

# **WELFARE REFORM BILL 2006 – REGULATORY IMPACT ASSESSMENT**

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**Structure and contents:**

This assessment contains an impact assessment for the Welfare Reform agenda as a whole. Short impact assessments are attached where necessary.

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## **WELFARE REFORM BILL**

### **Purpose and intended effect**

#### Objective

Our proposals for welfare reform will contribute to our long-term aim of **an eighty per cent employment rate for people of working age**. This will enable us to:

- meet the challenge of our ageing society (providing the supply of labour we need to remain competitive in the world economy and raising the dependency ratio to ensure we can support our children and those who are over state pension age); and
- deliver genuine opportunity to every part of society (working to achieve parity of opportunity for disadvantaged groups and disadvantaged communities).

In practice, it means a million fewer claimants on incapacity benefits, a million older workers back in employment and helping three hundred thousand lone parent claimants back to work.

#### Background

To achieve eighty per cent employment we need to reach out to those groups who have not benefited from the extensive support we can offer and the prosperity enjoyed by the majority. These groups include those receiving incapacity benefits, older people and lone parents claiming Income Support. To reach these groups, we need to reform the 'inactive' benefits they receive to fully engage with and support them.

Our proposals build upon our successful welfare to work policies, based upon a comprehensive menu of advice and support and clear rights and responsibilities for the individual. This approach has demonstrated its effectiveness by helping produce one of the strongest labour markets in the world – with more people in work than ever before and one of the highest employment rates on record. Its success for those claiming unemployment benefits has been well documented<sup>1</sup> and has since been extended to other benefit groups, including those claiming lone parent benefits (through mandatory work-focused interviews and the New Deal for Lone Parents which by November 2005 had helped 444,000 people into work), older claimants (New Deal 50+ which helped 98,000 people into work between 2000 and 2003) and recently those claiming incapacity benefits (through the ground-breaking Pathways to Work pilots have helped 21,400 people into work by October 2005).

By themselves, these measures will not enable us to reach eighty per cent employment. We know from our experience with the New Deals and Jobseeker's Allowance that successful support is founded upon complementary benefit and

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<sup>1</sup> "New Deal for Young People: Implications for Employment and Public Finances", NIESR, December 2001. (Employment Service Report- ESR62)

support structures; providing the incentives to engage fully and to move into employment, with the safety net needed to take risks in leaving benefit dependence. As we reach out to those with needs that are more complex we will have to be flexible and innovative in our delivery, utilising the range of expertise and community involvement of private and voluntary sector partners. We also need to remove perverse incentives to claim and remain on benefits and provide the support people need to make the step into work and to remain in work.

The need for active benefit programmes is demonstrated by the disparities between active and inactive benefit regimes. While our strong economy has achieved a high employment rate of 74.7 percent, this stands at 46.6 per cent for disabled people, 56.6 per cent for lone parents and 79.9 per cent for the rest of the working age population.

### Rationale for Government intervention

The Government has a responsibility to deliver equality of opportunity to employment for everyone. There is clear evidence of the impact of where Government fails to provide the right balance of rights and responsibilities for those who find themselves without work – between 1979 and 1997 the Incapacity Benefit caseload rose by nearly 1.7 million. In addition to the obvious fiscal costs, long-term worklessness creates poverty, which translates readily between generations creating social exclusion, limiting aspirations and mobility.

The growth in those claiming lone parent and incapacity benefits through the 1980s and 1990s reflects problems created over the course of a generation. We have made significant progress in supporting people who are on lone parent and incapacity benefits to make the transition back to work, but there is still more to do. Putting in place comprehensive support, balanced with new responsibilities, will tackle these entrenched problems by helping far more people avoid benefit and move from benefit into work.

Society has a responsibility to support people at a time when they cannot be expected to work, but it is crucial that the benefit system is built upon the principle of rights and responsibilities. A claimant's right to financial security should be matched by a requirement upon those capable of employment to take steps towards work.

Helping more people from these groups find jobs will directly support our Public Service Agreement targets on benefit off-flows and disability employment and wider Government/DWP targets on child poverty, lone parent employment, extending working life and strengthening the regional economy.

Government intervention is also motivated by:

- the potential benefits in exchequer saving and economic benefit in terms of increasing the number of people in work; and
- our long-term aim of eighty per cent employment for people of working age to meet the challenge of our ageing society and drive towards a more inclusive society.

## Consultation

### Within Government

Our proposals represent an ongoing development of policies in consultation with our internal stakeholder groups (this includes representatives from the devolved administrations.)

### Public Consultation

Our welfare reform proposals were set out in our recent Green Paper, *A new deal for welfare: Empowering people to work*, (Cm 6730) we completed a 13-week formal consultation period on the 21<sup>st</sup> April 2006, having received over 600 responses. The report on this consultation exercise is available at [www.dwp.gov.uk/aboutus/welfarereform](http://www.dwp.gov.uk/aboutus/welfarereform)

In addition to the Green Paper, we have conducted ongoing dialogue with stakeholders (including through formal channels such as the National Employers' Panel, the Regulatory Interest Group of the Small Business Council, the Health and Safety Commission and the DWP Disability Forum). We have also published a range of material that builds the foundation for these proposals and engaged a wide community in active feedback and discussion, including (amongst others):

- the *Health, Work and Well-being* health strategy, published in October 2005.
- the *Improving the Life Chances of Disabled People* report, published by the Strategy Unit in March 2005;
- the *Helping people into employment* Green Paper, published in November 2002, which outlined our proposals for Pathways to Work pilots;
- the *DWP Five Year Strategy*, published in February 2005, which outlined our developing proposals for lone parents and incapacity benefits recipients, a small consultation exercise was also undertaken;
- the *Choosing Health* White Paper, published in November 2004;
- the *Framework for Vocational Rehabilitation*, published in October 2004;
- the *Building on the New Deal* paper, published in 2003
- the *New Contract for Welfare* Green Paper, published in 1998;
- the Housing Benefit reform prospectus in 2002;
- the *Principles for Welfare Reform* paper, published in October 2005; and
- the Prime Minister's Principles for Public Service Reform.

The proposals set out in the Green Paper for formal consultation were therefore a consequence of our well-established relationship with a wide network of partners, including medical practitioners, employers, voluntary organisations, intermediaries, individuals, other Government Departments, Devolved Administrations and Local Authorities. The proposals build upon evidence of what people say they need and the existing measures that have proved successful in practice.

## Options

In making, these proposals we have considered three approaches:

1. **'do nothing'**, e.g. stopping Pathways and return-to-work support on inactive benefits. This would result in an increase in the number of claimants and decreased off-flow rates, little change to the declining dependency ratio and a tightening labour supply. Our objective of increasing the employment rate to meet the ageing challenge, eradicating child poverty and increasing social inclusion would not be met. In addition, fiscal savings and economic benefit (in terms of gain to the economy) that could be generated as a result of the reform may not be possible. A 'do nothing' option carries significant opportunity costs to benefit recipients, society and the whole GB economy. The scarring effects of worklessness on children and local communities would continue.
2. Our current welfare to work policies have produced impressive results but we do not believe that they are enough to deliver our long-term aim of eighty per cent employment so **ongoing development of policy at current rates**, would fail to deliver the labour and skills we need to retain our competitiveness on the world stage and would fail to address the generational impacts of worklessness upon children.
3. We know from the evidence of existing welfare to work policies for those claiming labour market benefits that only a **step-change in our policy development** will deliver substantially improved outcomes. We cannot hope to achieve our aspiration unless we can deliver a joined-up service to those claiming benefits and encourage employers to retain and employ people with manageable health conditions. We need a joined-up service delivered by a wide partnership of organisations of all types with the proper balance of rights, incentives and responsibilities.

## **Costs and benefits**

### Sectors and groups affected

There are clear benefits to individuals, their families, employers, taxpayers and communities as well as society if we are successful. Our proposals will deliver a healthier and more prosperous society with improved support to children and those who are over state pension age and a ready supply of skills and labour for employers.

**We have identified specific impacts upon employers, the public sector and the voluntary sector in addition to individuals using our services.**

### *Employers*

Overall, Government proposals are designed to increase labour supply and skills. This will help employers adapt to a more inclusive labour market and therefore the reforms will have a direct benefit to employers looking to recruit in a competitive labour market.

Through our proposals set out in *Work, Health and Well-Being* we intend to improve access to support for employers and employees. We will be launching a new help-line, *Work Health Connect*, to provide advice and sign-posting to employers and employees to enable them to manage illness and absence more effectively (the Confederation of British Industry suggests that absence costs employers £12 billion in direct costs alone). As an example, Rolls-Royce reported annual manpower savings of eleven million pounds after adopting effective sickness management procedures.

We will also work with the insurance sector to investigate whether employers who deploy the best practice in workplace health and absence management can be rewarded through an accreditation scheme that allows access to reduced premiums.

Finally, we intend to open a debate with the business community on how best to ensure that people with ill-health do not automatically lose their jobs. Any measures that emerge from these processes will, of course, be subject to a full impact assessment and wider consultation.

### *The Public Sector*

Our proposals for the public sector to become an exemplar employer and provider of services to disabled people is entirely consistent with existing expectation as described in the *Improving the Life Chances of Disabled People* report (published by the Strategy Unit in March 2005). There is, therefore, no added financial burden upon the public sector.

By way of example, the Department for Work and Pensions has taken the decision not to call on resources from the *Access to Work* budget to provide specialist equipment and support to employees. Instead, the DWP pays for such provision from its own budget.

However, we recognise that whilst many parts of the public sector have already set high standards other parts might have some distance to travel.

We propose that we work with a number of public sector bodies to construct case studies that examine good practice and any financial costs of delivering against this aspiration.

### *Local Authorities*

Our proposals for Housing Benefit are likely to result in significant improvements for local authorities, through operating fairer and less complex rules that would build upon improvements in processing times.

The Department funds Local Authorities to administer Housing Benefit and it is therefore expected that any additional costs of change for Local Authorities will also be funded by DWP, including training, implementation and IT.

### *The voluntary and private sector*

The voluntary and private sectors are central to the delivery of our proposals. To achieve eighty per cent employment, we will need to engage people and communities who have until now been difficult to reach. Support will need to be delivered in a variety of flexible and innovative ways.

All welfare to work programme provision is already delivered by the voluntary and private sectors (under contract to the Department for Work and Pensions) and we have tested more radical approaches through our Employment Zones, where providers have greater flexibility in how they deliver their services. We will look to build upon this solid foundation.

Additionally, we believe that volunteering presents real opportunities for many people currently receiving incapacity benefits and lone parents claiming income support to improve their day-to-day experience and, for some, to begin the journey back to paid employment.

There is a perception amongst many customers and stakeholders, and even some Jobcentre Plus staff, that the benefit regime penalises people who undertake voluntary activity. Because the benefits are paid on the assumption of an inability to work many people are worried that therefore any activity suggests an improvement in health, which might necessitate a re-assessment of entitlement. We feel that this is counter-productive; we want to encourage people to engage in activity that improves their life experience and chances of future employment. These proposals will make the benefit rules clearer and will actively encourage customers to engage in activity of all types, including voluntary work.

This approach will have a positive impact upon the voluntary sector. It will add clarity to the current position, and have a positive impact on voluntary organisations who deliver services to people with health conditions, and to disabled people. Such activity will be actively considered as part of an individual's action plan rather than something that people are scared to do.

#### *For individual claimants*

For incapacity benefit claimants, in addition to increasing awareness of the obvious financial and health benefits of work, we intend to provide clear financial incentives for both engaging in back-to-work activity and returning to work.

The support we intend to offer employers to better manage absence from the workplace through ill-health and to retain and recruit individuals with health conditions or disabilities, will increase employment opportunity for benefit recipients. Through Pathways, we will give individuals the skills and help they need to exploit these opportunities. These actions by employers and the Department could bring all of the benefits of employment and inclusion to individuals and their families.

#### *Economic Impact*

The roll out of our proposals carries an initial cost to the exchequer, but we expect speedy net benefits and long term substantial savings. Details can be found in individual impact assessments attached.

For the economy, there are two key ways of measuring the economic impact of this reform. On both measures, we expect substantial benefits once our policies reach steady state:

- Exchequer savings. This measures the tax and benefit savings of moving someone into work (taking into account out-of-work benefits, in-work benefits, Tax Credits, Income Tax, National Insurance contributions and VAT), compared to the exchequer costs of the programme.
- Economic Benefit. This measures the gain to the economy (as measured by additional earnings) and compares it to the resource costs of the programme, excluding transfer payments. This is particularly pertinent at a time when the working-age population is not growing, so any extra labour supply to sustain economic growth has to come from the economically inactive.

The social impact of the measure is harder to quantify but the potential benefits associated with a move into work include positive influences on health, poverty, income levels and self-esteem. It will also help break the cycle of deprivation in some of our poorest communities.

### **Small firms impact test**

We aim to work together with businesses and provide them with adequate support rather than impose more burdens on employers.

In developing proposals that increase the supply of labour and skills, we are obviously benefiting employers. In developing proposals that address the needs of disadvantaged communities, we are likely to benefit smaller employers in these areas further.

Our proposals in *Health, work and well-being* respond to the needs expressed by employers of all sizes. An effective support system will be of particular help to smaller employers who do not have sufficient resources for in-house services.

### **Competition assessment**

The reforms are not expected to raise any concerns for competition –the objective of the reform is to increase the number of people leaving benefit for work – and does not relate to specific markets or firms. If anything, the reforms may improve competition by increasing the available labour supply.

### **Enforcement, sanctions and monitoring**

We are committed to publishing our evaluation of our welfare to work policies.

Our proposals are, of course, based upon clear rights and responsibilities for claimants. We will reward claimants' engagement in back-to-work activity and work itself and we are committed to providing the most comprehensive menu of assistance ever available. Where a claimant, without good cause, does not comply with the new

conditionality regime the Employment and Support Allowance will be reduced back to the basic level of benefit. Claimants will have a right of appeal to an independent appeals tribunal against such a decision.

### Implementation, delivery plan and review

The governance of the welfare reform programme as a whole will be overseen by a Programme Board and follow the Department's control framework, using Office of Government Commerce approved methodology for planning and review.

Jobcentre Plus has received full funding (and protected headcount) to rollout *Pathways to Work* across the country from 2008, including staff training and local partnership building activity. Condition Management Programmes are administered by local NHS Primary Care Trusts and receive full funding from this Department.

### Summary and recommendation

Option	Total benefit per annum:	Total cost per annum:
1	There would be no short or long-term benefit to doing nothing.	The short-term cost of doing nothing may not be insurmountable; however, the long-term cost of failing to meet the challenges we face would be huge and cause lasting damage to our society and economy.
2	There may continue to be short-term benefits as labour market policies continue. There would be no long-term benefit to this option.	There would be no immediate extra costs to this option. As the ageing challenge and globalisation progress, the UK's dependency ratio and labour supply would decline. The State's ability to spend on essential services would be reduced; inflation and the economy's ability to compete globally would be damaged.
3	This option has almost immediate and exponential benefits for those individuals stuck on inactive benefits; excluded communities; employers; the economy and society as a whole. Once fully established, these policies will save money as well as helping secure the GB's on-going social and economic prosperity.	There will be short-term adjustment costs for some employers, off set by improved absence management. Once these policies are in place fully, they would actually save money for taxpayers and employers alike. There would be no extra public administrative burden that has not received proper funding and headcount.

