

The Rt Hon Thérèse Coffey MP  
Secretary of State  
Department for Work and Pensions  
Caxton House  
6-12 Tothill Street  
London  
SW1H 9NA

23 June 2022

Dear Secretary of State,

***The Universal Credit and Jobseeker's Allowance (Work Search and Work Availability Requirements – limitations) (Amendment) Regulations 2022***

We are grateful to Jonathan Mills, Ian Caplan and Tom Younger for presenting the above regulations to us for statutory scrutiny, and for providing engaged responses to the Committee's questions. We are also grateful to Jonathan Mills and Ian Caplan for subsequent discussions.

These regulations are part of a package of measures supporting the 'Way to Work' scheme, which has a goal of securing 500k individuals moving from the intensive work search group in Universal Credit or from New Style Jobseeker's Allowance claimants into employment (or self-employment) over the five months from the end of January to the end of June. The effect of these regulations is to reduce the 'permitted period' – the time during which a Universal Credit or Jobseeker's Allowance claimant can limit their work search to work in their preferred sector or level of remuneration – from 13 weeks to four.

After very careful consideration, the Committee has concluded that, under the powers conferred by Section 173(1)(b) of the Social Security Administration Act 1992, it does not wish to take these regulations on formal reference and that they may proceed accordingly. However, in recognition of the fact that the decision was finely balanced, I am writing to place on record a number of concerns identified by the Committee and to advise you on how best to proceed, given the opportunity to learn from emerging evidence over the next few months.

In undertaking its scrutiny, the Committee took as its starting point the Government's policy intent to achieve a significant off-flow from out-of-work benefits into employment by June. The context given for this change was the unprecedented level of transition in the labour market, and in particular the unusually high level of vacancies. We also recognise that the permitted period shortening is only one of a number of measures implemented to help secure such an employment target. Consequently, we focussed our scrutiny on the role of the regulatory changes in enhancing the overall policy intent of the Way to Work scheme. This scrutiny focussed on a number of themes:

- whether the policy response was proportionate to the scale of the challenge;
- the evidence-base underpinning the decision of moving from 13 to 4 weeks;
- the potential negative impacts of the regulatory change;
- evaluating the effectiveness of the regulations; and
- the need for speed and the consequence of invoking the urgency provision.

### *Scale of the challenge*

In order to assess whether the regulation change could deliver and was proportionate to the policy intent, we were keen to understand the relative size of the role of the regulatory change in combination with the other measures as part of the Way to Work scheme, and the scale of the increase in off-flow into work that would be expected to be required to achieve the 500k target. Officials were unable to provide an estimate of the overall scale of the change from the combined programme or of the expected contribution of the regulatory change. We appreciate that this is difficult to do, but whether this goal involves an increase in off-flow rates of 10%, 50% or 100% compared to an expected counterfactual has a material impact on the proportionality of the policy response.

Given that the off-flow from benefits into employment for the month of February (which would be unlikely to have yet been significantly affected by the programme's components) had been estimated at around 114K<sup>1</sup> – so that on average only 96.5K per month needed to be achieved over the remaining four months to meet the target – it seems as if the required impact could be at the lower end of the scale, and more aligned to avoiding a drop in off-flow rates rather than appreciably boosting them.

We also sought to understand the number of jobseekers whose search expectations would be changed by these regulations for the duration of the scheme. Unfortunately, officials were not in a position to provide an estimate of the scale of the change.

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<sup>1</sup> Stat-Xplore, 12 April 2022

## *Evidence base*

We were informed that the rationale for the reduction in the duration of the permitted period was that there was a unique moment in the labour market as, post-covid, there were significantly higher than normal levels of sectoral shift and high levels of vacancies – which meant there would be greater benefit from jobseekers expanding their search into new sectors at an earlier point.

We have sought access to evidence that could underpin the basis of the decision to shorten the permitted period. We understand that the choice of four weeks as the new duration was a judgment informed by feedback from work coaches. However, no data or explanation has been made available to indicate what the impact would be of making the change. In fact, the evidence offered indicated that there was no noticeable increase in the historic off-flow rate after the 13-week point, suggesting that the extant pattern of broadening of the work-search expectations, at least at this point, did not have a discernible impact.

Our concerns are compounded by the lack of a clear positive outcome expected as a result of the reduction in the permitted period. We are told that no estimate is available of what a positive outcome would be either in terms of the number claiming the benefits, or the fiscal impact though presumably these have been incorporated in the latest forecasts produced by the Office for Budget Responsibility and adopted by the Government in the Spring Statement.

We asked your officials for an assessment of the baseline (historic) patterns of off-flow, and how these might have been expected to evolve in coming months absent these change in these regulations, alongside any early indication of patterns in the early months of the programme (see Appendix for details). Unfortunately, this information has not been shared with the Committee.

## *Potential negative impact*

At the time of our scrutiny, no assessment had been made of the risk of individuals entering roles that were inconsistent with their qualifications/experience, or simply wrong for them in terms of their career path and ambitions, nor of the risk that increased competition from more highly qualified people would make it more difficult for longer-term unemployed people to find work. Similarly, no consideration had been made of the impact on those with part-time, or other flexible, job-search expectations for whom the four-week cut-off could be disproportionate and one that will certainly vary by protected characteristics, most obviously sex and disability.

There was some acknowledgement that there may be negative consequences from these changes, for example increased cycling on and off benefits, and job mismatches leading to more churn for employers and to claimants potentially having career paths hindered. However, there was no analysis of how to mitigate against negative effects, particularly where those with protected characteristics might be disproportionately impacted.

