



Secondary Legislation Scrutiny Committee

Corrected oral evidence: Universal credit and Jobseeker's Allowance (Work Search and Work Availability Requirements – limitations) (Amendment) Regulations 2022

Tuesday 8 March 2022

4 pm

Watch the meeting

Members present: Lord Hodgson of Astley Abbots (The Chair); Baroness Bakewell of Hardington Mandeville; Lord Hutton of Furness; The Earl of Lindsay; Lord Lisvane; Lord Powell of Bayswater; Lord Rowlands; Baroness Watkins of Tavistock.

Evidence Session No. 1

Heard in Public

Questions 1 - 8

Witnesses

I: Baroness Stedman-Scott, Minister for Work and Pensions; Jonathan Mills, Director-General, Labour Market Policy and Implementation, Department for Work and Pensions; Hilton Leslie, Deputy Director, DWP Legal Advisers, Government Legal Department.

Examination of witnesses

Baroness Stedman-Scott, Jonathan Mills and Hilton Leslie.

Q1 The Chair: We will start with the important part. If any Member of the committee has any interest to declare, please do so now so that it is on the record. There are none.

Minister, welcome. We have a series of questions that we would like to ask you, and we look forward to hearing your responses to them. Let me open by asking if you could explain the compelling reasons that justify these regulations being used as emergency legislation that pre-empts the normal scrutiny processes of both Parliament and indeed your departmental statutory consult team, the Social Security Advisory Committee.

Baroness Steadman-Scott: We were in circumstances in which there was an opportunity for us to increase the support that we gave to people who were in the labour market. We have come out of the pandemic and we have employers almost begging us to fill their vacancies. The latest figures show that we have 1.298 million vacancies and 1.4 million people in the intensive work search category. The real motivation and the real urgency was to start working with this group to try to get half a million of them into work.

During the pandemic, work coaches did not see people face to face, but they kept in touch with them. Prior to the pandemic they would spend 50 minutes with claimants. This was reduced to 30 minutes in the pandemic and is now back up to 50 minutes. The urgency was that we had a wonderful opportunity. We had set ourselves a very stringent target and we wanted to utilise all the time available to ensure that we work with these people to get them to work.

The Chair: You will understand that we, and indeed our sister committee, the Delegated Powers and Regulatory Reform Committee, believe that there has been a push by the Executive at the expense of the legislature, so it is apart. We are not entirely clear what difference 20 days, which is the time taken to go through all the proper processes and which would have allowed for proper scrutiny, really made.

Baroness Stedman-Scott: As I have already said, we considered that we needed to use every measure possible to enhance our ability to support claimants into work. Given the need to start supporting people as quickly as possible, it is important that the regulations were brought into force immediately. We have the cost of living crisis, and we felt that that was the right thing to do.

Q2 The Earl of Lindsay: Minister, the legislation did not appear until 12 days after the announcement, and then it came into effect overnight. What was the reason for the delay in publishing the statutory instrument?

Baroness Stedman-Scott: The campaign was announced by the Prime Minister on 26 January, and policy formation happened soon after that.

The statutory instrument was then drafted accordingly, made and laid on 7 February, and came into force on 8 February when it was published. During the period between 26 January and 7 February, the department was drafting the instrument and the associated documents, and seeking agreement from the Parliamentary Business and Legislation Committee to make the instrument. I do not know whether my colleague who is responsible for policy in the department wants to add anything on that.

Jonathan Mills: I do not have an awful lot to add, but I would just emphasise a couple of points the Minister has made. This particular moment in time was the point at which the plan B restrictions had come to an end, and we knew that the demand in the labour market was really strong so there was a really strong case for us being able to get people into work. We wanted to launch this in campaign mode and, administratively for the department, to do so as effectively as possible in order to have the best impact for our claimants. So we wanted to have as many pieces of the jigsaw in one place as we could to begin with.

It is worth emphasising that this is part of the overall Way to Work programme, so there is regulatory change, increased contact with employers and increased work with data in the department all coming together to try to get the maximum impact for our claimants and for employers during this period.

The Earl of Lindsay: Thinking about getting all the pieces of the jigsaw into the right place, how advanced at the time of the announcement was the drafting of the instrument and of the Explanatory Memorandum?