### Declaration and publication

*Welfare Reform Bill, Regulatory Impact Assessment.*

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.



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## EMPLOYMENT AND SUPPORT ALLOWANCE (IB REFORM)

### Introduction

#### Objectives

This RIA covers those elements of the Welfare Reform Bill dealing with the reform of services for incapacity benefits customers, including:

- Replacement of incapacity benefits with a new Employment and Support Allowance (ESA).
- Rollout of Pathways to Work across the country by 2008

The DWP Green Paper "*A new deal for welfare: Empowering people to work*" was published on 24 January 2006 and set out our proposals for a range of measures aimed at:

- Reducing the number of people who leave the workplace due to illness;
- Increase the number leaving benefits; and
- Better address the needs of all those on benefit.

To do this we are planning to rollout our successful Pathways to Work pilots across the country by 2008. The pilots are based on a wide-ranging review of both national and international initiatives and evidence and combine a balanced package of rights and responsibilities, which aims to target a number of the health-related, personal and external barriers to returning to work.

This is the first large-scale intervention to deliver such positive results for people with an illness or disability. Customers, Jobcentre plus personal advisers, employers and service providers have responded very positively to the pilots and early evidence is very encouraging. Published statistics<sup>2</sup> show in the Pilot districts an increase of eight percentage points in the proportion of people leaving Incapacity Benefit within six months of claim.

We will also introduce a new Employment and Support Allowance that will simplify the benefit system. From 2008, this new integrated contributory and income-related allowance will replace Incapacity Benefit and Income Support paid on the grounds of incapacity for work. To most people it will be paid in return for undertaking work-related interviews, agreeing an action plan and, as resources allow, participating in some form of work-related activity. If benefit recipients do not fulfil these agreed responsibilities, the new benefit will be reduced in a series of slices, ultimately to the equivalent level of basic Jobseeker's Allowance though they will remain on ESA.

For those claimants with the most severe health conditions or disabilities, the benefit will be paid without conditionality and they should get more money than the current long-term rate of IB.

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<sup>2</sup> <http://www.dwp.gov.uk/asd/asd5/wp26.pdf>

We will work with existing claimants, balancing responsibilities to prepare to return to work with the right to fair treatment. We will protect their existing level of payment, ensure they receive regular medical re-assessments, ask them to participate in work-focused interviews and create a unit to undertake periodic checks of eligibility.

These measures, with others outlined in the Green Paper, form the basis of our aspiration to reduce the number of incapacity benefit recipients by one million over the course of a decade.

### Background

The proportion of the working age population in receipt of incapacity benefits (or previous equivalents) has increased from around 3% in the 1960s to over 7% today. Much of the increase occurred between the late 1970s and mid-1990s when the caseload rose from 0.7 million to 2.6 million. Since then caseload growth has slowed and after over two decades of substantial growth, in the last year overall numbers have fallen by 61,000 to 2.71 million.

The increase in the caseload between the 1970s and the mid-1990s is largely explained by decline in the proportion of claimants that leave within the first 18 months and consequently increasing numbers of the caseload with long durations. Currently, just over half of the caseload has been on benefit for more than 5 years. It is clear that to reduce the caseload our strategy must focus on improving the rate at which people leave incapacity benefits. Further reductions in inflows will also contribute to lowering the numbers.

### Risks (rationale)

Since 1997, we have introduced significant innovations, such as the New Deal for Disabled People and Pathways to Work. However, fundamental issues remain:

- Little is done to prevent people moving onto incapacity benefits.
- The gateway to benefits is poorly managed – with claimants receiving incapacity benefits before satisfying the main medical test.
- Benefits trap people into a lifetime of dependency – the longer a person remains on benefits, the less chance they have of leaving.
- There are perverse benefits incentives – paying more the longer people claim.
- Almost nothing is expected of claimants – and little support is offered. Those who try to plan their return to work through volunteering and training feel that they run the risk of proving themselves capable of work and therefore losing their entitlement.
- The very name of incapacity benefits sends a signal that a person is incapable and that there is nothing that can be done to help get them back into the labour market.

The success of Pathways to Work has demonstrated that, with the right help and support, many people on incapacity benefits can move back into work. By helping people who are economically inactive and extending opportunities to many of those traditionally seen as outside the labour market we will increase the labour supply – crucial at a time when the working age population is no longer growing. In the short

term, this will enable us to sustain economic growth at good levels without sparking inflation and in the longer term, this will be essential to cope with the challenges presented by an ageing population. As a result, this programme of reform should deliver long-term fiscal savings, more than offsetting the initial investment, and yield significant economic and social benefits.

## **Consultation**

As set out in the overarching section on consultation, the proposals for ESA were consulted on widely both within Government and as part of the public consultation on the Welfare Reform Green Paper.

We have received many broadly supportive responses to our proposals on both ESA and Pathways to Work strategies although some concerns were expressed about the detail of the payment and funding structures and many responses sought further clarification. The official response to the Welfare Reform Green Paper detailed the full response and has been available since June 2006 from the DWP website ([www.dwp.gov.uk/aboutus/welfarereform/](http://www.dwp.gov.uk/aboutus/welfarereform/)).

## **Options**

The options are:

1. do nothing
2. implement ESA without rolling out Pathways to Work
3. rollout Pathways, but with no conditionality and without reforming benefits (the no legislation option).
4. rollout Pathways to Work alongside the proposed Employment and Support Allowance.

The implications of **doing nothing** are well established and have not changed since the publication of the Green Paper. Doing nothing is certainly the easier and cheaper option, but we do not believe it is acceptable to write off millions of people in this way.

Implementing **ESA without Pathways to Work**. This option would be substantially cheaper than other options (see costs section below) but would be considerably less effective and could pose substantial risks. In particular, imposing additional conditionality without also providing the full range of support services would not be very effective; it would give little prospect of achieving the aspiration of one million fewer people on incapacity benefits because it's unlikely to increase off-flows and therefore will also not generate such substantial fiscal savings.

Continuing to roll out **Pathways to Work, but without reforming the benefit**. A 'no legislation' option would not rule out changes to incapacity benefits. Whilst we would be able to provide more help to voluntary participants, our ability to engage with all our customers would be restricted severely. We would also fail to tackle many of the inherent problems within the benefit system outlined in the 'risks' section on page 13.

**Rollout Pathways to Work and replace incapacity benefits with the Employment and Support Allowance.** This option would ensure that our approach is based on the correct balance of rights and responsibilities and alleviates the problems outlined in the partial solutions already outlined. Modernising the benefit system would mean providing an integrated 'one stop' which complements the Pathways to Work programme and encourages people to make the most of their talents.

The way that the welfare state interacts with people who are claiming benefits because of a disability or health condition needs to change. Building on the success of the Pathways to Work pilots, we need to engage with people to support those who are able to work back into employment and use employer resources and expertise to improve access to job vacancies. To do that, we need to reform both the benefit and the services on offer.

Having consulted the public and considered the options, the Government has decided to implement option 4; to rollout Pathways to Work across the country by 2008 and to replace incapacity benefits with a new Employment and Support Allowance. This will ensure that we maximise the chances of achieving our aspiration of one million fewer on Incapacity Benefits, thus delivering substantial economic and social benefits.

## **Costs and Benefits**

### Sectors and groups affected

Clearly, these reforms will have the greatest impact on customers currently in receipt of incapacity benefits, and those new customers from 2008 onwards making a claim for ESA.

We expect that given support to build up their capacity, most claimants will be capable of and would benefit from some form of activity or employment. This would often increase over time as personal advisers work with claimants to build up their individual capacity for work. As we learn more about what works, as the Pathways to Work approach is established across the country and as resources permit, we will ask everyone apart from those with the most severe disabilities and health conditions to engage in work-focused interviews, produce action plans and engage in work-related activity, or see their benefit level reduced.

In time, we will increase the frequency with which claimants are assessed and have to attend work-focused interviews. As resources allow, we will, over time, consider extending work-focused interviews to existing claimants to ensure that they are aware of the opportunities available to them, including Pathways to Work support as it becomes available. This will be in addition to the regular Personal Capability Assessments, that people will undergo to gauge whether their condition has changed or improved

### Benefits

The potential benefits of national Pathways to Work service are described in the sections above. ESA will simplify the system for all new claimants. The new allowance will:

- be an integrated, contributory and income-related allowance, replacing current Incapacity Benefit and Income Support on the grounds of incapacity;
- not automatically label someone as being ‘incapable of work’;
- not automatically go up the longer someone is on benefit, once the individual is in the main phase;
- provide underlying and targeted financial support for those with needs arising from health problems or disabilities;
- reward those who take steps to make a return to work possible, where that is reasonable; and
- do much to remove the complexity surrounding existing benefits.

Whilst we cannot estimate separately the impact of Pathways rollout and reform of incapacity benefits, we can make an overall assessment of their combined impact. Our initial estimates suggest that, in steady state a similarly successful national Pathways working in tandem with the new ESA could deliver substantial fiscal savings. We will monitor and revise these estimates as more evidence becomes available.

The measures we proposed in the Green Paper – improvements to workplace health, reform of the gateway, increased support for claimants and removing the perverse incentives in the system should, over time, significantly reduce the number of people claiming incapacity benefits. It is difficult to model the precise impact of these measures. However, if the Government, employers, local authorities and health professionals come together to tackle this challenge, we should aspire to reduce the number of incapacity benefits claimants by one million over the course of a decade.

### Distribution, Equity and Fairness Options

Moving to a new benefit will involve a number of complex issues to be resolved before we can say, with any certainty, what the impact will be on different groups of customers. What we have said is that our strategy cannot be ‘one-size-fits-all’. It must be:

- **inclusive** – it must address the needs of women and men, young and old, urban and rural areas;
- **national** – it must cover all parts of the country;
- **personalised** – it must address the different health, skills and support needs of different claimants; and
- **relevant** – it must reflect the needs of the local labour market.

We intend that any policy arising from the review of the PCA, and the process of administering medical assessment, will be compliant with equality law.

The Green Paper set out the following principles about:

a) participation in work related activity:

- everyone who wants to work, whatever their health condition or disability, should get the necessary help and support to enable them to work as soon as they are able to do so;
- people with the most serious disabilities and health conditions would not be required to participate in work related activity as a condition for the allowance, though they would be able to engage on a voluntary basis. After the assessment phase, they will be paid the Support component, and receive more money than the long term rate of IB; and
- recognise that conditions can fluctuate and proposed that personal advisers should, wherever possible, agree appropriate action which reflects these variations.

b) the Employment and Support Allowance:

- for those claimants with the most severe health conditions or disabilities, the benefit will be paid without conditionality and they should get more money than the long-term rate of IB;
- existing claimants will remain on their current benefit level. However, many existing claimants will have potentially manageable conditions, which may have changed or improved while they have been on benefits;
- many claimants would continue to be entitled to some of the disability-related benefits such as Disability Living Allowance. We do not intend to make changes to Disability Living Allowance as part of these reforms. It also recognised that, for many disabled people, the extra support currently provided through the Enhanced Disability Premium and Severe Disability Premium is important;
- that people on the income-related strand of the Employment and Support Allowance who meet the relevant criteria would continue to get the additional help currently provided through these premiums; and
- signalled that we intend to review the appeals process to ensure that claimants have a clearer understanding of the basis for the initial decision, thus reducing claims resulting from a lack of that understanding; incorporates a comprehensive reconsideration process as part of the initial assessment of any appeal to further reduce the number of appeals needing to progress to tribunal, with clear feedback to appellants and ensure that all new evidence is, wherever possible, included in the reconsideration process rather than at tribunal.

Costs

Our initial estimates suggest the annual cost of a national Pathways service would be in the region of £148m.

DWP has identified an additional £360 million from within its resource allocations for SR04. The £360m covers a range of welfare reforms as set out in the Green Paper but will fund primarily the rollout of Pathways to Work in 2006-7 and 2007-8. Beyond

2007-8 we are working through the implications of the CSR settlement for DWP to establish the required resourcing position across the CSR period to 2011.

The funding has been drawn from the budgets provided to the Department through the 2004 Spending Review settlement that covered the financial years 2005/06 to 2007/08. The Departmental Report 2005 (Cm 6539 published in June 2005) contains details of the Department's spending plans for these years.

The overall cost of moving to the new Employment and Support Allowance will be dependent on where the benefit rate is set. In addition, it is likely that there will be implementation and IT costs incurred during the transition; again, these costs will vary depending on the agreed solution.

### Indirect costs

There will also be wider indirect ESA implementation costs in amending other primary and secondary legislation that refers to 'Incapacity Benefit' or 'Income Support' and the related publications.

This includes several areas where the structure of the new benefit may impact upon costs of other Departments. For example, the change in structure (higher applicable amounts after three rather than twelve months) may bring forward receipt of income related benefits. This in itself could lead to more claims for free school meals and free prescriptions, for example, in the early months of a claim, although the exact magnitude of these costs will depend on final decisions about the level of the benefit. On the other hand, we would expect the number of these claims to fall because of the combined effect of a successful national Pathways working in tandem with the new ESA in increasing the proportion leaving benefit.

It is likely that, if our overall reform package is successful this latter effect will dominate and the net effect will be savings for other Government departments. We cannot however fully quantify the scale and profile of these indirect costs and savings until the passage of the Bill has been completed. We will continue to work with Other Government Departments over this period to robustly assess the profile of the costs and savings.

### **Implementation and delivery plan**

Jobcentre Plus will be responsible for the implementation of ESA, working closely with other Government departments and agencies and its own partner organisations. From an early stage Jobcentre Plus has been involved closely in the development of these proposals, helping to ensure that they can be implemented as quickly and efficiently as possible. At senior stakeholder level, Jobcentre Plus is represented within the Department's governance structures for welfare reform as well as developing its own project management arrangement and providing regular progress reports.

### **Small Firms Impact Test**

These proposals would not impose any legislation on small businesses. There may

be additional benefits for employers in terms of increased supply of labour in the workforce and wider recruitment pool from which to draw.

### **Competition assessment**

There are no competition issues associated with the replacement of incapacity benefits with ESA. Given the scale of investment in Pathways to Work, it is possible that the use of private and voluntary sector organisations to complete the rollout of Pathways to Work may have an influence on the composition of the market for Jobcentre Plus contracted provision. However, we cannot make any judgement on this until our plans for rolling out Pathways to Work have been completed.

### **Monitoring and Evaluation**

We will put in place, a comprehensive monitoring and evaluation strategy to assess the impact of these reforms on an ongoing basis. This will build on the thorough and wide-ranging evaluation of the Pathways to Work pilots already carried out.

The Department has a strong track record in monitoring and evaluating active labour market programmes and the impact of benefit changes. The Department publishes a comprehensive range of monitoring information and statistics on a range of activities. Evaluation is carried out by independent contractors and published.

## **LOCAL HOUSING ALLOWANCE, GENERAL HOUSING BENEFIT AND COUNCIL TAX BENEFIT CHANGES.**

### **Purpose and Intended Effect**

#### Objective

- a) To restructure the benefit support for people on low incomes by moving to a more simple, transparent and fair way of calculating housing costs met by Housing Benefit, in line with the objectives of the Housing Benefit reform programme; and
- b) To encourage tenants to take greater personal responsibility for managing their own rent payment.