### *Evaluating the effectiveness of the permitted period change*

These regulations were brought in to deal with a unique moment in the economy as it reopened from Covid restrictions, resulting in a very high number of labour market vacancies. However, the regulations do not have a sunset clause and the Committee would be concerned that, without a proper review of the impact of these regulations, they may be left on the statute book, despite the labour market situation having substantially changed. Therefore, the Committee very much welcomes that in your letter to me of 3 February, you committed to undertake such an evaluation of the regulations at the end of June to assess their effectiveness and whether they should be retained.<sup>2</sup>

The way in which the regulations would be reviewed in terms of (a) by what criteria they would be deemed a success, and (b) how such criteria would be evaluated is in need of detailed thought. It will also be important to differentiate the criteria on which the regulations are evaluated with respect to the current unique point in time and the assessment whether they should be retained for what should then be much more normal times ahead. However, when we asked officials how they plan to undertake this, it was clear that such thinking had not yet matured.

### *Urgency*

The regulations had been laid under the urgency provision before being presented to this Committee for scrutiny.<sup>3</sup> I have previously written to you seeking a better understanding of the nature of the urgency in this instance.<sup>4</sup> As you know, this Committee is supportive of the use of ‘urgency’ where legislation is being brought forward as a direct consequence of either an external factor or a fiscal event. Indeed we welcomed the use of urgency, and expedited our own statutory scrutiny process, to

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<sup>2</sup> [Letter from the Secretary of State for Work and Pensions to Dr Stephen Brien](#) (3 February 2022)

<sup>3</sup> In accordance with section 173 of The Social Security Administration Act 1992 which states that “*Nothing in any enactment shall require any proposals in respect of regulations to be referred to the Committee ... if (a) it appears to the Secretary of State that by reason of the urgency of the matter it is inexpedient so to refer them*”;

<sup>4</sup> [Letter from Dr Stephen Brien to the Secretary of State for Work and Pensions](#) (7 February 2022)

ensure that essential support could be introduced quickly in response to recent crises in Afghanistan and Ukraine. However, a compelling argument for urgency in this specific case remains unclear to us.

We were informed that the regulations had to bypass the scrutiny of the Committee before coming into force, as “every day” was essential in ensuring that the Government can meet its own target. However, there was no explanation of what impact there might be in waiting a few weeks for the Committee to complete its statutory scrutiny – either on the specific issue of the target or in terms of the broader proposals.

Similarly, it is not clear why the target could not simply have been put back a short period, or why the rest of the Way to Work programme could not proceed whilst the permitted period proposals were considered by the Committee.

### *Recommendations*

The Committee appreciates that, given the Government’s desire to implement policy change at pace, a number of decisions were performed on the basis of judgment and without the underpinning evidence base that would be typically available. However, given that our scrutiny was undertaken two months after the announcement of the policy, we had hoped that a deeper analysis of the scale of the challenge, underlying evidence and assessment criteria would have been ready to be shared with the Committee. The Committee is also concerned that, despite the rationale given for the change being the unprecedented condition of the labour market, there is no sunset clause, which makes evaluating its impact all the more essential.

**Recommendation 1:** In situations where urgency is invoked, the development of a strong and transparent evidence base and impact analysis should continue expeditiously, so that there is a well-grounded basis for subsequent scrutiny.

**Recommendation 2:** Given the absence of a sunset clause, the criteria for assessing the effectiveness of the regulations, and also the criteria for considering whether they should be retained, should be shared with the Committee for consideration and review in advance of the assessment process at the end of June. Once confirmed, these criteria should be published ahead of the evaluation.

In light of the fact that these regulations have now been in force since the end of January, and the light evidence base to date, we consider the upcoming evaluation of these regulations at the end of June an important opportunity to review a stronger

evidence base and engage in a considered scrutiny of the decision whether to retain the four-week limit or, for example, to return it to 13 weeks.

**Recommendation 3:** The review includes an assessment of the patterns we sought as part of this scrutiny (see appendix), with a comparison (where feasible) between the pre-pandemic rates and those within the 'Way to Work' period.

**Recommendation 4:** The findings of the review and the justification of the decision to retain or adjust of the duration of the permitted period should be presented to the Committee for consideration – and made publicly available – as soon as they are ready, so that we can have a better understanding of the full impact of these regulations.

Should you wish to discuss these points any further, I would be delighted to meet with you and your colleagues to do so.

A copy of this letter goes to Lady Stedman-Scott, the Minister for Employment, the Permanent Secretary, Kate Davies, Ian Caplan and Tom Younger.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Stephen Brien'.

Stephen Brien  
SSAC Chair

## Appendix

Analysis requested for scrutiny and also subsequent review. We would like statistics on each of the following, by month, for as far back as the data allow (certainly extending back into pre-pandemic years) alongside any assessment of how they might evolve in coming months both with and without the recent change in regulations:

- total numbers who off-flow into work;
- numbers who off-flow into work in weeks 1-4;
- numbers who off-flow into work in weeks 5-13;
- a breakdown of those cohorts by protected characteristics, including sex, age, and disability;
- the numbers with part-time job-search/work requirements;
- a breakdown of these cohorts by Universal Credit and New Style Jobseeker's Allowance;
- categories of jobs (by sector) taken by those off-flowing into work;
- the drop-out from work rates for those cohorts;
- the cycling back into the benefit rate;
- numbers of older people who drop out of the labour market;
- sanction rates for failing to extend work-search including, if possible, by region;
- sanction rates by protected characteristics.