issues related to child maintenance. I do not know whether there were any issues related to these clauses.

Mr Brady: I have a question on clause 122. Currently, a parent with care can ask the Department to be involved in the collection of the money. That is being taken away. The Department is suggesting that there should be an arrangement for the non-resident parent to make a direct agreement. My difficulty with that, because I have come across cases in the past, is about how that will be enforced.

If the Department is involved, there is almost a statutory obligation on the person, and arrears will be allowed to run, unfortunately in many cases, for quite a while, but at least there was an input. Now, with this voluntary arrangement, the non-resident parent can just get away for a long time without paying. What redress, then, does the parent with care have to try to get that money back?

Mr M Byrne: The whole intention behind the new child maintenance scheme is to try to encourage —

Mr Brady: I am not arguing with that principle. The reality is that people are going to see it as a way of getting out of paying maintenance.

Mr M Byrne: No. As soon as a voluntary arrangement breaks down, the parent with care is quite at liberty to come to the Department to seek collection.

Mr Brady: Can they do that after the first week? They may be told that the payment is just late.

Mr M Byrne: It may be that just one payment has been missed. If the parent with care has evidence that the agreement has broken down and payments are not forthcoming —

Mr Brady: It is really to tighten up on that.

Mr M Byrne: — they will be able to apply for the money to be collected through the statutory scheme.

Mr Brady: That needs to be done fairly quickly because even one or two weeks can make a huge difference.

The Chairperson: OK. There are a number of clauses still to deal with. Some issues were raised in relation to clause 123.

Mr Brady: I think that that was about using the system and moving in and out of work in order to get a lower assessment of income.

Mr M Byrne: Clause 123 provides for an indicative maintenance calculation. It does not bind anyone in any way. An indicative calculation that is made today will be based on the circumstances as at today as to what might be expected to be paid, but if the circumstances change in six months' time, they can come back and —

Mr Brady: I understand that, but it gives an advantage, if that is the right word, to the non-resident parent to move in and out of situations where, on the day, they can produce evidence that they are earning a certain amount but on the following day, they could be earning twice as much. That is the point that I am making.

Mr M Byrne: I suppose that if both parties are not happy with the indicative calculation, they can always come for a formal calculation, which will be based on income —

Mr Brady: I accept the point, but it is all about people taking responsibility for their obligations. Unfortunately, human nature being what it is, a lot of people do not. This gives them the opportunity to abuse the system.

Mr M Byrne: I suppose that there is the possibility for abuse anywhere in the system.

The Chairperson: I suppose what you are saying, Maurice, is that if someone declares today that their earnings are at a certain level, a calculation is made on that basis, but if on the following day their earnings are increased, there would be a further calculation.

Mr M Byrne: They could come back and ask for another one, but I do not know just how often a person would ask for an indicative calculation just to see, if they went through the system, how much they would be expected to pay so that they can come to some sort of agreement between themselves to pay a reasonable amount.

Mr Brady: To finish, the point that I was making is that it is more advantageous to the non-resident parent than to the parent with care.

Mr M Byrne: I appreciate what you are saying.

The Chairperson: OK, fair enough. We will move on to clause 124; I am sorry, clause 125.

Ms Corderoy: To clarify, clause 125 is not about introducing fees. It is about specifying where there would be a waiver for fees and that if fees were to be introduced, there would be a review within two and a half years. Again, however, no decision has been taken to introduce that here.

We could probably reassure some of the stakeholders who commented on this issue that there are no plans to privatise the child maintenance service. I do not know where that impression came from.

Mr Brady: There are no plans at the moment.

Mr F McCann: There are no immediate plans.

Ms Corderoy: There are no immediate plans.

Mr Brady: That is almost becoming a mantra.

The Chairperson: There was another issue around the 30-month period.

Ms Corderoy: The review, yes. That is included in the consultation document that the Committee responded to. The period of 30 months is not up for review in the consultation. It is just in respect of what should be looked at as part of that review and what sort of issues should be raised.

The only comment from stakeholders about clause 126 was positive; NIPSA welcomed that. This is where parents who are declared bankrupt still have to meet the debt owed on their child maintenance.

The Chairperson: Fair enough. Are members happy enough with that? There were no comments on clauses 127, 128 or 129. Are members happy enough with clause 129? It is the one where there was a wee bit of argument about jurisdiction, the Secretary of State and stuff like that.

Clause 130 concerns any shortfall in the public expenditure for an interim period of two years in relation to the rate relief scheme. It relates to subordinate legislation, and that will be subject to normal scrutiny. I take it that you have no further information on that?

Ms Corderoy: The information that we have is that the Executive have agreed to preserve the existing entitlements for up to two years and fund any shortfall out of public expenditure for an interim two-year period.

The Chairperson: OK; fair enough. There were no comments on clauses 131, 132, 133 or 134. Is there anything that you want to add?

Mr Durkan: I will just go back to clause 130 on the rate relief schemes. The Department told the Committee:

"The Executive has agreed to preserve the existing entitlements for up to two years and fund any shortfall out of public expenditure for an interim period. That provision will provide the legislative cover for that holding operation, but it will also provide for any new rate support scheme that may emerge beyond then."

When you say that it will also provide for any new rate support scheme, does that mean that it will provide the legislative cover or that it will fund any shortfall?

Mr Pollock: It is just the cover.

The Chairperson: A couple of points were raised about schedule 1, one of which was from Citizens Advice.

Ms M Campbell: We covered that earlier. Those will be treated as earnings.

The Chairperson: Are Members happy enough with this so far? You will be very pleased to know that we have covered it all.

As I said this morning, it is important for members to note that the document was provided by the Committee Clerk on the basis of all the written and oral submissions received and the points raised by members. It is very important that people do not see it as a definitive document. If you wake up after your supper tonight and realise that there was something that you did not raise, you can raise it in the morning. The document is a best guess. It is very good and efficient, and I want to thank the Committee Clerk for it. However, it is not definitive. There may be issues that members want to raise, and you are totally and utterly free to do that. If it is not in this document, feel free to raise it.

Mr Brady: I thought that the Committee Clerk was going update the document for tomorrow.

The Chairperson: I am reminding members because I do not want them to say tomorrow, next week or next month that they did not get a chance to raise something. If you have any issues of concern with the Bill that are not contained in the paper presented by Kevin, this is your chance to raise them, whatever they might be. Sammy, it is just important that you say this to your colleagues as well. I am concerned that people think that this is what we are working on exclusively. I do not want any omissions by default. I am making that very clear to members. We will be back here tomorrow morning.

Mr Douglas: Chair, is there any word from the Business Committee? It is meeting today.

The Chairperson: I have not heard anything. I am very diligent about keeping my phone switched off. I have not received any text messages. I think that the debate is scheduled for Monday.

I thank the witnesses for the full day's work today and for helping us in our deliberations once again.

Ms M Campbell: Will we be starting formal clause-by-clause consideration tomorrow?

The Chairperson: I want members to reflect on whether there is anything else in the Bill that is not covered in the paper that they need to pursue in the way that we have done today. Tomorrow morning, we will start with any further points of information that you can provide us with. We will take any outstanding information as early in the deliberations as we can.

Members, please reflect on it overnight, and if there are any issues that you have not been able to raise today, raise them tomorrow morning. We will start tomorrow's meeting with any further information that is available to us and any outstanding issues that are not contained in the paper. Following that — at whatever time that might be — we will start the clause-by-clause consideration of the Bill.

Ms M Campbell: Okey-doke; thank you.

The Chairperson: Thank you very much.