*To do this by:*

Facilitating the roll out of the Local Housing Allowance across Great Britain for tenants in the private rented sector.

Further intentions of the Bill include:

- 1) widening the information-sharing gateways in connection with: Supporting People grants, facilitating take-up of and claims to benefits, and rent officer functions;
- 2) removing the need for tenants who qualify for the 4-week extended payment to make a new benefit claim for any in-work Housing Benefit or Council Tax Benefit;
- 3) paying benefit to tenant rather than landlords where possible, thus promoting the financial inclusion strategy
- 4) providing powers for local authorities to investigate and prosecute fraud against national benefits alongside fraud against locally administered benefits; and
- 5) providing for the Secretary of State to take account of additional information when considering whether to direct a local authority to improve its administration of Housing Benefit and Council Tax Benefit, and to widen the scope of what such directions may require.

### **a) Restructuring Housing Benefit**

#### Background

*Overview of Housing Benefit*

In October 2002 the Government set out proposals for the short and medium term reform of Housing Benefit (HB) in a reform prospectus '*Building Choice and Responsibility: A Radical Agenda for Housing Benefit*'.

The purpose of HB is to enable people on low incomes to have a decent home. It is payable to pensioners, families and people of working age with a rent liability<sup>3</sup> who meet income and capital eligibility requirements.

Currently just under four million people in Great Britain receive HB, of which approx. 0.80 million live in the private rented sector and 3.16 million live in the social sector (housing association and council properties). Of the 0.80 million private tenants, 0.73 million are part of the mainstream rental market with the remainder having rents that are regulated to stay below market rent levels where their tenancies were taken out before 1989.

### *Problems with the current Housing Benefit system*

Housing Benefit is administered by 408 local authorities, which receive subsidies from the Department towards the cost of administration. Benefit administration is complex: there are many criteria for assessing eligibility with other income related benefits impacting on the assessment. This complexity has contributed to some local authorities being unable to provide an efficient and timely service.

On application, there is a lack of transparency about likely levels of benefit support available (benefit rates are individually and privately assessed by a rent officers for tenants in the private sector- see below). This can: inhibit a tenant's ability to secure a tenancy, reduce a tenant's choice with respect to the type of accommodation they can afford and may act as a barrier to work (because an in-work-benefit calculation is not available until the benefit has been processed).

Payment can be made to either the tenant or the landlord, but is made directly to the landlord in the majority of cases, thus opposing the Governments Respect Agenda which seeks to increase personal responsibility and promote financial inclusion. However, direct payments to landlords do reduce the risk of eviction and debt accumulation.

Since the deregulation of private sector rents in 1989 there has been no statutory control over rent levels for new tenancies and the amount of rent met by Housing Benefit has been controlled by using independent rent officers to assess whether;

- the rent is 'significantly' or 'exceptionally' high;
- the property is 'over large' for tenants' needs;
- the rent is higher than the mid-point of rents for similar properties in the locality (the Local Reference Rent);
- the tenant is a single person under 25 years old covered by the Single Room Rent rules.

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<sup>3</sup> In this document 'rent' is used to refer to rent and other housing costs that can be covered by Housing Benefit

These restrictions have been brought in over successive years, along with differing forms of protection for existing tenants, resulting in four parallel sets of rules in place for tenants who rent privately.

Also, current HB rules fail to provide tenants with a clear interest in the level of their rent. Tenants who find cheaper accommodation or negotiate a lower rent with their landlord are likely to find themselves no better off as a result.

### *Summary*

To summarise, the complexity of the current HB rules and problems with its administration combine to restrict choice for low-income tenants, hinder tenants from taking responsibility for their finances and make it more difficult for the tenant to move from benefit to work.

### *Overview of the Local Housing Allowance scheme*

Between November 2003 and February 2004, Local Housing Allowance (LHA) was introduced in nine 'pathfinder' local authorities, covering a range of different types of housing market in the private sector. In 2004, a further nine areas were selected to join the scheme, which went live between April and July 2005, with a view to establishing good practice prior to any national rollout, proposed for April 2008.

Local Housing Allowance establishes published maximum rates of benefit, which vary in accordance with the number and mix of occupiers of the property and the level of rents in a particular area, known as a Broad Rental Market Area.

To ensure that rates reflect varying housing market conditions and rent levels across Great Britain, Local Housing Allowance rates are to be based on the median value of market rent levels for properties of a given size in a given location. Officers from the Rent Service establish a set of maximum allowance figures for different sizes of property in each area. The precise rules on calculating Local Housing Allowance rates will be prescribed in secondary legislation.

Rent officers will also set and review boundaries for the Local Housing Allowance areas, known as a Broad Rental Market Area, which is an area:

- comprising two or more distinct areas of residential accommodation, each adjoining at least one other in the area;
- within which a person could reasonably be expected to live having regard to facilities and services for the purposes of health, education, recreation, personal banking and shopping, taking account of the distance of travel, by public and private transport, to and from facilities and services of the same type and similar standard; and
- containing residential premises of a variety of types, and including such premises held on a variety of tenancies.

Local Housing Allowance rates will be published and updated regularly with entitlement to Housing Benefit calculated using the allowance rate in force on the date of claim. Any changes in the tenant's circumstances would be considered in the

usual way. Each year the local authority would recalculate the amount of Housing Benefit payable based on the LHA rate in force at the time.

Entitlement to Housing Benefit will be adjusted to take account of income, savings and by non-dependants in the household. Single tenants aged under 25<sup>4</sup> will be entitled to an amount based on the rent for shared accommodation. This reflects the type of housing in which most single young people in employment expect to live and will reduce the opportunity for young people to become trapped on benefit.

Where the rent is less than the level of LHA, a tenant can use any additional income to help with other household expenses or they can find another property better suited to their needs. This excess will be subject to a cap. This provides tenants with a direct interest in their level of rent. Where the rent is higher than the LHA a tenant could seek a cheaper property, renegotiate the rent level with their landlord, or find the balance from their overall income. The latter is already common practice for many HB tenants, as around 55% of private tenants already have their benefit restricted to a level below their rent liability by one of a number rent restrictions.

Currently, in the private sector, around 60% of Housing Benefit payments are made to landlords and 40% to tenants. LHA will, in the majority of cases, be paid to tenants. This change is intended to promote financial inclusion (experience of the pathfinders is that tenants have been encouraged to open bank accounts) and personal responsibility, (budgeting and paying their rent, to empower them to make choices about their housing) and to smooth the path (where appropriate) to move into employment.

However, it is also proposed that there are both discretionary and mandatory safeguards to allow payment to landlords in certain circumstances. These safeguards will be set out in secondary legislation and supported by guidance to local authorities. At present, the pathfinder authorities can make the payment to a landlord where it is considered that a tenant is:

- Likely to have difficulty managing a budget;
- Unlikely to pay their rent; or where
- A large first payment is due – this may be made payable in the name of the landlord.

In addition, it is mandatory for payment to be made to the landlord if a tenant has fallen 8 weeks or more into arrears.

Secondary legislation will specify the circumstances in which Housing Benefit payments may be made: in part or wholly to the tenant; to the landlord; to another third party; or where payments are to be split.

These changes will be rolled out to new claimants (and existing claimants that move house or have a break in their claim) so that no existing tenants will lose out at the

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<sup>4</sup> This does not apply to under 25s who have the severe disability premium in their benefit assessment. Certain tenants under the age of 25 are not classed as a “young individual” therefore these would not be subject to the shared rate Local Housing Allowance rules.

point of introduction of Local Housing Allowance. Additionally, protection may be required for existing tenants claiming in the 18 local authorities currently operating the scheme to protect against losses on conversion to a national scheme.

### Rationale for Government intervention

The measures to implement LHA proposed in the Bill will address longstanding problems with Housing Benefit and will contribute towards meeting the objectives of the Housing Benefit Reform Programme in the private rented sector.

### **Consultation**

Following evaluation of the pathfinder phase, various changes have been proposed to the Local Housing Allowance scheme before national roll out. These changes are outlined in the Green Paper 'A New Deal for Welfare: Empowering People to Work', published on 24<sup>th</sup> January 2006.

The detail of the Local Housing Allowance scheme will be contained in secondary legislation subsequent to the Welfare Reform Bill. The Department remains committed to consulting local authority representatives on regulations, and will allow at least the agreed minimum twelve week consultation period and a six month lead-in time before the regulations take effect.

There have been regular discussions with representatives from:

- local authorities;
- the 18 local authorities that have introduced Local Housing Allowance; and
- a wide range of interest groups including the National Housing Federation, Chartered Institute of Housing, Council of Mortgage Lenders and the Citizens Advice Bureau.

In addition, the following Departments within Government have been involved in discussions: Department of Communities and Local Government; Department of Health; HM Treasury; Department for Education and Skills; Department of Environment, Food and Rural Affairs; Cabinet Office; Department for Constitutional Affairs; and the Department of Trade and Industry.

In recognition of the potential impact on devolved housing policy, the Department has consulted with the devolved administrations.

### **Options**

#### *1 - Do Nothing*

This option would not enable the Government to meet its objectives for Housing Benefit reform outlined above.

#### *Risks*

By maintaining the status quo this option presents no change in risks.

*Compliance and enforcement*

This option would be maintaining the status quo, so the existing compliance and enforcement procedures would be retained.

*Unintended consequences*

Maintaining the status quo should result in no unintended consequences.

*2 - National rollout of Local Housing Allowance without payment to tenants*

The proposal to make payments to tenants rather than to landlords has proved to be one of the most controversial aspects of Housing Benefit reform. Consideration was given to implementing the Local Housing Allowance scheme for private tenants while continuing with the existing payment methods, whereby landlords receive the benefit payments directly from the local authority in the majority of cases.

*Risks*

This option is not compatible with either the Government's Housing Benefit reform programme or its wider welfare reform priorities. Specifically it fails to:

- increase personal responsibility;
- increase financial inclusion;
- move toward payment modernisation;
- bring those on benefit into mainstream financial services; and
- help bridge the gap into work.

There would be administrative consequence for local authorities paying Housing Benefit, as there would be a requirement to split payments between landlord and tenants in cases where entitlement to Local Housing Allowance exceeded the rent payable.

There is also a potential risk that the transparent Local Housing Allowance rates could distort conditions in local rental markets, through influencing rent levels charged by landlords.

The evidence gathered from the 18 local pathfinder authorities will inform the development of policies to reduce these risks. Additionally, the Government will consult with all local authorities on the detailed regulations and would allow them sufficient time to prepare for the change.

*Compliance and enforcement*

The existing system of compliance and enforcement for Housing Benefit would continue to be used.

*Unintended consequences*

While the likely negative consequences have been described above, there could be the positive unintended consequence that Local Housing Allowance results in a more efficient use of the housing stock as people make choices in line with their family circumstances.

### *3 - National rollout of Local Housing Allowance with payment to tenant*

This option would fit with wider Government programmes for financial inclusion, mainstreaming of financial services and payment modernisation.

#### *Risks*

Making payments to tenants could lead to a higher level of rent defaults and associated increases in homelessness in cases of eviction. It could also increase landlord costs and lead some to withdraw from the market. Insensitive applications of the rules presents a risk of problems but safeguards have been specifically set up to prevent this.

However, mitigation strategies have been developed to deal with these potential risks. In circumstances where the risk of default is high, there will be discretionary (e.g. vulnerability issues) and mandatory (arrears equal or exceed 8 weeks rent) safeguards to allow for payments to be made to a landlord.

The possibility that some landlords may be reluctant to let to tenants in receipt of Housing Benefit, adds to the potential risk that the Local Housing Allowance rates could distort conditions in local rental markets through influencing rent levels. While some landlords claim that the LHA will affect their behavior, evidence from the pathfinder areas suggests that that this is not an issue – some landlords leave the market while others enter it. Overall the supply of rental accommodation to HB tenants has remained constant.

Introducing Local Housing Allowance only to new claimants (and those that have a break in their claim or move house) could discourage some existing claimants on HB from making a move into work in the fear that when making subsequent claims they would have to take on the responsibility for budgeting for and paying their own rent.

#### *Compliance and enforcement*

The existing system of compliance and enforcement for Housing Benefit would continue to be used.

#### *Unintended consequences*

There could be a beneficial effect on homelessness if landlords, wishing to retain payment to themselves, offer more tenancies to people classed as 'vulnerable'.

### **Costs and Benefits**

#### Sectors and groups affected

#### *Option 1:- Do Nothing*

As the existing system would continue, no new sectors or groups would be affected by any changes

*Option 2: National rollout of Local Housing Allowance without payment to tenants*

The sectors affected immediately would be, local authorities required to implement Local Housing Allowance and private sector tenants making new claims for Housing Benefit, or existing tenants who have a break in their claim or move house.

The main beneficiaries of a Local Housing Allowance scheme operated in this way would be private tenants. If their rent liability was below the Local Housing Allowance rate they would be allowed to keep the extra up to a maximum cap amount and as the allowance level would be set it would provide them with a greater degree in choice about their accommodation.

Private landlords have expressed their opposition to making payments to tenants and this option provides for the continuation of rents being paid to them in the majority of cases.

If the majority of payments were made directly to landlords, it would negate the need for Local authorities to consider tenant vulnerability although it would result in the need to make greater numbers of split payments.

In the longer term, there may be additional benefits in terms of expenditure and reduced administrative costs. While behavioural effects are difficult to assess, if Local Housing Allowance reduces barriers to work, this may result in lower levels of benefit spend and a higher volume of tax receipts.

*Option 3 - National rollout of Local Housing Allowance with payments to tenants*

In addition to the sectors and groups affected identified above, further groups would be affected by a Local Housing Allowance scheme involving payments being made to tenants.

*Landlords and letting agencies*

The primary business sector affected by making payments to tenants will be landlords and the letting agents they employ. In the private rented sector, the deregulated Housing Benefit sub-sector has some 0.73 million tenants across Great Britain. According to the English House Conditions Survey 2001, the median size of a private landlord's portfolio is 4 properties. On this basis we estimate that between 160,000 to 190,000 landlords could be operating in the Housing Benefit sub-sector.

Further evidence from this survey indicates that nearly two thirds of privately rented dwellings are owned by private individuals, whilst companies or organisations own the rest.

Only 15% of dwellings are owned by 'business' landlords – companies that are property companies and individuals for whom managing a property is a full-time job. Furthermore, only 40% of companies and organisations derive more than half their income from renting.

The small and medium enterprises statistics show, that there were around 10,000 registered businesses engaged in property letting activity in the UK in the year 2003 with a combined turnover of £11 billion and employing just less than 100,000 employees.

Private landlords have expressed their opposition to making payments to tenants. Not only would their rent now not be guaranteed if tenants fall into arrears, they would also incur additional rent collection costs.

#### *Banks*

Making payments to tenants would have a marginal impact on the banking sector, as more tenants would need regular use of a bank account.

#### *Local authorities*

Tenants who are unable (or unwilling) to take on the responsibility of paying their rent may ask for the rent to be paid directly to the landlord. This may require that authorities provide a higher level of advice to some tenants, for example, about how to open a bank account. In addition, where tenants accumulate arrears of rent for 8 weeks and above, the authority will have to pay the landlord directly for a period until the arrears are below the 8-week level.