Jonathan Mills: The policy intent was clearly formulated by Ministers. We knew what we wanted to achieve, so we were able to work that through into our plans for the campaign. As the Minister said, the work that remained after that point was to translate it into a form that could be laid in Parliament and tabled by the business managers in the usual way.

Q3 **Lord Powell of Bayswater:** Minister, it is still a little difficult to follow the exact chain of events. One might need to be Hercule Poirot to unravel this somehow, because, if you look at it, the target of the end of June was not in the announcement, but it did appear in the Explanatory Memorandum. At what point was the target date agreed, where did it suddenly materialise from, and what then was its particular significance?

Baroness Stedman-Scott: The Prime Minister announced the Way to Work campaign during Prime Minister's Questions on 26 January, and he actually said, "We are launching a plan tomorrow to get half a million people into work". The target was set and agreed during consultations with the Chancellor, the Prime Minister and our own Secretary of State, and a target of 500,000 was agreed to. It was acknowledged that it was stretching, but we just had to do what we could, with our energy, to work with people to get them back to work.

Lord Powell of Bayswater: The whole process was not suddenly thrown into a panic by an edict from Number 10 suddenly injecting the thought

of 30 June. That would be an entirely unjust thought, would it?

Baroness Stedman-Scott: I am not aware of that happening at all. There was energy to do the job, there was a real determination to do it. I would not use the word "panic" at all.

Lord Powell of Bayswater: It just seems a slightly confusing process to conduct when actually what you are describing is a quite simple task.

Baroness Stedman-Scott: I am particularly pleased that you acknowledge the simplicity of it, in that we want 500,000 into work by 30 June, but we just work through it and my colleague is here doing that.

Lord Powell of Bayswater: I do not think we are arguing about the policy at all.

Jonathan Mills: The particularly unusual circumstances here were the interaction with the pandemic and the interaction with the public health restrictions during the pandemic. We were not sure until relatively late in the day when those restrictions were going to come to an end, and that obviously affects the timing of when any activity of this sort could be undertaken. This hearing is testament to the fact that these are unusual procedures. These are not procedures that we use very often; they are pretty much unique circumstances, I hope, that we are dealing with here. The public health restrictions meant that it was quite hard to foresee exactly when we would be able to move in this fashion, and that is why some of the timescales were concertinaed somewhat.

Q4 **Lord Powell of Bayswater:** On one last aspect of it, the changes are focused on achieving a specific target. Why do the regulations not have a sunset clause to revert to the original 13-week permitted period from 1 July, let us say?

Baroness Stedman-Scott: We recognise the benefits of supporting people and claimants into employment quickly as the economy recovers, which is important. The Secretary of State has committed to keeping the regulations under review and would not want to have a sunset clause.

Lord Lisvane: Minister, I hope I am not misquoting you, but I think you said earlier that there was the announcement on 26 January and then the policy was developed. After about half a century in this building, I have got used to things happening the other way around: the policy is developed and brought to a certain point, and then an announcement is made. Why was this head over heels, as it were, from what one might see as normal practice?

Jonathan Mills: As I said, the policy intent, the objectives that we were going to secure through these regulations, were decided ahead of the announcement. The work to translate that and to finalise it in the form of the regulations happened after the announcement had taken place.

Lord Lisvane: The announcement followed the determination of the policy intent.

Jonathan Mills: The direction the objectives that we were seeking to achieve had been agreed in advance of the announcement.

Q5 **Baroness Bakewell of Hardington Mandeville:** Minister, which baseline unemployment figure are you using from which the 500,000 is to be deducted?

Baroness Stedman-Scott: The latest published statistics for December 2021 show that there were 1.4 million people in the universal credit intensive work search group who were not then employed. That is the basis that we have used, and the number of people we expect and aim to move and are working hard to move is the 500,000.

Baroness Bakewell of Hardington Mandeville: Thank you. What are the normal flows on and off the register in the period February to June, and therefore what value added do you anticipate these regulations bringing once the normal flows have been discounted?