#### *Tenants*

Tenants would also be affected by having to take on the responsibility of budgeting for and for paying their rent. For some this will prove advantageous by promoting work readiness, while others may find the responsibility difficult to manage.

### **Costs and benefits**

#### *Option 1:- Do Nothing*

There would be no new costs or benefits in maintaining the existing Housing Benefit scheme.

#### *Option 2: National rollout of Local Housing Allowance without payment to tenant*

#### Costs

##### *Costs to the Exchequer*

While the eventual cost to the Government will depend on the precise design of the scheme, the overall impact on the cost of the benefit is expected to be cost neutral. However, there will be initial costs to the DWP in respect of a) communication with stakeholders; b) funding changes to DWP computer systems; and c) supporting local authorities to implement the changes, totalling in the region of £53 m.

#### *Local authorities*

While operating a simplified scheme will reduce administration by local authorities, there will be one-off implementation costs associated with this scheme. In addition, the intention to introduce Local Housing Allowance as new claims are made will require local authorities to operate dual systems for a transitional period.

However, the Department funds local authority administration of Housing Benefit and generally funds software updates and staff training costs. It is anticipated that any costs resulting from implementation will be met by Government funding, which has been set aside from the Housing Benefit Reform Fund to cover the costs of implementing the scheme, changes to IT systems, staff training and communicating with stakeholders.

#### Benefits

##### *Private sector tenants making new claims for Housing Benefit or moving home*

The main beneficiaries of a scheme operated in this way would be tenants. They would see a number of benefits:

- tenants whose rent liability is below the Local Housing Allowance rate will benefit from being able to keep some of the benefit in excess of their rent (income and non-dependants will still be taken into account);
- quicker claims processing times resulting from the simplified nature of the scheme;
- removal of obstacles to work; and
- better placed to make informed choices about the affordability of accommodation.

Although it is recognised that there are many other social and economic factors that will determine a household's decisions about where they live, being able to keep some of the excess allowance above their rent may encourage tenants to seek better value accommodation.

Data from the 9 Pathfinder authorities shows that the average time taken to process a new claim using Local Housing Allowance was 34 days in 2005/06<sup>5</sup>, down by a third (33%) from 51 days in the pre-Local Housing Allowance period (2003/04). This compares to a reduction in processing times of a quarter (26%) from 58 days to 43 days over the same period, for private sector Housing Benefit new claims in the rest of the country.

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<sup>5</sup> Three-quarter weighted average for April to December 2005. Latest quarter data is not yet available

The new scheme also has a direct link to improved work incentives, as quicker processing times should give tenants more confidence in the Housing Benefit system and help reduce any reluctance to take a job through fear of delays in calculating any in-work Housing Benefit, or in reclaiming if the job is unsuccessful.

Publicly available Local Housing Allowance rates, will enable tenants to ascertain in advance the maximum level of rent that could be covered by Housing Benefit. Clearer information will allow tenants making claims for Housing Benefit more scope to trade between the price of their accommodation and property attributes such as size and locality.

#### *Local authorities*

Published maximum allowance rates for each area will remove the need to refer individual claims to rent officers, which will reduce the administrative burden on local authorities and contribute to speeding up claims processing.

#### *The Rent Service*

The implementation of Local Housing Allowance throughout Great Britain would significantly alter the role of rent officers and create efficiencies for the Exchequer, the extent of which will depend upon the nature and timescale of the rollout.

Rent Officers in Scotland and Wales are part of the Scottish Executive and the National Assembly for Wales, and the proposed changes to benefit administration would impact on Rent Officers in the Devolved Administrations.

#### *Landlords*

Half of the landlords surveyed at the start of the pathfinder evaluation considered whether they were more likely to find it worthwhile to let to Housing Benefit tenants if average processing times were improved. Over time, they should benefit from the quicker processing times available to a simplified system.

#### *Voluntary sector*

Simplifying the Housing Benefit rules should make the provision of advice easier for the voluntary organisations working with tenants.

### *Option 3 - National rollout of Local Housing Allowance with payment to tenant*

#### *Costs*

Local Housing Allowance paid to tenants would have further implications for costs and benefits to those outlined for option 2.

#### *Costs to the Exchequer*

As with option 2, any impact on benefit expenditure will depend on the precise design of the scheme. In addition, direct costs to the Government would be broadly similar in respect of communicating the policy to local authorities and supporting them to implement the changes.

The impact on public expenditure is expected to be in the region of up to £62m over the first three years of the scheme, although this will depend on the precise design of the scheme, which has yet to be finalised.

#### *Costs for local authorities*

In order to protect tenants who may be unable to manage the responsibility for paying their rent, local authorities will need to operate safeguards so that payments can be made to landlords where appropriate. Evidence from the pathfinder authorities indicates that on average, these safeguards have been applied to 15% of tenants where payments have been made to landlords. As this is not a task local authorities currently perform, it could potentially lead to increased administration costs, although this could be offset by the administrative easements gained through the simplification of the scheme as a whole.

When Local Housing Allowance was first introduced in the pathfinder areas, more than half of tenants receiving a benefit administered by the Department were paid by giro or order book. Consequently, funding for money advice was provided to authorities to support their efforts to help tenants access bank accounts and other financial services.

Since then the numbers of claimants with access to bank accounts has grown so that now some 75% of people receiving a benefit administered by the Department are paid through a bank account. In addition, the pathfinder evaluation indicates that 94% of tenants have access to a bank, building society or post office account and that 97% of 'in-work' recipients have access to an account of some type.

The Government has made available a Financial Inclusion Fund, which aims to increase the number of face-to-face money/debt advisors and to improve access to affordable banking/credit. Therefore, taking account of current and planned cross-Government initiatives providing advice and guidance, together with significant increases in the numbers of benefit recipients operating bank accounts, activity within local authorities is likely to be confined to the development and operation of a safeguard policy and where required, to signpost tenants to the most suitable providers in their areas

Evidence from the pathfinders indicates no increase in homelessness resulting from the introduction of Local Housing Allowance.

#### *Voluntary sector*

The pathfinder authorities have been involved in helping tenants to open bank accounts and providing financial advice, either through referral to third parties providing specialised budgeting/debt management advice or to 'in-house' experts.

The introduction of Local Housing Allowance, with payments made to tenants, may lead to an increased demand for such services. However, a gradual rollout to new claimants would smooth out any demand so that there should be no initial increased demand on the services of voluntary agencies.

#### *Costs for landlords and letting agents*

Currently, some 60% of private sector tenants choose to have their Housing Benefit paid to their landlord. Encouraging them to receive the payments themselves aims to encourage personal responsibility and to improve work readiness, by reducing the differences experienced by being in and not in work.

While some landlords responding to the pathfinder evaluation survey reported that collecting the rent made them more aware of tenants' behaviour and thus able to resolve issues at an earlier stage, the proposal to make payments of Housing Benefit to tenants is generally unpopular with private landlords.

Consultation with landlords, when developing the scheme for the pathfinder authorities, identified concerns that arrears would rise and that they would incur additional costs in respect of rent collection.

*a) Default costs*

The likely cost of defaults to landlords is estimated to be between £2.5m to £4 million a year, once Local Housing Allowance has been rolled out to all tenants, which is the equivalent of £5 per tenant receiving Local Housing Allowance per year.

*b) Rent collection costs*

Making payments to tenants should not be considered as an additional burden on landlords because rent collection and managing arrears are an integral part of a landlord's responsibility, which they would be expected to undertake in any normal tenancy agreement. While some landlords choose to engage a third party to collect rent, there would inevitably be costs associated with this approach, typically 10% or more of the gross rent in the case of letting agents.

In addition, as well as the 40% of private tenants in receipt of Housing Benefit that receive their own benefit payments, there are also cases where shortfalls have arisen due to Housing Benefit not meeting rents in full, which also require landlords to make arrangements for collecting rents and managing arrears. The initial survey of landlords in the 9 pathfinder areas found that for two thirds of landlords letting to Housing Benefit tenants and receiving the payments, the amount of benefit did not cover the rent in full, requiring them to collect the shortfall at their own costs.

While maintaining that rent collection is the responsibility of landlords, the Department recognises that the withdrawal of what has unintentionally become a free rent collection service will have an impact on landlords. The Department estimates that the additional rent collection and rent management costs for landlords are likely to be in the region of £4m to £6m a year, to give a cost to the landlord of £7 per tenant per year.

The pathfinder evaluation revealed that two thirds of the landlords surveyed who do not use a letting agent felt that their management and maintenance costs were unchanged as a result of Local Housing Allowance, while a third replied that their costs increased. This supports the view that the cost impact of Local Housing Allowance is unlikely to be a significant overhead to all landlords.

However, landlords' concerns would be taken into account in developing the Local Housing Allowance scheme to be rolled out nationally with discretionary and mandatory safeguards to enable local authorities to make payments to landlords where appropriate

**Notes on costs:**

**Default costs** - this estimate is based on evidence in the pathfinder areas on arrears and on the Departments administrative data covering all Local Housing Allowance case. It is also based on the following assumptions, some of which are likely to overestimate the cost and some to underestimate the cost:

- that where Housing Benefit is greater than rent, arrears are recovered in full through provisions to pay the excess to the landlord directly until arrears are cleared;
- that where tenants have no excess Housing Benefit but have paid a deposit arrears are partially repaid;
- that where there is no excess Housing Benefit and no deposit was paid that no arrears are recovered; and
- arrears of less than 8 weeks are not included in the data.

**Rent collection costs** - the main principle underlying the above estimate of cost is that landlords will not face additional costs as a result of this proposed change for the following groups of tenants:

- tenants who already receive their own housing benefit;
- tenants with an existing shortfall, which would already require that they collect the balance; and
- tenants with bank accounts.

The estimate is based on data sourced from Department for Work and Pensions administrative data, the tenants Baseline Survey in the 9 pathfinder authorities and other surveys including the Family Resources Survey.

Additionally, the cost estimate is based on the following assumptions:

- the proportion of Housing Benefit tenants in the private rented sector who currently receive their benefit themselves - 40%;
- the proportion of tenants whose Housing Benefit does not cover their contractual rent and the difference is collected by the landlord - 40%;
- the proportion of Housing Benefit tenants with a bank account was 65% at the baseline survey and had increased to 94% at the 15-month stage of the Local Housing Allowance pathfinders. Currently, 70% of HB recipients receive another DWP benefit paid into a bank account. This proportion is increasing and so it is reasonable to assume that 75% of tenants will have access to a bank account at national rollout;
- landlords would not collect shortfalls that are less than 15% of the rent (information gathered from the pathfinder authorities has shown that landlords did not always consider it worth their while to collect shortfalls under the existing Housing Benefit scheme); and
- the overall cost was obtained by multiplying the additional fee percentage (1.5% or 2.5%) with a weighted sum of the number of tenancies without a bank account and their average rent, to give an annual figure of £4m or £6m respectively.

Latest evidence from the evaluation (six months after introduction of the Local Housing Allowance) shows that 94% of tenants have a bank, building society or post office account with a quarter of these having opened their account specifically to have their Housing Benefit paid into it. If this behaviour occurred after national rollout of the scheme, the cost estimate would be less than £4 million.

## Benefits

### *Private sector tenants receiving Housing Benefit*

Making payments to tenants is an important step in helping them make the transition to work. Encouraging tenants to open and use bank accounts and to take on the responsibility of handling their own rent payments (in the same way that working tenants are expected to do) reduces the differences experienced between being in and out of work.

Receiving their own Housing Benefit entitlement puts the onus on the individual to manage their finances and helps to develop or enhance budgeting skills. Tenants receiving their own Housing Benefit entitlement paid into a bank would also benefit from an increased level of financial inclusion. Tenants currently not operating a bank account are unable to make savings via direct debits on utility bills, are more vulnerable to loss or theft and may face additional barriers to employment. In addition, they are far more likely to use the alternative credit market and pay interest many times that of a standard personal loan, often contributing to spiralling debt.

### *Landlords*

Under the current scheme where the majority of payments are made to landlords, overpayments of Housing are recovered from landlords. This is unpopular as it disrupts the landlord's cash flow and can require considerable administrative effort. Under a Local Housing Allowance scheme, where the tenant receives the payments, any overpayments would be recovered from the tenant reducing the administrative burden on the landlord.

## Summary of costs and benefits

While introducing Local Housing Allowance without making changes to the payment arrangements would deliver some benefits, the costs would fall mainly on the Government.

The option to introduce a Local Housing Allowance scheme with payments made to tenants (option 3) would increase costs to the Government in the region of £10m more than if option 2 were to be introduced.

However, option 3 provides substantial long-term benefits for tenants with regards to better work incentives and increased personal responsibility. Thus, option 3 would also fit with the objectives of the Housing Benefit reform programme and those of wider Government initiatives.

## **Equality and fairness**

### *General*

While these proposals impact primarily on people receiving Housing Benefit, the Government is not suggesting that these are the only people in need of support

towards their housing costs. Housing Benefit is not the only means of providing support and assistance, nevertheless, this benefit is designed specifically to provide support for people on low incomes who rent their accommodation from either a private or social landlord.

### *Health and disability*

It is also envisaged that some types of property or tenancy will be excluded from the Local Housing Allowance scheme. Generally, these will be types of accommodation that do not form part of the mainstream rental market and where the policy objectives of increased choice are not always appropriate (for example certain types of supported and adapted accommodation).

The Government believes that the majority of tenants will respond well to increased responsibility for paying their rent, but accepts that safeguards will always be necessary for the minority who are likely to have difficulty managing their financial affairs. Where a local authority considers that a person is unlikely to be able to manage their own affairs (e.g. mentally incapable), they can make payments to the landlord

### *Gender issues*

Vulnerability guidance specifies domestic violence as a possible trigger for payment to landlord, which is designed to ensure that vulnerable people (usually women in this case) can secure their properties during a difficult time.

### *Sexual orientation*

Recent civil partnership arrangements will mean that same sex partners will receive the same LHA rates as couples who are living together as husband and wife. In addition, payment to tenants will enable same sex couples to keep their living arrangements private from their landlords if they wish, reducing the scope for discrimination in provision of housing.

### *Age*

We intend to review the evaluation findings specifically for under 25s before finalising the proposals for the regulations which will follow on from the Bill.

### *Religion*

Payment direct to tenants by automatic credit transfer may discriminate against those with religious restrictions on the types of bank account they can use. However, scope for payment to landlords where local authorities accept that a tenant does not have the usual access to bank accounts mean that alternative arrangements can be made.

### *Rural considerations*

The Government has considered the potential impact on the rural economy and has concluded that there are no foreseen impacts on the rural economy.

### *Race assessment*

The Family Resources Survey 2003/4 shows the proportion of benefit units in receipt of Housing Benefit by ethnic grouping (based on the ethnicity of the head of the household) as follows:

- 12% of all 'white' benefit units are in receipt of HB;
- 14% of all 'non white' benefit units;
- 15% of 'mixed race' benefit units;
- 5% of Indian benefit units;
- 11% of Pakistani and Bangladeshi benefit units;
- 24% of 'black' or 'Black British' benefit units;
- 13% of 'other' (including Chinese and other Asian) benefit units.

Although minority ethnic groups represent a slightly higher proportion of Housing Benefit recipients than white groups, the benefits of the policy change will be available equally to all private tenants irrespective of their ethnic status.

The transparency of the Local Housing Allowance scheme makes it easier to see the maximum amount of LHA that can be paid to any given household, which may help those whose first language is not English. A number of pathfinder areas were chosen in part so that we could take into account the effects of the LHA on people who do not use English as their first language.

### **Small firms Impact Test**

A majority of landlords and letting agents working in the Housing Benefit sub-market are small businesses. As Local Housing Allowance would affect landlords and letting agents, the pathfinder evaluation includes a central landlord stream, which involves direct consultation and primary research at every stage of the evaluation process.

The landlord stream comprises:

- a baseline survey of landlords and letting/managing agents in all nine pathfinders and three control areas;
- an interim survey after Local Housing Allowance had been in operation for nine months;
- a final survey of landlords and letting/managing agents in all 9 pathfinder and three control areas at the end of the two year pathfinder period; and
- a representative panel of landlords and letting/managing agents in each pathfinder area, interviewed at the six, fifteen and twenty-four month stages.

The evidence gathered from The Rent Service at the six, fifteen and twenty-four month stakeholder stages would also be used in assessing the impact on landlords and letting/managing agents.

Initial consultation with landlords revealed they were concerned about their costs increasing due to having to collect the rents themselves and non-payment by tenants. The evaluation exercise indicates that management costs are increasing, which seems to be due to a number of causes:

- rent collection being more labour intensive, with some landlords choosing to collect rent by going door-to-door;
- rent collection is more expensive due to more frequent transaction costs from banks;

- rent accounting is more complicated, with an increased number of individual payments to be handled;
- increased risk to the business through arrears and loss; and
- increased fees from letting and managing agents.

As a result of consulting with landlords, a number of safeguards were introduced:

- Direct Payments will be made to landlords where the local authority considers the tenant vulnerable or 'unlikely to pay'; and
- as with the current Housing Benefit scheme, the first cheque (often for a large amount where backdated benefit is due) can be paid to the tenant in a cheque made payable to the landlord. This reinforces the message that tenants are responsible for paying the rent while safeguarding the interests of the landlord.

In addition, it is likely that some of the envisaged problems will reduce over time, as administering authorities and landlords gain familiarity with the safeguards. The proposal for a gradual rollout to new claimants should contribute to making any changes more easily manageable.

The Department would continue to work with landlords and their representative groups to ensure a successful implementation of a Local Housing Allowance scheme.

#### Additional requirements

Additional requirements are also being placed on private rented sector landlords in England, through the combined effects of landlord licensing schemes (primarily for Houses of Multiple Occupations) and of local authorities efforts to apply/meet the Decent Home Standard for accommodation rented from private rented sector landlords. These include, bringing together regulations covering the safety of the gas and the electrical installation, and appliances supplied. Landlords must also ensure that furniture and furnishings comply with regulatory standards for fire safety (covering all furniture sold new or second-hand).

The licensing arrangements for Wales are very similar except that there is a Welsh Housing Quality Standard instead of the Decent Home Standard.

In Scotland, all private sector landlords (except resident landlords) have been required to register since April 2006. While much of the impact on the market will already have been felt, the impact of registration may affect the market.

The continued evaluation of the effect of Local Housing Allowance on landlords, would need to separate out any impact caused by changes to the regulatory requirement.

#### **Competition assessment**

Local Housing Allowance is not expected to have a significant impact on levels of competition in the affected markets. The private rental market is typically

characterised by large numbers of landlords owning small numbers of properties, with 30% of private rented sector landlords having only one letting and with a median portfolio size of 4 properties. The proposed changes are extremely unlikely to decrease competition because any impact would apply to all firms.

Local Housing Allowance could lead to a change in the number of landlords in the market, if landlords were to exit the Housing Benefit segment of the market because of the risk of tenants defaulting, then competition between remaining landlords would increase – possibly driving up rents. Conversely, the greater clarity about levels of Housing Benefit support could encourage some landlords to enter the market. The evidence from the pathfinder evaluation suggests that there has been no significant impact.

### **Enforcement, sanctions and monitoring**

Local authorities deliver Housing Benefit on behalf of the Department. The Department then reimburses the local authorities in accordance with certain criteria. If local authorities fail to meet these criteria, for example if they do not process applications within a given time, then the amount of reimbursement can be reduced.

Additionally, where local authorities experience difficulties in administering Housing Benefit the Department has a range of options for interventions and support. Therefore, the existing regime could be used to ensure compliance and no additional sanctions are planned.

In addition, we are proposing to review the implementation of Local Housing Allowance two years after national roll out. This will provide the opportunity to monitor whether the policy is meeting our objectives and consider options for migrating existing Housing Benefit claimants onto Local Housing Allowance.

### **Implementation and delivery plan**

Local Housing Allowance rollout will not begin until the necessary secondary legislation had been laid. The regulations would allow a six-month lead in time and would involve consultation with Local Authority Associations on the draft regulations in the usual way.

### **Post-implementation review**

The two-year Local Housing Allowance pathfinder evaluation period has come to an end and a thorough evaluation of Local Housing Allowance, undertaken by an independent consortium of the Universities of Birmingham, Loughborough and York along with the National Centre for Social Research, is in its final stages with its findings due to be published later this year. In addition, the Department is conducting analysis of its own administrative and statistical data to look at the effect of Local Housing Allowance.

The reports generated by the evaluation to date are listed below:

1.	Evaluating the Local Housing Allowance Pathfinderers	14 <sup>th</sup> September 2004
2.	The nine LHA Pathfinder areas: a summary of the baseline position before the introduction of the LHA	14 <sup>th</sup> September 2004
3.	Claiming Housing Benefit in the Private Rented Sector: the baseline experience of claimants in the nine LHA Pathfinder areas	14 <sup>th</sup> September 2004
4.	Landlords and Agents in the Private Rented Sector: the baseline experience in the LHA Pathfinderers	14 <sup>th</sup> September 2004
5.	Delivering the LHA: A summary of the early experiences of implementing the LHA in the nine Pathfinder areas	5 <sup>th</sup> April 2005
6.	Receiving the LHA: Claimants' early experiences of the LHA in the nine Pathfinder areas	20 <sup>th</sup> July 2005
7.	Working with the LHA: Landlord and agents' early experiences of the LHA in the nine Pathfinder areas	2 <sup>nd</sup> November 2005
8.	An interim evaluation of the running of the Local Housing Allowance in the nine pathfinder areas	14 <sup>th</sup> February 2006

After the completion of the external evaluation, the Department would continue to monitor the Local Housing Allowance, using data regularly provided by local authorities.

### Summary and recommendation

The table below summarises the estimated costs and benefits for each option:

Option	Total new benefits: economic, environmental, social, policy and administrative	Total new costs: economic, environmental, social, policy and administrative
(i) Do nothing	Nil	Nil
(ii) National rollout of a Local Housing Allowance scheme without direct payment to tenants	<p><b>Tenants</b> - Current estimates are that over half of new claims for Housing Benefit would potentially have a higher amount of their rent eligible to be met by Housing Benefit than would have been the case under the current Housing Benefit rules.</p> <p><b>Local Authorities</b> – benefits from simpler administration.</p> <p><b>Government</b> – Anticipated savings in respect of the Rent Services operations when Local Housing Allowance fully</p>	<p><b>One-off implementation costs to Government</b> and local authorities of £53 million.</p> <p><b>Running costs</b> – costs to Government would depend on the exact design of the scheme, but we would expect them to be higher at the start of the scheme and then falling in the medium to longer term.</p> <p><b>Tenants</b> - Current estimates are that less than half of new claims for Housing</p>

*Welfare Reform Bill, Regulatory Impact Assessment.*

	<p>implemented for private rented housing.</p> <p>Decreased barriers to work should also result in a reduced benefit spend.</p> <p><b>Landlords</b> - greater certainty and lower risk from letting to Housing Benefit tenants, so lower costs.</p> <p><b>Voluntary Sector</b> - simpler scheme should lead to voluntary bodies being able to provide better advice.</p>	<p>Benefit, calculated under Local Housing Allowance, would have a lower amount of their rent eligible for Housing Benefit than would be the case under the current rules.</p>
<p><b>(iii) National rollout of a Local Housing Allowance scheme with direct payment to tenants</b></p>	<p>As above and additionally:</p> <p><b>Tenants</b> - harder to quantify benefits of increased personal responsibility, greater financial inclusion and bridging the gap for being in and out of work.</p> <p><b>Landlords</b> - reduced burden from recovery of overpayments.</p> <p><b>Government</b> – bridging the gap for tenants being in and out of work should also result in less benefit spend.</p>	<p>As above and additionally:</p> <p>Costs to <b>local authorities</b> (paid by the Government) of up to <b>£10m</b>, to cover implementation costs.</p> <p><b>Voluntary Sector</b> - should not be substantial and some funding for this has been included as part of the overall start up funding received by local authorities.</p> <p><b>Landlords</b> – costs estimated to be between <b>£6.5 - £10m</b> p.a. although these should fall in the longer term as use of bank accounts increase.</p>

**Recommendation**

The Government recommends that option 3 is the preferred option.

**Prescribing circumstances in which Housing Benefit is paid to social sector tenants (rather than their landlords)**

## **Purpose and intended effect.**

### Objective

This is a measure to provide powers to extend financial responsibility to tenants in the social rented sector.

### Background

Currently, 3.16 million people in receipt of Housing Benefit live in the social rented sector in Great Britain. This is accommodation provided by local authorities and registered housing associations. This sector differs from the private rental market in several ways:

- rent levels are generally lower than comparative private sector levels;
- a larger proportion of the tenants in the social rented sector claim Housing Benefit (around 60-65%); and
- housing association and local authority finances operate differently from private sector landlords; for example, local authorities currently do not pay out Housing Benefit to their own tenants but instead rebate or offset it against the tenant's rent liability.

### Rationale for Government intervention

This will be a first step towards reform in the social rented sector by allowing regulations to specify when HB should be paid to the tenant rather than the landlord. This will help promote personal responsibility and financial inclusion.

*'Building Choice and Responsibility: A Radical Agenda for Housing Benefit'* sets out the commitment to test the extension of Local Housing Allowance to tenants in social housing. However, after consultation, the Government has recognised the concerns about introducing Local Housing Allowance for tenants in social housing and has decided not to take forward legislation to introduce LHA in this sector at this stage.

Nevertheless, we remain concerned about the high levels of worklessness in this sector and will develop proposals to encourage tenants to take greater personal responsibility for managing their own rent payments.

### **Consultation**

To ensure that social sector tenants are not put at greater risk, the detailed rules and subsequent regulations will be developed by working with social housing providers and other stakeholders to ensure that risks are fully identified and managed. There have already been regular discussions with:

- the Housing Corporation;
- local authority representatives;
- key interest groups, e.g. the National Housing Federation, Citizens Advice, and the Chartered Institute of Housing ; and

- also, in recognition of the potential impact on devolved housing policy, the Department has been consulting with the Scottish Executive and the Welsh Assembly.

Stakeholders have expressed concern in respect of:

- possible default costs to social landlords and the resulting response from their lenders;
- impact on vulnerable tenants; and
- potential for increased rent arrears and evictions.

### Sectors and groups affected

This proposal would affect the following groups:

- Social tenants receiving Housing Benefit;
- Social landlords and their lenders; and
- voluntary sector.

### **Costs and benefits**

#### *Social tenants receiving Housing Benefit*

Some social sector tenants who claim Housing Benefit take little, if any, responsibility for paying their rent and some remain unaware of how much their rent actually is. This encourages a culture of benefit dependency and can leave tenants uncertain about the impact that taking a job or moving home might have on their finances. Helping tenants to take on the responsibility of budgeting for and paying their rent themselves (e.g. through a bank account) can help bridge the transition into work, when paying at least a part of their rent themselves is likely to be necessary.

To minimise the risk that vulnerable people could be faced with eviction, as a result of falling into rent arrears, any scheme would contain safeguards to protect against this.

#### *Government*

The Government would face costs in respect of managing the implementation and communicating the policy to the local authorities, housing associations and tenants. However, narrowing the gap for claimants of being in and out of work may also result in less benefit spend in the longer-term, although this is hard to quantify.

#### *Local authorities*

Local authorities will need to make arrangements to collect rent from their tenants, which will impact on costs, as they will need to make a greater number of payments, extend existing systems and communicate the new arrangements to tenants. Additionally, it is likely that a higher proportion of Housing Benefit recipients in the

social rented sector would require consideration of their suitability for receiving their own payments than has been the case in the private sector.

### *Housing associations*

Housing associations are also likely to face additional administrative costs as a result of the need to increase tenancy management. There is also the potential cost of higher levels of arrears, and increased staff costs for the more active rent management. The level of any additional costs would depend on the extent to which the landlords' current rent collection systems need to be strengthened. These costs could be offset, to some extent, by savings in the cost of dealing with local authorities and by encouraging tenants to pay their rent by direct debit or standing order.

In early discussions, representatives of housing associations also expressed concern that paying Housing Benefit directly to tenants increases the risk of arrears and default on rent payments, which in turn could increase borrowing costs because they borrow against the certainty of revenue from Housing Benefit. Initial discussions with representatives of the Council of Mortgage Lenders indicate that lenders may take into account the reform of Housing Benefit in their lending decisions to housing associations. To counter such concerns it will be necessary to work with social landlords to ensure adequate safeguards are in place.

However, there is a possibility that housing associations might benefit from a lower burden in terms of recovery of overpayments. Currently, in the majority of cases, overpayments are recouped from landlords. However, under a system where tenants received their own payments, recovery would be made from them rather than the landlords.

### *Voluntary sector*

If more tenants require specialised budgeting/debt management advice as a result of taking on the responsibility of budgeting for and paying their rent, it could lead to increased demand on voluntary sector advice organisations.

## **Summary of costs and benefits**

It is not possible to summarise the costs and benefits at this stage as the details of an appropriate approach are yet to be developed with stakeholders. However, stakeholders would be fully engaged in development and we will consult Local Authority Associations on any draft regulations in the usual way.

## **RESPECT AGENDA**

## **HOUSING BENEFIT ANTI-SOCIAL BEHAVIOUR MEASURES**

## **Purpose and intended effect**

### Objective

To test a new way, through piloting, to tackle ASB caused by people on Housing Benefit, which will encourage them to take steps to address the underlying causes of their behaviour. The measure would send a message that the right to receive Housing Benefit comes with a responsibility to behave in an acceptable way. This measure is not intended as a primary way to tackle problem behaviour but rather is a measure that will complement earlier interventions.

### Background

Anti-social behaviour (ASB) remains a key area of concern for the public and can blight the lives of individuals and whole communities. It is estimated that ASB has a total cost to public services of £3.4 billion each year. The Government is determined to tackle ASB. The Respect Action Plan published on 10 January 2006 builds on progress already made by the ASB strategy by setting out new proposals that represent a cross Government commitment to enforce a modern culture of Respect. The aim of the Respect Agenda is to provide all those dealing with ASB in England with a further range of tools that enable them to tackle problems in their area. Scotland and Wales have their own strategies for tackling ASB. This measure relates to Housing Benefit, which is reserved, and will apply in all of GB.