Jonathan Mills: As I said when I started, these regulations sit as part of the overall package. We would not separate out the impact of these regulations from the activity that we are expecting to take place in jobcentres to bring more employers in—activity such as employer job fairs, better account management and better use of outcome data to monitor performance. It sits within that overall package.

To give the numbers some context, I am quite wary of trying to forecast what business as usual would be over the next few months, given the range of economic uncertainties out there, but if you look at the overall figures for the intensive work search group, they peaked in March 2021 at around 2.4 million, and came down to 1.7 million in January 2022. That is a slightly higher figure than the Minister used, because it refers to a very slightly larger group, but they give you an idea of the sort of changes that can occur in that group.

The 500,000 that we have committed to is a commitment to get people into work. The effect on the overall number of people on our case loads will be affected not just by that but by flows in the other direction, if they occur. If there was a significant change in the number of people coming out of work, that would offset it to some extent. We have not been seeing that very much—the redundancy data that the ONS publish are at relatively low levels at the moment—but that would give you some idea of the orders of magnitude that we are talking about.

Baroness Bakewell of Hardington Mandeville: In effect, you will not be able to measure whether you have actually achieved getting 500,000 people into work.

Jonathan Mills: We will be able to measure what we have done. The difficult thing is knowing what the counterfactual would be—what the world would be like otherwise—because at the moment the Chancellor will produce a Spring Statement and the Office for Budget Responsibility will produce its revised forecasts. The fan charts on the economic forecasts at the moment are so wide that it is quite difficult to tell in

advance. I am sure that after the event we will attempt to disentangle those factors and see how much of an additional impact our activity has had, but it is quite hard to get a baseline at the moment when there is so much uncertainty in the economy. Given that there is so much else moving around, part of the reason for setting a target is that giving our work coaches and jobcentres a really clear thing to aim at over this period has particular value.

Baroness Bakewell of Hardington Mandeville: To the claimants or to the jobcentre staff?

Jonathan Mills: To the jobcentre staff, in knowing what they are trying to achieve; and to the claimants, in knowing that the jobcentres are really focused on that and what support they are going to get.

Q6 **Lord Rowlands:** Minister, I once represented a constituency where, sadly, the number of job vacancies and jobs available were significantly lower than the national average. I suspect that today there are communities, constituencies, regions and areas where that is still the case. First, could the department provide us with the analysis and information on these regional variations? Would you be able to provide an example of how significant these variations are?

Jonathan Mills: The Office for National Statistics collects vacancy data and breaks it down, certainly below national level. I would have to check whether it breaks it down by constituency level, but we can certainly check what data are available.

Lord Rowlands: Are you aware, or do you expect, that there will be significant regional variations in job availabilities?

Jonathan Mills: We know that there are from the data available, although we also know that in all regions there has been a significant bounce back in vacancies from where the situation was during the pandemic.

Lord Rowlands: We must assume that there are such significant variations when implementing this plan. I see you nodding in acceptance of that. Are you going to take into account the significance of these variations?

Baroness Stedman-Scott: If I can just take us back a bit, there will be different levels of vacancies in different parts of the country, for the reasons that you have explained, and there are places where there are not as many vacancies as others. To counteract that, we have a national employer team that is focused on talking to employers and securing vacancies. If I were the head of the jobcentre network, I would focus it on the places where I needed to up the vacancies—so intensive work to engage with employers. We have local employer engagement teams, and they will be going out and speaking to employers and getting vacancies, and that will produce more vacancies. At the end of the day, to be perfectly straight, there will be some places that will not do as well as others.

Lord Rowlands: Anyway, although this programme is an immediate one, you will not get those sorts of changes in the same timescale. I am asking you whether, in the implementation plan, you will take into account that there will be communities and individuals who will not have the same advantage and opportunity because of the lack of such job vacancies? Are you going to take that into account in the way you implement the plan?

Baroness Stedman-Scott: Well, of course we will, and I think we have to.

Lord Rowlands: How will you do it?

Jonathan Mills: I know that my colleagues in the operational part of the department are most focused on how they can deliver the most improvement without holding everyone to the same standard. If you are in an area that has lots of vacancies, you would expect to have a shorter time to get people into work. We are trying to ensure that everybody across the piece is able to improve and maximise from what is available to them; that the maximum proportion of those vacancies can be filled.