Evicting people is discouraged as a way of dealing with ASB. It simply displaces the problem and should normally be a step of last resort. However, in certain cases landlords may feel that it is the right solution for a particular tenant, perhaps if other methods have been tried and failed, or where behaviour is so bad that eviction must be sought. Only a very small proportion of tenants are evicted each year for ASB. However, it is likely that those concerned will be problem tenants who have made their neighbours lives a misery and who need help in order to change their behaviour and re-establish a normal tenancy.

### Rationale for Government intervention

We know that the ASB of 'problem tenants' can severely disrupt the quality of life of whole communities. The current response to these people can be inadequate and uncoordinated. The Respect Action Plan sets out the need to identify these families early and have them handled by one lead official who firmly manages whatever action is needed to affect change. New effective methods for responding to, and working with, these tenants range from intensive family support delivered by workers who co-ordinate services and act as key-workers for the family, to residential programmes such as the Dundee Families project model. There is good evidence that intensive support projects with tailored support, supervision and sanctions are effective in improving the behaviour.

The proposal to sanction benefit builds on the measures set out in the Respect Plan. Early interventions to help people before their problems get out of hand are preferable, however, the proposal to sanction benefit is intended to encourage

people to take up rehabilitation when, for whatever reason, they have slipped through the net or help has not been effective at an earlier stage.

## **Consultation**

Even if rolled out nationally, this measure could only affect people evicted for ASB each year; DCLG estimate that for England and Wales this is a maximum of 1500 tenants. The figure for Scotland is around 40. Therefore the measure is not likely to impact significantly on business, the public sector, charities, the voluntary sector or on a specific sector or sectors of the community. Additionally, as the intention is to pilot in the first instance, the numbers affected will be much lower than the 1500 set out above. Therefore the Government does not think a full public consultation is justified.

However, the Government intends to write to key stakeholders seeking their views as it develops detailed proposals. In addition, DWP has a statutory duty to consult on changes to Housing Benefit legislation with the Local Authority Associations and this will take place in the normal way.

## **Options**

### *Option One: Do not sanction benefit*

A decision not to sanction would mean that the pilots would not go ahead and the Government would be unable to assess the effectiveness of the measure, particularly in relation to how a sanction might sit with intensive family support projects being rolled-out by the Respect Task Force. Neither could we, if desired, judge its impact in Scotland or Wales. Not sanctioning in the longer term could mean that people evicted for ASB could simply move, claim state support for new accommodation and their behaviour and impact on neighbours would continue unchecked. Doing nothing also raises the question about whether it is right for taxpayers to support the housing costs of someone who behaves badly towards their neighbours.

Not sanctioning Housing Benefit could mean:

- Anti-social families evicted and in need of help may not receive it;
- Communities would still suffer;
- On eviction, people could simply move to another area and behave as before.

*Option Two: withdraw or reduce payment of Housing Benefit to anti-social tenants who have been evicted and who refuse to engage with the local authority for rehabilitation purposes.*

This option proposes to withdraw payment of Housing Benefit to people who have lost their tenancy due to ASB **and** who refuse to engage with the local authority and take part in a suitable package of rehabilitation.

Early intervention is the key to tackling ASB. However, some people will slip through the net. The intention is to engage with people in need of support who have not been

previously helped by rehabilitation – perhaps because there has not been a co-ordinated approach to their needs or because they have simply refused.

Certain conditions will need to apply before a benefit sanction can be applied:

- The first condition that is a court makes a possession order on grounds of ASB (or issues a warrant following such an order being made);
- The actual eviction of that household; and
- That the person refuses to work with the local authority for the purpose of being assessed for rehabilitation or refuses to comply with any package of rehabilitation offered. If this is the case, and it considers it appropriate, the local authority will issue a “sanction warning” and if the person refuses to comply with it, a sanction will follow.

The intention is that the sanction will be tenure neutral in that it will cover both private rented and social sector tenancies.

The Government does not intend to legislate for how the offer of rehabilitation will work as this falls within existing powers and processes. However, Ministers envisage it could work in the following way, although it will, of course, be for local authorities to determine their own processes:

Offer of rehabilitation

- In **every** case where a possession order has been made on the grounds of ASB, the intention is that the tenant should attend an initial meeting where they will be given the chance to discuss their position and engage with rehabilitation services. At the same time they will be told that they could be sanctioned if they do not.
- If they agree to co-operate, then a package of rehabilitation will be drawn up, ideally co-ordinated by a key worker taking into account the needs of the whole family and the community. It will be delivered with no further involvement of benefit sanctions.
- However, if they refuse to co-operate, the local authority will have to decide if a sanction would be an appropriate tool in their case. The authority would take into account the circumstances of those involved and their needs, such as whether the person involved had mental health issues and needed to be referred to specialist services, or whether instead another tool such as an ASBO or Individual Support Order would be more effective. The local authority would also consider the impact of a sanction on the person and any family members, especially if there are children in the family.
- If they decide that a sanction is appropriate, the local authority can issue a “sanction warning”. This will explain what they need to do to be treated as complying. Refusal to comply with the warning will lead to a benefit sanction if benefit is in payment already or is subsequently claimed.

Where a sanction is imposed, payment of Housing Benefit will be withdrawn or payable at a reduced rate for a defined period. The sanction will be a 10% reduction of benefit for 4 weeks, followed by a 20% reduction for 4 weeks, followed by a total removal of benefit for a maximum of 5 years, or until the claimant complies with the rehabilitation. For those people in vulnerable categories (for example those with caring responsibilities, or where a member of the household is pregnant or seriously ill), hardship rates will apply. In these cases, the sanction will be the same for the first 8 weeks but then instead of a complete removal it will reduce benefit by 30% for the rest of the sanction period.

Although some other benefit sanctions remove a smaller proportion of benefit, the Government feels that if this sanction is to be effective in persuading people to take up rehabilitation, it must be set at a level sufficient to achieve this. The fact that the sanction will be staggered, and the fact that if the person engages with the rehabilitation after the sanction has started the sanction will stop, offers those people sanctioned the chance to change their mind and receive benefit. However, if they then drop out of the programme, the sanction will be re-imposed and will run for the balance of the sanction period unless there is further compliance.

The local authority or their representative will decide whether a person is simply going through the motions to avoid being sanctioned, or if they are genuinely trying to co-operate with rehabilitation, even if attendance is variable. Good cause will be defined in regulations and broadly follow the existing “good cause” rules for other social security sanctions.

Once the sanction has run its course, or rehabilitation is taken up, Housing Benefit can be paid in the normal way. The sanction can be applied at any time within a five-year period beginning with the date on which the possession order is made or warrant issued. After this time, a sanction can no longer be applied.

## **Costs and benefits**

### *Option one: sectors and groups affected*

Option one would impact on a similar group of people as for Option two, set out below. There would clearly be no need to change current working practices but this could also mean that the time spent and costs incurred in tackling ASB would continue.

#### *Benefits*

The benefits of maintaining the current position would be that it would require no change to legislation, allowing LAs to continue with established processes or develop other ways to tackle ASB.

#### *Costs*

As part of developing proposal in the Respect Action Plan, work is underway to try and better understand what ‘problem families’ cost. Over years, if behaviour is not tackled, their cost will be high compared to other neighbours. Not introducing a sanction could mean that a number of families with problems avoid the intensive support that they need. In the long term, the Government believes that tackling such families is cost effective.

### *Option two: Sectors and groups affected*

The proposal will mainly impact upon local authorities. In particular:

- People identifying and tackling ASB;
- Housing teams;
- Social services;
- Homelessness sections;
- Organisations providing financial advice;
- Voluntary sector organisations providing rehabilitation schemes; and
- Housing Benefit staff.

The impact on voluntary groups is estimated to be minimal because of the small number of cases involved. Voluntary sector groups may already be involved in assessing people for rehabilitation but this proposal will place no new burdens on them in relation to this. There may also be a need for advice groups to advise

tenants who have been evicted, or give benefit or financial advice but again, because this is a last resort measure, many of the tenants may have already sought previous advice.

There will be an impact on landlords if they take on a tenant who has a benefit sanction. The effect will be that the tenant may be unable to meet the full rent liability and the landlord will need to pursue these arrears. There is no information collected on the number of tenants evicted for ASB from the private rented sector as the presumption is that landlords tend to use other grounds to evict. The 1500 people the Government estimates are evicted for ASB each year are all from the social rented sector. The impact on landlords is something that the Government would test fully as part of the evaluation of the measure.

It will have an impact on the people who have committed ASB and who are on benefit. Housing Benefit is payable to people with a rent liability who meet the eligibility conditions. Currently, almost 4 million people in Great Britain receive Housing Benefit and it can be paid to pensioners, families and people of working age. Some 0.80 million of these live in private rented accommodation with a further 3.16 million living in housing association and council properties (the social rented sector) (80%). Under these proposals, a very small minority may find that their benefit is removed for the period of the sanction and this could affect their ability to secure accommodation in the private rented sector once they are evicted. It may also result in them owing arrears of rent if they secure a property but get sanctioned. There is no information held about where tenants who are evicted from the social rented sector go to live. This is something that the Government could monitor during piloting.

Impacts on the wider community (such as tenants affected by poor behaviour) should be positive in that the proposal will help change the behaviour of some “neighbours from hell” and this will improve the overall local environment and should help further problems occurring in the future.

#### *Race assessment*

The British Crime Survey indicates that those living in deprived areas were 4 times as likely to perceive that ASB was a problem in their community as those living in wealthier areas. In addition, those most at risk of perceiving high levels of ASB include black and ethnic minority groups (24%). So although the policy would impact equally on all tenants regardless of their ethnic status, any measure to tackle ASB could benefit these groups who perceive higher levels of ASB where they live.

There is no information on the ethnicity of people that get evicted for ASB, so we cannot estimate the impact of the sanction on this group until piloting.

The Family Resources Survey 2003/4 shows that the proportion of all benefit units in the sample in receipt of Housing Benefit by ethnic grouping (based on the ethnicity of the head of the household) is:

- 12% of all “white” benefit units are in receipt of HB;
- 14% of all “non white” benefit units;

- 15% of “mixed race” benefit units;
- 5% of Indian benefit units;
- 11% of Pakistani and Bangladeshi benefit units;
- 24% of “black or Black British” benefit units;
- 13% of “other” (including Chinese and other Asian) benefit units.

The benefits of the policy change will be available equally to all tenants irrespective of their ethnic status. Although minority ethnic groups may represent a higher proportion than white groups on Housing Benefit, the effect of the policy will depend on whether they are evicted for ASB. The Government will consult with the Commission with Racial Equality on the proposal and during piloting will monitor the effect of the sanction at all stages of the process on different racial groups to ensure that the policy does not discriminate either directly or indirectly on them.

#### *Health and disability assessment*

People who are known to health services and have a known or identifiable mental health problem should not be affected by the sanction. This is because either courts or a landlord would take significant health issues into account in deciding whether to evict and local authorities would elect not to pursue a sanction if the person was vulnerable.

The Government accepts that there is no information in this area. People may have lower level health or mental health issues, perhaps compounded by drugs or alcohol but are not necessarily known to health professionals or being treated and these could be affected by a sanction. Piloting would give the opportunity to assess what health issues people have who get evicted and ensure that the safeguards are robust. A health professional will play a key role in the family support projects and this should also provide a safeguard.

#### *Rural considerations*

The Government has considered the rural impacts and are satisfied the proposals do not have any impacts.

#### *Benefits to community*

The impact on the wider community (such as social tenants and others affected by ASB) should be positive in that it will help change the behaviour that blights communities. The benefits are difficult to quantify and could be long term and will be both financial and societal. Examples of those affected by a reduction in ASB are:

- Local residents;
- Social and private sector landlords;
- Courts;
- Police;
- Wider community and taxpayers;
- Anti-social tenants (through their problems being addressed); and

- Local businesses.

This option could bring long-term savings by cutting down on the costs incurred by the affected families, such as the extended costs of residential or foster care over a number of years and long term improvements in a family's quality of life or savings from reduced expenditure on problems such as offending behaviour, to which intervention might contribute. For example, the cost of an appearance at the Children's Panel is estimated to be around £800 (Audit Commission, 1996) and the Princes Trust has estimated that the average cost to society of a youth crime is £2,100. The benefits of rehabilitation are being more fully developed by the Respect Task Force to support the Family Support Project pilots being established.

*Potential number of cases in pilots and costs*

DCLG estimate that around 1500 people a year are evicted for ASB. It is likely that a high proportion would qualify for benefits and will not be in work. This is borne out by early research by DCLG on rehabilitation projects in England, where around 65% of the adults who engaged with the schemes fell into a category where it seemed likely that they could be entitled to Housing Benefit.

Based on the evidence from the Dundee Families Project, 55% of people referred engaged with the project. Using the same figures, this would indicate that around 55% of people would not engage with the project and would be eligible to be sanctioned. The Government hopes that piloting the Respect measures would bring a higher success rate and the additional incentive of the sanction would encourage greater compliance.

Local authorities would decide that a number of these were not suitable to be sanctioned. For example due to their unsuitability for rehabilitation, age or mental health issues. At this stage, they could decide to invoke some other way to tackle the ASB. In the absence of any data, Ministers have assumed that 20%-30% of cases would be filtered out at this stage and the remaining would be sanctionable.

On this basis, the Government estimates that piloting in up to 10 local for a two year period authorities would cost the following:

- Implementation and running costs: £0.467m;
- Evaluation £0.200m

These are total costs and include various costs set out below.

*Impact on local authorities- Benefit administration*

Local authorities will have responsibility for administering the Housing Benefit sanction regime. Upon receiving notification that the conditions for a sanction have been met, the local authority will have the task of checking that there is a valid Housing Benefit claim relating to the anti-social person, and applying the rules for reducing the benefit. In practice, the experience of existing benefit sanction regimes suggests that the administrative cost of withdrawing benefit is negligible, especially

considering the small number of cases where a sanction is likely to be administered. We do not expect that IT systems will need to be amended to deal with these cases.

### Appeals

If a person is not happy when they engage with the local authority over rehabilitation needs, he or she will have the right to seek a judicial review of any of the authority's decisions. For appeals affecting Housing Benefit decisions, appeals will be made in the normal way to the Tribunals Service. The structure for these and rules as to how appeals are governed is already provided for in Social Security legislation. This sets out that the claimant has the right to appeal decisions to an independent Tribunal within a set time and that he or she has the right to attend a hearing and given assistance to do so, if necessary.

In view of the contentious nature of the sanction decisions, we assume the rate of appeal will be at the top end of appeal rates for social security benefits. Of the cases sanctioned, we assume that 10% of them would appeal. The average appeal rate is 1-2% of cases and the highest appeal rate against a single benefit is thought to be around 8%. The average cost of hearing an appeal is £253 so we assume that if there were 5-10 appeals this would cost The Tribunals Service significantly less than £5,000. They estimate costs of £250 per member to train staff to deal with the new measure.

A proportion of cases will also appeal to the Social Security Commissioners.

### *Impact on local authorities- functions to tackle ASB*

Local authorities could also incur some additional costs if their role in tackling ASB is expanded. Upon receipt of a notification that a tenant is to be, or has been, evicted due to ASB, the local authority representative will:

- Need to be involved at the initial contact with the person discuss the availability of rehabilitation and warn them that their benefit may be sanctioned if they refuse to co-operate;
- Liaise with the person who is to assess for and offer rehabilitation; and
- Keep DWP informed. DWP will maintain a database and will need to know what has happened at different stages of the process. This will enable DWP to advise LAs if a person meets the condition for a sanction and to track people who move around the country to ensure they cannot avoid being sanctioned by moving.

There could also be costs if a person decides to apply for a Judicial Review. Local authorities estimate that the costs to the LA of administering these can vary from £30,000 to £250,000 if there is an appeal against the outcome. However, due to the small number of cases involved in piloting, the Government would expect the numbers to be very low, if any.

### *Impact on local authorities – adult and children's services*

The proposal has a potential impact on the current services that local authorities offer to adults and children. This is because they have certain legislative responsibilities to fulfil in protecting vulnerable people. If tenants are evicted and refused benefit then this could lead to other parts of the local authority having to help them and meet the costs of doing so. The intention is to avoid simply increasing costs in other parts of the local authority.

For both adults and children, the Government expects the normal procedures in relation to assessing people as eligible for emergency homeless person's accommodation to apply. If people are evicted they will access these services as they do now and the proposal to sanction will have no impact on this.

At present, if a person deemed to be intentionally homeless (for example, due to their ASB), they could secure accommodation with either friends or family or in the private rented sector, although no information is collected on where people live post eviction. Under the new proposal, it would be harder for them to secure accommodation in the private rented sector without benefit or if they do, they may not be able to meet rent liability for the period of the sanction. However, as this is due to a refusal to co-operate with the local authority where there is clearly a need to do so, the ability to improve their position secure benefit is clearly in the claimant's own hands.

The Government does not know what the effect of the sanction will be on this group until piloting. However, the assumption is that the impact on services will be small because of the small numbers involved and safeguards built in.

For adult services, the safeguards built in to the process should also protect vulnerable people such as those, for example, with mental health problems and will not overlap with local authority duties to house certain adults. This, combined with the fact that for piloting, the number of cases will be so low, mean the Government expects no additional costs for adult social services.

For children's services, it is possible that families with children will be defined as vulnerable and if they were found to be homeless (intentionally or not) and unable to secure benefit to pay for accommodation, that social services may step in to house them, or consider taking children into care. The Government does not propose to make any changes to the Children's Act that defines when children may be taken in care. The current position is that it must be with the consent of parents or if not, where there are child protection issues.

As with adult services, the safeguards built in will enable the local authority to decide not to offer rehabilitation if it decides that this would not be the best outcome for the family. Additional safeguards will be hardship provisions so that the level of the sanction will be reduced where families meet hardship criteria (such as having children in the family).

The Government does not envisage that the sanction will result in an increased number of children being taken into care. But by way of illustration, the cost of taking children into care in 2004/5 was almost £800 a week in inner London and the cost of the court hearing would be £4500 per case.

Ministers intend to monitor this very carefully so as to understand who gets sanctioned, where they live following eviction and what impact this has on local services.

In terms of offering rehabilitation, in some areas the capacity already exists and in others it will grow as local authorities respond to the need to tackle anti social behaviour. The Government does not propose to provide additional funding for rehabilitation in order to pilot but will work with authorities that already have or are developing the capacity. However, it will need to look at this again if, after piloting, Ministers decide to rollout the proposal.

#### *Impact on legal system*

In England and Wales the courts will have to notify DWP when a relevant possession order is made and officials intend to develop a standard proforma for this purpose. Due to the small number of cases, for the purpose of piloting the expected costs are minimal. If people apply for judicial review, there could be increased legal aid costs. The average costs, including court fees, are around £3,000 per case.

#### *Impact on Landlords*

There are 408 local authorities, just under 1500 Registered Social Landlords in England, 247 in Scotland and 98 in Wales, and an estimated 160,000 to 190,000 landlords operating in the Housing Benefit sub-sector. Neither of the options involves placing new duties on landlords or regulating the landlord/tenant relationship. The contractual relationship between the tenant and landlord remains the same: it remains the duty of the tenant to pay rent and the responsibility of the landlord to collect it. People may have more difficulty in securing accommodation following eviction and sanction. They will also have more difficulty paying the rent if income is withdrawn or reduced. However, this is the penalty for their actions. If at any point during the sanction the tenant decides to accept rehabilitation, benefit will be reinstated in full and the amount of the sanction repaid

Virtually all social landlords, and the majority of private landlords, have their tenants' Housing Benefit paid direct to them. If benefit payments are withdrawn or reduced, landlord would have to collect the balance of the rent from the tenant. However, they have to do this already where there is a shortfall between benefit and the rent payable. Furthermore, rent collection is a landlord's responsibility and part of the normal tenancy agreement.

As a worst case, if no tenants subject to a sanction paid their rent and no effective collection or eviction action could be taken, landlords would effectively bear the cost of the sanction and have to pursue the arrears. For piloting, the Government would expect a sanction to be applied in only a few cases.

#### Issues of equality and fairness

Although a measure that affects people on benefit, the Government does not suggest that ASB is confined to those in rented housing or those on a low income. These

proposals are not the only primary tool for tackling ASB. The Government has a wide range of measures to tackle ASB across the board. However, evidence suggests that ASB is perceived to be more of a problem for tenants in social housing and those in deprived areas. Housing Benefit measures could be an effective way to address this.

The decision to offer rehabilitation or not and whether this should lead to a sanction will be at the discretion of a local authority. However, this is justifiable as all local authorities have a duty to tackle ASB and will be able to deploy a range of other discretionary powers. Not taking steps to tackle ASB is not fair to the law-abiding residents of an area. Impact on charities and voluntary bodies

A sanction could result in additional work to charities and voluntary bodies for example:

- Providing advice and guidance;
- Counselling services;
- Financial help to pay rent; and
- Help with appeals.

It is difficult to assess how much extra work will be generated over and above the normal and day-to-day activity and what the costs will be. Many of these tenants may have already sought advice from the voluntary sector regardless of the new proposal. Because of the small number of cases involved, the Government does not feel that this will create additional burdens. However, this is an area that we expect the pilot schemes to address and we will evaluate it.

### **Small firms impact test**

Landlords will be the principle small businesses affected by a Housing Benefit sanction. The Government intends to pilot these measures to assess the impact of the sanction on both registered social and private sector landlords. The expected effect on landlords is covered in the section on costs.

Landlords are likely to be concerned about the impact on their income. Tenants may accrue debts because of the sanction that are difficult to collect and they may result in chasing arrears. This could dissuade some of them from offering accommodation to benefit claimants. The impact on landlords depends on whether they offer accommodation to tenants who are subject to a benefit sanction, the behaviour of their tenants and how both parties respond to a sanction. As set out above, there are almost 300,000 landlords operating in Great Britain whilst the Government anticipates that during piloting, which will take place in England only, no more than a handful of claimants will have their benefit sanctioned.

### **Competition Assessment**

There is no one company or interest that holds exclusive or significant interests in the housing market. The sanction is going to be piloted in a limited number of local authorities. Therefore the impact will be limited to the private and social landlords in those pilot areas. However, it is not expected that the number of sanctions or

resultant costs for landlords are likely to be great and not enough to have implications for competition. In any case, the number of sanctions could decline over time as the deterrent effect becomes more evident.

### **Enforcement, sanctions and monitoring**

The broad framework as to how the sanction would operate will be set out in the Welfare Reform Bill supported by regulations and guidance. Although the power will be available to all local authorities, the Government will test it first in a small number of them.

The pilots will be fully and independently evaluated as soon as practicable. The intention is to have pilots in up to 10 local authorities in England, which will then be evaluated as soon as practicable after that. The evaluation will cover the following sorts of issues:

- Whether the sanction is an effective incentive to take up rehabilitation;
- What resources are needed to set up and run it;
- If it has an impact on ASB;
- The impact on landlords;
- The effect on rent arrears;
- How it can be best operated;
- Impact on housing and the homelessness;
- Impact on the police;
- Impact on charities and voluntary bodies; and
- The profile of those sanctioned.

Any pilots would have to run over at least a two year. Exact details of pilots will be finalised after careful consideration with the Respect Task Force, DCLG and DFES to ensure they fit with the complementary work being developed as part of the Respect Agenda, DWP analysts and individual Local Authorities.

As already stated, there will be a robust evaluation and a full RIA would precede any decision to roll out the sanction across the UK. This would include careful assessment of the interaction between the measures and the legislation and policy of the devolved administrations.

### **Implementation and delivery plan**

The intention is to pilot the measures first so that their effects can be evaluated. It is unlikely that a sanction could take effect before April 2008. This will enable regulations to be made and operational guidance issued to pilot authorities in good time for them to implement it. The Department will be working with local authorities on the guidance during the passage of the Welfare Reform Bill.

**Post implementation review**

There will be a post piloting review before a decision is taken to rollout the measure nationally.

**Summary and recommendation**

The Government recommends that **option two** is the best option.

Summary of costs and options

<b>Option</b>	<b>Total new benefits</b>	<b>Total new costs</b>
(1) Do nothing	Nil	Nil
(2) HB sanction	Local community/police: Improvement in local areas.  Landlords: 'Problem families' dealt with and problem not simply displaced.  Government: Costs of ASB reduced. Underlying issues tackled.  Community/wider society: Reduced costs of ASB for taxpayers.	Implementation and running costs of pilots:  £0.467 m  Evaluation:  £0.2 m

## **RECOVERY OF OVERPAYMENTS**

### Objective

To remove any ambiguity surrounding the requirement for decisions changing the award of benefit and the recoverability of any overpayment to be made simultaneously when the overpayment has arisen because benefit has been paid directly into a bank account.

This will help to maintain the current long-standing policy and process; there is no financial impact on business, charities or voluntary bodies and it will not increase public expenditure; therefore, a full RIA is not necessary.

## **PNEUMOCONIOSIS ETC (WORKERS' COMPENSATION) ACT 1979 - REGULATORY IMPACT ASSESSMENT**

### **Purpose and intended effect**

#### Objective

To amend the Pneumoconiosis etc (Workers' Compensation) Act 1979 to:

- bring it in line with the Civil Partnership Act 2004, and provide for equal treatment of same sex couples who have not registered a civil partnership;
- correct an omission where Scottish "reputed partners" cannot claim as dependants; and
- place on a statutory basis an administrative easement that had been applied to the condition that every relevant employer must have ceased to carry on business *before compensation can be claimed*.

#### Background

The purpose of the Pneumoconiosis etc (Workers' Compensation) Act 1979 (c.41) is to provide compensation to sufferers of certain dust related diseases, or their dependants, where the disease had developed as a result of dust exposure in their employment, but they were unable to claim damages from their employers because those employers had ceased to carry on business. The diseases to which the Act applies are pneumoconiosis, byssinosis, diffuse mesothelioma, primary carcinoma of the lung (where there is accompanying evidence of asbestosis and/or bilateral diffuse pleural thickening), and bilateral diffuse pleural thickening.

The conditions of entitlement to a payment in the case of a person suffering from a disease to which the Act applies are set out in section 2(1) of the Act. One of the conditions of entitlement is that all relevant employers have ceased to carry on business. "Relevant employer" is defined in section 2(3) as meaning any person by whom the person suffering from the disease was employed at any time during the period which he was developing the disease and against whom he might have or might have had a claim for damages in respect of the disablement.

Section 3 of the Pneumoconiosis etc (Workers' Compensation) Act 1979 ("the 1979 Act") sets out the meaning of a "dependant" of a person who, immediately before his death, suffered from a disease to which the Act applies. Section 3(1) of the 1979 Act sets out an order of priority for determining who the "dependant" is in each case.

#### Risk assessment

##### *Risks to individuals*

Changes are needed to bring the 1979 Act in line with the Civil Partnership Act. In addition, the 1979 Act provides for reputed spouses (a man and a woman living

together has husband and wife) to be treated as dependants, but only in England and Wales. Scottish couples must satisfy a more stringent test. Without the changes, civil partners, a person who lived with a sufferer as if they were civil partners and a person in Scotland who lived with the sufferer as if they were husband and wife will be unable to claim compensation under the 1979 Act as dependants.

### *Risks to Government*

Without the changes, there is a risk of challenge to the 1979 Act on grounds of discrimination and incompatibility with the European Convention on Human Rights (ECHR).

### **Options**

1. Incorporate a more practical version of the relevant employer condition that officials have been applying on an extra-statutory basis since 1980, bring the 1979 Act in line with the Civil Partnership Act 2004, provide for equal treatment of same sex couples who have not registered a civil partnership, and correct an omission where Scottish "reputed partners" cannot claim as dependants.
2. Do nothing. Applying the relevant employer condition means that most claims would be rejected because if one of the companies which a person had worked for at any time during which the disease was developing was still in existence, then the claim will be rejected. Civil partners, same sex couples living together as if they were civil partners and Scottish reputed spouses would be unable to claim compensation as dependants.

### **Benefits**

#### Economic

Option 1 would result in current expenditure being maintained because extra-statutory payments are currently being made. Funding for the scheme is £35m in 06/07 and £37m in 07/08.

Option 2 would result in fewer claims being paid. In the financial year April 2005 to March 2006, 2093 claims were paid, of which 1575 were paid outside the legislation (75.25%). In the same year £24.7m was paid. If the law had been applied correctly 518 people and, using a rough calculation (24.75% of the amount paid), £6.1m would have been paid. Option 2 would save Government approximately £18.6m per annum.

#### Social

There are no social benefits from this proposal.

#### Environmental

There are no environmental benefits from this proposal.

## **Costs**

### Economic

Option 1 would result in current expenditure to Government being maintained. Funding for the scheme is £35m in 06/07 and £37m in 07/08.

Option 2 would result in fewer claims being paid. In the financial year April 2005 to March 2006, 2093 claims were paid, of which 1575 were paid outside the legislation due to the relevant employer condition (75.25%). In the same year £24.7m was paid. If the law had been applied correctly 518 people and, using a rough calculation (24.75% of the amount paid), £6.1m would have been paid. No extra claims from civil partners or reputed spouses are expected because of the changes.

Option 2 will mean that an estimated 1575 people will not receive a compensation payment with the resulting affect on their financial position.

### Social

There are no social costs from this proposal.

### Environmental

There are no environmental costs from this proposal.

### Equity and Fairness

Option 1 provides for equal treatment of same sex and opposite sex couples by treating them as dependants who can claim compensation under the 1979 Act.

Option 2 maintains discrimination between same sex and opposite sex couples, and discrimination between reputed spouses in England and Wales, and Scotland.

A race equality impact has been considered but there is no difference in effect on ethnic minorities as on others.

## **Small Firms' Impact Test**

There are no business effects from this proposal.

## **Competition Assessment**

There are no competition effects from this proposal.

## **BENEFITS FOR WIDOWS AND WIDOWERS**

### Objective

The clauses remove an unintended consequence of the Tax Credits Act 2002 so that where a widowed parent does not have the child living with them, Widowed Mother's/Parent's Allowance will be paid provided that contributions are made to the upkeep of the child at not less than the amount of Child Benefit

The clause on Widowed Mother's Allowance and the clause on Widowed Parent's Allowance will have no impact on business, charities or the voluntary sector and/or little or negligible impact on the public sector; therefore, a full RIA is not necessary.

## **SOCIAL FUND**

### Objective

To make minor amendments to the Social Security Administration Act 1992 and the Contributions and Benefits Act 1992 so that the legislation enables allocations to be made in a way which supports key organisational changes and accords with a simplified approach in respect of the making of budgeting loans from the social fund.