Lord Rowlands: Will there be any communities where you will not apply the four-week rule?

Jonathan Mills: The rule is applied nationally, but, like all our work search requirements, it is about the support that we offer and about our expectation that claimants actively search for work. It is not a rule about their success in finding it. We recognise that some people will not be successful. We provide additional support through the Plan for Jobs, through the Restart programme for the long-term unemployed, and through other programmes for people who are not successful. This is just about the activity that we want people to be supported in doing, about the expectation we have of them in looking for work.

Lord Rowlands: I see no evidence in the information you provided that there will be any kind of local discretion, for example. Will there be local discretion?

Baroness Stedman-Scott: We currently have a 13-week situation where somebody can come in and say that they have worked in an industry all their life and that they would like to get another job in that industry, which is understandable. We allow 13 weeks for that. Because of the number of vacancies we have and the pull we are getting from employers, that will be reduced to four weeks.

Where somebody is looking for work, if there is no job in the field that they ideally want to be in but they have skills that can be transferred to another job, we will encourage them to take that job and still support them to look for the ideal job that they want. The longer you are out of the labour market, the more difficult it is to get back. By being with an employer, you have that discipline and you are gainfully employed. As

soon as a vacancy comes up that you ideally want, we will be delighted for you to go for it.

Lord Rowlands: In an area where it is quite clear that there are much fewer job vacancies and therefore it is more difficult to meet the new four-week rule, will the local jobcentre have discretion to waive it or extend it?

Baroness Stedman-Scott: My understanding is that our jobcentre staff use sensible discretion, but as far as I understand things and as they have been explained to me, the four-week rule will stay everywhere, and if there are other jobs that they can do, they will be encouraged to do them.

Lord Rowlands: What if there are not any, or very few?

Baroness Stedman-Scott: If there are none, they cannot.

Lord Rowlands: And that will be accepted.

Baroness Stedman-Scott: Yes, they cannot do anything else.

Jonathan Mills: Yes, exactly. All that these regulations, and our wider regime, expect of claimants is that they search for work; they are acting to seek work and to take it up if it is available. If work is not available, or if they are unsuccessful in securing it despite their best efforts, we continue to support them until such a point as they can. Our work coaches are people who live and work in their local communities, and know those communities inside out, and we absolutely look to them to use that knowledge to acquire that.

The Chair: Just to be clear for the committee, do jobcentres locally have discretion over whether to apply sanction or not?

Baroness Stedman-Scott: Oh, sanctions.

The Chair: The sanction is the four weeks.

Jonathan Mills: To be clear in this case, the sanction would apply at the end of a long process of consideration if somebody was not actively searching for work. If somebody is searching for work and the work is not available or they are unsuccessful despite their best efforts, our sanctions regime would not penalise them for that. It is only if they are not undertaking that activity.

Baroness Stedman-Scott: I have said many times in the Chamber that our work coaches do not go to work rubbing their hands saying, "How many people can I sanction today?" They go to work saying, "How many people can I get into work today?"

The Chair: I understand that.

Baroness Stedman-Scott: Somebody would be sanctioned only if there were a job that they could do but which, for no good reason, they would

not do. That is when a sanction would be applied, but it is the last thing in the world that our jobcentre people want to do.

Lord Rowlands: So the four-week rule will be universally applied in every jobcentre, irrespective of the local situation.

Hilton Leslie: That is the effect of the regulations.

Baroness Stedman-Scott: That is the effect of the regulations. We have the four-week rule. If, after four weeks, there is no vacancy or no job that an individual can go for, they will not be sanctioned, okay? If there is a job and it is very clear that they can do it, they may be nervous or hesitant or have been out the labour market for a long time, so our work coaches will work with them to help them to get the confidence to do it. It is only when they actually turn down work that they can do that a sanction will be applied.

The Chair: Is the department proposing to give any further information on how effective the "500,000 off the into-work register" is by area? Lord Rowland's point is that it may be very easy to get the 500,000 from some places, but not from others. Are we going to see where the 500,000 have come from at some point?

Jonathan Mills: That is a good question.

Baroness Stedman-Scott: It is.

Jonathan Mills: I do not know to what level the data will be disaggregated, but we should take that away, because, certainly at a management level, jobcentres themselves would know that.

The Chair: I think it would answer some of Lord Rowlands' worries, but if we can see how it was working across the country—

Baroness Stedman-Scott: Will you allow us to take that back to the department and write to you when we have had the opportunity to discuss it?

The Chair: Yes, sure.

Baroness Stedman-Scott: But the point is very well made.

Q7 **Lord Hutton of Furness:** Minister, your department said that there are not likely to be significant financial implications from the changes that you are making in this statutory instrument, but surely the movement of this number of claimants off unemployment benefits will result in some very significant financial savings? Can you explain why that is not going to be the case?

Baroness Stedman-Scott: Can I just make sure that I understand your question? Could you just help me by repeating it?

Lord Hutton of Furness: You said that these regulations will have no significant financial implications, but if you are successfully moving

500,000 claimants off the register, will that not result in significant savings?

Baroness Stedman-Scott: In terms of benefit payments?

Lord Hutton of Furness: Well, obviously, yes.

Baroness Stedman-Scott: When we move 500,000, there will be a saving in that capacity and we will have the added benefit of people paying tax and putting money into the coffers. But the financial implications, as we understand it, are likely to be small for a number of reasons, including that when people move into employment they sometimes keep an element of their UC—they do not lose it all—in order to ensure that they are better off in work. We will continue to monitor movements into work, and if we see even better performance than we are expecting, this could result in a larger financial benefit.

Lord Hutton of Furness: Can I just make sure that I am understanding one thing here? This statutory instrument is basically to require claimants to widen their job search after four weeks rather than 13 weeks, but you do not seem to be able to tell us, Minister, whether you think this particular change will help get any claimants off the register or not.

Baroness Stedman-Scott: Forgive me. If we are working with people with the intent of getting them into work, they will move off the register. Some of them will move and keep part of their UC because of the way UC works. Some of them might come off it completely and not need UC anymore. We are not saying that there will not be any, but the number is likely to be small.

Jonathan Mills: As you say, those implications will come from the campaign as a whole, not from these regulations taken in isolation. The other point that the answer was trying to make was that there are no further direct operational costs to the department from this, because we are delivering it through the use of work coach resource that we have in place and which we have budgeted for through the spending.

Lord Hutton of Furness: I am struggling even further now, because you presented this legislation to us as an emergency measure, so you bypassed all the normal procedures because it was an emergency. Yet you are saying to us that you cannot quantify what effect this particular change will have on the claimant count. It does not sound like an emergency to me.

Baroness Stedman-Scott: As I explained to start with, the emergency was that we are coming out the pandemic, we have high numbers of vacancies, and we have people who are out of the labour market, and the longer they stay out of the labour market, the worse life gets for them. The driver, the energy and the emergency was to get cracking to get them into work. That was, if you like, the emergency and the energy bit.

Lord Hutton of Furness: That I understand, but I do not understand how that relates to this particular statutory instrument. You have

repeatedly told the committee that you are not able to quantify whether this will have any appreciable effect on getting people off the register.

Jonathan Mills: If you wanted to quantify the impact of this measure, you would, first, need to be able to disassociate that from the other elements of the Way to Work campaign, which, as I have said earlier, include the outreach to employers and operational changes in jobcentres.

Secondly, and more limitingly in the current circumstances, you would need to have a counterfactual against which to assess it, and that is not something that we can provide at the moment. You would then need to take into account, as the Minister says, the ongoing costs that would be associated with universal credit for people once they are in work.

For that whole range of reasons, it would be rather arbitrary for us to attempt to put a financial saving against this at this point in time.

Lord Hutton of Furness: Obviously we are hitting a brick wall here. There is probably no point going on with this, but I am struggling to understand why it is, Minister, that you brought this emergency measure to the House and yet the department does not seem to know whether making this change will make any appreciable difference or not.

Baroness Stedman-Scott: I do not think there is any more I can say than I have said. Would you allow us to go away from this meeting and talk about this in more depth with others to see whether there is any further information we can provide that gives you a better degree of comfort?

The Chair: That would be very helpful.