The changes have no impact on business, charities or the voluntary sector and little on the public sector. A full RIA is therefore not necessary.

## **DISABILITY GRANTS ACT - INDEPENDENT LIVING FUNDS**

### Objective

To enable the Secretary of State and the Department for Social Development in Northern Ireland to make payments to the Independent Living Fund (2006). This Fund replaces the two existing Independent Living Funds.

The Disability Grants Act currently provides that the Secretary of State and the Department for Social Development in Northern Ireland may make grants to the Independent Living (Extension) Fund and the Independent Living (1993) Fund. These are being replaced by a single new fund called the Independent Living Fund (2006) and therefore this measure will provide the Secretary of State and the Department for Social Development in Northern Ireland power to make grants to this new fund.

A full RIA has not been produced for this measure as it has no impact on the private, voluntary or the public sectors. The amendment relates to a change in name from the existing funds to the new fund.

## **EXTENSION OF THE 'LOSS OF BENEFIT' PROVISION "Two strikes"**

The proposal is to extend the Loss of Benefit Provision, contained within the Social Security Fraud Act 2001 from a three to a five-year period.

### **Purpose and intended effect**

#### Objectives

The objective of this amendment to legislation is to build upon the positive deterrent effect already seen on the reducing volume of benefit fraud re-offenders since the Loss of Benefit Provision commenced in April 2002, and to tackle those remaining habitual offenders by extending the length of time over which benefit fraud investigators can check on previous fraud offences.

#### Background

##### *Sanctions Review*

The National Audit Office report, The Department for Work and Pensions (DWP) 'Tackling Benefit Fraud' by the comptroller and Auditor General (Feb 2003) recommended that the Department needed to review the current benefit fraud sanctions regime; evaluate the deterrent effect of the different sanctions available and consider raising the financial limits that apply to Administrative Penalties and Cautions.

In response to these recommendations, the Department conducted a variety of research into the significance of the current sanction regime as both an appropriate punishment and an effective deterrent.

A report entitled 'A Review of the DWP Sanctions Regime and Deterrence of Benefit Fraud' was compiled from the findings, which concluded that although the regime was working, improvements could be made and included several recommendations for updating and enhancing the current sanctions regime.

The Loss of Benefit Provision is one of a range of sanctions and deterrents that have helped bring down the overall levels of fraud, and the recommendations included the proposal to extend the use of this sanction from the current three years to five years to deter more of the persistent re-offenders.

##### *Loss of Benefits Provision*

The Grabiner report on the hidden economy highlighted that every year billions of pounds were being lost and therefore proposed new measures to tackle this including a 'two strikes and you are out' approach to those who had been convicted twice of social security benefit fraud.

As a consequence of the Grabiner Report The Loss of Benefit Provision, better known as 'Two Strikes' came into force within the Social Security Fraud Act 2001.

This provision allows the Department to apply a sanction in the form of a fixed 13-week benefit disqualification period where a person is convicted of benefit fraud in two separate proceedings. All of the benefit offences must have occurred after 1 April 2002 and the second set of offences must have been committed within three years of conviction for the previous offence.

Although deterrent effects are difficult to quantify the current legislation is deemed to have had a positive effect on re-offending. Re-offending rates were not recorded prior to 2002, but analysis of the incidence of recidivism undertaken to support the introduction of the initial legislation predicted that loss of benefit provision would capture approximately 500 cases per year. Latest figures show that during the four-year period since legislation commenced only 260 cases have been dealt with under the legislation. The "Two strikes" letter issued following a first conviction of benefit fraud is intended to both warn of the consequences of further offences and add to the deterrent effect of a criminal conviction.

To build upon this positive outcome it was proposed that the current legislation should be amended to extend the period that fraud investigators can check on previous benefit fraud offences from the current three to a maximum of five years.

It is difficult to provide precise figures of expected volumes of customers that would be captured by extending the 'two-strikes' period, because as stated previously deterrent effects are difficult to quantify. However, it is likely that initially there would be that an increase in the number of cases, but overtime a measure of success would be a continuing reduction in the level of re-offending.

#### Rationale for Government intervention

The Department is committed to protecting taxpayers' money and ensuring that benefits are only paid to those who are genuinely entitled to receive them and constantly works to reduce fraud and error within the benefit system. To that end Public Service Agreement targets have been set to reduce the amount of overpayments from fraud and error in Income Support and Jobseeker's Allowance by 15% by 2010, and in working age Housing Benefit by 25% by 2008.

To help meet these targets the Department needs to tackle benefit fraudsters, continually, especially those who persistently offend. The 'Loss of Benefits Provision' is seen as an effective way of reducing the level of re-offending. Increasing the period from three to five years will assist in capturing more repeat offences and therefore deterring more prospective offenders.

The Sanctions Review concluded that the Department needed to improve and enhance its sanctions regime. It indicated that failure to update and improve the processes used, or to provide additional ways of deterring repeat offenders, could allow for a deterioration in the downward trend of customer re-offending, and the perceived effectiveness of the Department's sanction regime, with benefit fraudsters, customers and the general public considering that the Department had become a 'soft option' on tackling benefit fraud.

## **Consultation**

### Within Government

The Department's benefit fraud investigators were canvassed for their opinions on the benefits of all the current sanctions applied. During the discussions their view on the Provision was that it was considered to be working in deterring benefit fraudsters, but that the opportunity to be able to go back further looking for previous benefit fraud offences would be even more beneficial in capturing persistent offenders. Their original request was for a period of ten years, but this was considered far too punitive.

These opinions were included within the Department's paper 'A review of the DWP Sanctions Regime and Policies on the deterrence of Benefit Fraud' (2004) which recommended the extension of the Loss of Benefit Provision.

### Public consultation

As part of the research for the Benefit Fraud Sanctions Review, the general public and customers who had been through the sanction process were asked by an independent social research company for their thoughts on the various sanctions including the Loss of Benefits provision. They were only, however, asked to consider the provision overall and not their thoughts on extending the period.

The findings were that they thought it to be a good idea, because it gives the offender a chance to consider their actions after their first offence with the implications of losing some or all of their weekly benefit, if they decide to re-offend. They also thought that those who continue to abuse the system should not be tolerated and every effort should be made to stop it from happening<sup>6</sup>.

### Stakeholder Consultation

Local Authority Associations are key stakeholders and have been fully engaged in the progress of this proposal, as it is important that their sanction and prosecution policies mirror, where possible, those of the Department to ensure joint working is maintained. It is not considered that this amendment

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<sup>6</sup> In House report 149 - A review of the DWP Benefit Fraud Sanctions Regime published 2004]

will greatly impact upon the payment of Housing Benefit, or on the local government prosecution processes.

### Devolution

While the Northern Ireland Assembly is suspended, social security provision is made by way of a negative resolution Order in Council, and a clause covering this issue will therefore be included within the corresponding Northern Ireland Welfare Reform Order.

The Scottish Executive has stated its agreement to amending of the legislation, as these changes are within reserved Social Security powers. Further, it will not impact upon the separate Criminal Justice System within Scotland, either through the prosecution process or on volumes of cases.

The Welsh Assembly also agrees to the proposed amendment as there is no impact on devolved powers.

### **Options**

#### *1. Do Nothing*

The Department needs to continue to develop and refine its processes for tackling benefit fraud, and to be seen to do so, by sanctioning those customers who undertake benefit fraud, whilst deterring those who are considering it. To continue with the current Loss of Benefit Provision processes for repeat offenders, when refining it could assist in maximising its full potential, would be a missed opportunity to strengthen and improve the Department's sanction regime in line with recommendations from the NAO and social research, and is therefore considered unacceptable.

#### *2. Five Years*

Being able to extend the period of the provision would allow the Department to build upon the deterrent effect already apparent. Extending the linking period to four years was considered but was not regarded as sufficient to make a significant impact. Therefore, a five-year linking period is proposed as the optimal time period to allow a substantial impact on the level of repeated fraud and would also be in line with the provision of the Rehabilitation of Offenders Act 1974, where offences, including those where the sentence is a fine, are spent after five years.

#### *3. More than Five Years*

Extending the period to more than five years was considered to be far too punitive and, as mentioned above, would bring the amendment into conflict with the provision of the Rehabilitation of Offenders Act 1974.

### **Costs and benefits**

### Sectors and groups affected

The beneficiaries of this proposal will be the Department and Local Authority Associations by assisting them in meeting their targets to reduce fraud and error. HM Treasury and national taxpayers would also benefit by ensuring that social security payments are paid to the correct customers only, and benefit fraudsters do not obtain finances to which they are not entitled.

The only sectors that will be affected by this proposal are the Department and to a lesser extent local government. Any possible impact on the Appeals Service is considered negligible as the grounds to do so are limited and there has only been 1 appeal recorded to date.

Staffing levels and training requirements across these organisations would not alter because of this amendment as they are already undertaking the appropriate investigations and prosecutions required for this process. The supporting IT system for storing and monitoring the details of previous offences, is also already in place. Warning letters would automatically be amended to incorporate the change of legislation from the commencement date. Cost implications for advice organisations such as Citizens Advice Bureau would therefore be negligible.

No additional costs would be incurred by legal teams or by HM Courts Service as the legislation does not increase the volume of prosecutions, and should in time actually reduce the number of cases that would need to be considered for prosecution, thereby releasing valuable court resources.

The proposal as stated is considered fair and equitable to all individuals who decide to commit fraud, and does not single out particular ethnic groups. A race equality impact assessment is therefore not considered necessary in respect of this proposal.

### **Costs and benefits for each option**

1. No additional costs would be incurred, but there would also be no opportunity to improve the current Loss of Benefit Provision process, and therefore deter more fraud from the benefit system.
2. Very limited costs would be incurred through issuing operational guidance to investigation staff with some minimal administration costs in relation to the extra cases identified which would be met from within existing funds. No training or extra IT systems would be required to support change as main process is already in place. Current analysis suggests that this extension would result in the sanction being applied to an extra 30-50 cases per year, that would have been prosecuted anyway. This figure will drop over time as the level of re-offending reduces. The benefit of increasing the period would be to build upon this already successful provision, by deterring more potential benefit fraud offenders.

3. The costs incurred and benefits gained from this option are the same as option two.

### **Small business impact/ competition assessment**

As this proposal would have no impact on the private sector, there are no competition issues and it will not affect any businesses.

### **Enforcement, sanctions and monitoring**

The enforcement of this sanction will continue to be automatically carried out through the reduction or cessation of the customer's benefit, in that benefits would be withdrawn for a 13-week period, or reduced by 20% or 40% for the same period, if the customer was within a vulnerable group, or if particular hardship would result. The penalty can be deducted prior to payment from all of the social security benefits except bereavement payments, retirement pensions, benefits paid for children, or those that cover the extra costs of disability.

The decision that the sanction applies carries with it the right of appeal to an appeal tribunal on a question of fact and law, as does the decision to award hardship and the appropriate amount.

The current Provision process is already being monitored to ensure it remains an effective solution in deterring benefit fraudsters.

A supporting IT system, which holds relevant data on the types and volumes of offences, will be updated to incorporate the change from three to five years. This has been checked by legal advisors who confirm that the extension of the legislation would be compliant with section 2(h) of the Data Protection Act 1998 and the Fifth Data Protection Principle. The use of this IT system will ensure that accurate monitoring will continue on the benefit to the Department of the total process as well as the legislative change.

### **Implementation and delivery plan**

If the proposal is accepted, it is hoped that the amendment to the current legislation would commence from April 2007.

Once a commencement date is agreed, we can amend operational guidance to staff and advise customers who commit benefit fraud of the change.

Local authorities will also be advised straight away via bulletins and appropriate meetings so that those who follow the Department's prosecution policy can reflect the change to ensure continued joint working practices.

### **Post-implementation review**

Monitoring of the original loss of benefit provision will be extended to ensure that the total process remains beneficial in tackling benefit fraud.

**Summary and recommendation**

It is the Department's view that extending the Loss of Benefit Provision as stated in option (2) will help towards achieving this aim, and the objective set out at the beginning of this Regulatory Impact Assessment.

## **VACCINE DAMAGE PAYMENTS, APPEALS IN NORTHERN IRELAND**

### **Objective**

This measure is to provide a legal basis for Vaccine Damage Payments (VDP) appeal cases to be heard by a Northern Ireland-constituted appeal tribunal. At present, there is no power to constitute an appeal tribunal in NI so appellants in NI must appear before a GB-constituted tribunal.

A full RIA has not been produced for this measure as it has no impact on the private or voluntary sectors and it has minimal impact on the public sector.

Although, this measure will result in an increase of appeal hearings by the Appeals Service (Northern Ireland), the effects on staff are minimal as there are so few VDP appeals in NI (less than 10 since 1998). Furthermore, there will be no extra costs for NI as the two legally qualified panel members are full time salaried appointments but saving will be made on travel costs for GB panel members travelling from GB to NI.

## **VACCINATIONS OUTSIDE THE UK/ISLE OF MAN**

### Objective

This measure extends eligibility for vaccine damage payments to those who receive vaccinations overseas by, or on behalf of, Her Majesty's Forces, a Government department or any other specified body.

Vaccinations given outside UK/Isle of Man to members of HM's Forces and their families are covered by the current scheme, whereas those given to crown servants and their families who, like members of HM's Forces, are posted overseas by or for the benefit of HM's Government are not. On grounds of equity, this measure extends VDPs to such crown servants and other categories of people, such as those seconded or contracted to the Government, employees of public bodies and bodies associated with HM Forces, and their families who are vaccinated abroad under similar circumstances.

Although, this measure is likely to result in an increase in VDP claims and, potentially, payments, the cost to public funds and effect on public sector manpower is minimal. Since the inception of the scheme in 1978, only five claims were received where the vaccination was given outside the UK/Isle of Man. Only one of these claims resulted in a payment (out of 920 payments in total since the Scheme began, including the extra statutory claims made prior to the introduction of the legislation). As there have been few claims and only one payment to date where the vaccination was given overseas to a member of HM Forces the cost implications for this new group of people are likely to be minimal.

A full RIA has not been produced for this measure as it has no impact on the private or voluntary sectors and it has minimal impact on the public sector.

## **DISABILITY LIVING ALLOWANCE AND ATTENDANCE ALLOWANCE**

**Withdrawal of payment of Attendance Allowance and the care component of Disability Living Allowance from residents in care homes – an amendment to section 67(2) and 72(8) of the Social Security Contributions and Benefits Act 1992.**

### Objective

This measure simplifies and clarifies the primary legislation that provides the regulation-making power to provide for circumstances in which payment of Attendance Allowance (AA) and the care component of Disability Living Allowance (DLA cc) can be withdrawn from those resident in a care home, namely where the cost of the accommodation is borne out of public or local funds under a specified enactment.

- A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- This is a purely technical measure that has no impact on public expenditure, and will neither increase nor decrease the numbers of care home residents from whom payment of Attendance Allowance or the care component of Disability Living Allowance, are withdrawn.

**Entitlement to Disability Living Allowance for people on or around the age of 16 years - amendment to sections 72 and 73 of the Social Security Contributions and Benefits Act 1992**

### Objective

This measure amends existing legislation which governs the application of the Disability Living Allowance entitlement conditions to people on or around the age of 16 years.

- A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- This is a technical measure that has no impact on public expenditure.