Lord Hutton of Furness: I would be delighted if you could do that. I am just rather baffled why the department did not have that information before it started on the process that has led us to this committee hearing because of the emergency nature of these measures.

The Chair: You will let us have some further details, Minister, but could we press on? Baroness Watkins, you have the floor.

Q8 **Baroness Watkins of Tavistock:** Thank you very much indeed. Minister, I would just like to ask a supplementary in relation to the previous question first. If somebody has not been in work for a long time and then goes back to work for four hours a week, perhaps having not worked for five years, I fully accept that it might not change their universal credit cost very much—if we see it as a cost, or an investment, in that person—but are you saying that that would knock off one of the half a million, because that person would be entering work again?

Baroness Stedman-Scott: Well, they would have a part-time job.

Baroness Watkins of Tavistock: Yes.

Baroness Stedman-Scott: I am not sure whether we would split it into part time and full time.

Jonathan Mills: We might do after the event. That would be recording employment earnings. The number of people who move into work at that low level of part time is relatively small in general, but there are some quite important cases.

Baroness Stedman-Scott: That is an interesting point.

Baroness Watkins of Tavistock: There are a lot of people with mental health problems, and that would enable them to begin to go back.

Jonathan Mills: Yes, that would count.

Baroness Watkins of Tavistock: Thank you.

Baroness Stedman-Scott: I think you would be telling us that we were pulling a fast one if we claimed that four hours was a full-time job.

Baroness Watkins of Tavistock: I was actually thinking the reverse—that if you have somebody with a long-term problem back into work, it is progress—but everybody's interpretation is different.

Jonathan Mills: We certainly see quite a lot of people bridging into work through part time to begin with.

Q9 **Baroness Watkins of Tavistock:** My allocated question, however, is that the four-week limit will be applied to existing claimants, creating a peak, we understand, on 8 March, which is today. Your department told us that no extra resources are to be allocated, but how can existing jobcentre staff cope with what seems to be a sudden implementation of legislation?

I have another question. If somebody gets a job—for example, in the care sector, where there are so many vacancies—within four weeks but their DBS clearance is not through, can we be reassured that they will not be penalised? I checked the website this morning, and at the moment it says that it is 14 days to get a standard check and eight weeks for an enhanced DBS check.

Baroness Stedman-Scott: If I may, I will start with your second question, which is absolutely valid. If someone comes in during the four-week period, or just after they get a job, and it requires a DB check, we will wait with them for that DB check to happen and there will be no sanction or anything like that.

In terms of the resource element, as a result of work done during the pandemic, a number of scenarios were developed for the number of people we might be dealing with after the pandemic ended and when we wanted to get people into work, so we doubled the number of work coaches. We have also opened 200 new jobcentres around the country, so we have put the resource in place to deal with them—the buildings and so on. Of course, we do not actually see today that there are another 50,000 people joining. These people are coming on all the time, so it is that cohort that we are dealing with. Prior to the pandemic we gave everybody 50 minutes with their work coaches, and we reduced it to 30

minutes during the pandemic. We are back up to the 50 minutes and we are getting back to business as usual. The resources are in place to deal with them.

The Chair: Thank you, Minister. You very kindly said that you would write to us and, picking up the themes of the members of the committee, we would be grateful if your response could focus on the following things: the financial consequences, internally for the department and externally for HMRC or UK plc—I do not think Lord Hutton quite got to the bottom of that one in our discussion, and you may need a bit more time to think about it; the issue of availability of work in different parts of the country as part of the process of getting half a million people off universal credit—Lord Rowlands’ point; the sanction regime and who calls the shots, in a bit more detail than we were able to learn about; and, finally, Lord Lisvane’s point about the timing within which this policy was formulated and then brought forward—there are questions about how the Explanatory Memorandum and the different parts of it were put together.

If we could get satisfactory answers to those questions, I think the committee would feel a lot happier about the value of this instrument being anything other than, dare I say it, gesture politics. Minister, is there anything you would like to say before we finish?

Baroness Stedman-Scott: I hope we have answered your questions as you would wish. We know where we have homework to do and we will go away and do it. I would just say that if any of your members have further questions afterwards, the door is open.

The Chair: I thank you and your officials very much, and the way you kept smiling during our cross-questioning. Thank you very much.