

The Social Security (Jobseeker's Allowance and
Employment and Support Allowance) (Waiting
Days) Amendment Regulations 2014
(S.I.2014 No. 2309)

Report by the Social Security Advisory Committee under
Section 174(1) of the Social Security Administration Act
1992 and statement by the Secretary of State for Work
and Pensions in accordance with Section 174(2) of that
Act

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Pensions pursuant to Section 174(2) of the Social Security
Administration Act 1992*

September 2014



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Print ISBN 9781474110655

Web ISBN 9781474110662

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

ID 29081402 09/14

Printed on paper containing 75% recycled fibre content minimum

**Statement by the Secretary of State for Work and Pensions in
accordance with Section 174 (2) of the Social Security
Administration Act 1992**

**The Social Security (Jobseeker's Allowance and Employment and
Support Allowance) (Waiting Days) Amendment Regulations 2014**

Introduction

1. Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) are income replacement benefits for jobseekers and people with a health condition or a disability. Both benefits have rules which prevent the payment of benefits for three days at the start of the claim. These are known as "waiting days". They are intended to discourage very short term claims and have been a feature of the social security system for more than a century. Some claimants are exempt from waiting days, for example, where they have claimed certain benefits within the previous 12 weeks, or where they are terminally ill, or under 18 and in severe hardship.
2. The extension of waiting days from three days to seven was initially announced by the Chancellor of the Exchequer in the 2013 Spending Review. The inclusion of ESA within this change was confirmed in the 2014 Budget Statement. The savings from the waiting days change are intended to help fund a package of new conditionality measures to support people to return to work.
3. Proposals for regulations were referred to the Social Security Advisory Committee ("the Committee") on 7 May 2014 for consideration in accordance with Section 172 (1) of the Social Security Administration Act 1992. The regulations apply to both contribution-based and income-based benefit entitlement. The existing exemptions continue to apply.
4. The Committee decided to take the regulations on formal referral and conducted a consultation exercise on the draft Social Security (Waiting Days) Amendment Regulations 2014 with a broad range of organisations and individuals between 23 May and 13 June 2014. The Committee subsequently delivered its report on 1 July 2014.

The Committee's Report and the Government Response

5. The Secretary of State for Work and Pensions welcomes the Committee's report on the draft Social Security (Waiting Days) Amendment Regulations 2014 and the constructive nature of the recommendations. The Government is also grateful to the Committee and its Secretariat for working closely with officials throughout the referral and consultation process.

6. The Committee was concerned about the potentially negative impacts on claimants due to the reduction in the value of the first benefit payments made to new claimants that would result from this change.

7. The Government has considered the views of the Committee; a response to each recommendation is provided.

The report of the Committee makes the following recommendations:-

The Committee strongly recommend that a robust analysis of the costs and benefits should be undertaken and published before a decision is taken on whether the proposed changes should proceed. Without such analysis we recommend the regulations should not proceed.

Response –

8. The Government accepts this recommendation. The analysis undertaken prior to the Committee's consultation primarily took the form of an Equality Analysis and considered the impact of the proposal on certain prescribed groups. Some additional analysis was also provided in our explanatory memorandum, assessing the proportion of claimants that might be most at risk of hardship from the increase in waiting days, based on available data on past employment and household resources.

9. In light of the Committee's recommendation, the Government has looked again at the data available to it, and undertaken a further analysis of that data. That analysis is contained in an Impact Assessment which is published with the regulations.

10. The Government has taken its original analysis further to identify and evaluate factors which might affect the risk of hardship in individual cases, including the household composition, the proportion of JSA and ESA claimants who are personally responsible for housing and other household costs and the level of claimants' recent earnings, including the proportions of claimants who are likely to have been monthly, rather than weekly, paid.

11. The analysis confirms the Government's original position that it is reasonable to expect the great majority of ESA and JSA claimants to support themselves during the first 7 days of sickness or unemployment. The data available is limited, but it shows, for example, that around 82% of JSA claimants and 74% of ESA claimants who are required to serve waiting days do not receive Housing Benefit in the month of their claim. This suggests that they are either living in another person's household, or are in receipt of contributory JSA or ESA and have family income at a

level which disqualifies them from Housing Benefit. In addition, more than 50% of JSA claimants have come to the benefit from monthly paid work.

12. The data also shows that the existing rules which exempt people from waiting days if they have a recent history of receiving benefit are for the most part effective in protecting people who have the most insecure financial background.

13. None of this analysis contradicts the representations made to the Committee in the course of its consultation that the loss of four days benefit at the outset of a person's claim may cause hardship for some individuals and families and in some cases have a minor consequential impact on other organisations. It has not been possible to establish either the numbers or the level of hardship risk for specific groups identified by the Committee's respondents, for example, homeless people and people with mental health issues. This is because of the lack of available data, especially in the light of the wide variety of personal and financial circumstances that may exist even within specified groups. The Government accepts that the loss of four days benefit may cause financial difficulties for some people because their JSA or ESA claim coincides with a period of disruption in their lives.

14. The analysis does demonstrate however that overall the number of claimants at risk of hardship is likely to be a small minority of the total number of claimants to the two benefits.

15. The Committee also requested information relating to how savings generated by the waiting days change are being spent. These will be invested in a range of initiatives which improve the integrity of the benefits system, reinforce the requirements on claimants to take all possible steps at the earliest opportunity to look for or prepare for work, and to offer support in doing so. Specific initiatives being funded or partly funded by the waiting days change were announced by the Chancellor last year as part of the 2013 Spending Review package and include:

- upfront work search, requiring all claimants to prepare for work and search for jobs right from the start of their claim: required activities may include producing a CV, (supported by CV clinics where necessary), creating an email address, registering on Universal Jobmatch and undertaking a high level screening for potential skills gaps;
- English language requirements: all new JSA and Universal Credit claimants, at their first adviser interview, will be screened for spoken English (or Welsh for some claimants living in Wales) and where ability falls below Entry Level 2, they are mandated to a provider for a detailed assessment and provision to improve their speaking and language proficiency. This is intended to give people the help they need to find work so they can improve their and their family's lives. It will also help employers fill their vacancies and contribute to economic growth

- weekly work search reviews: At least 50% of claimants on JSA who are subject to intensive work search requirements, are required to attend a weekly (rather than fortnightly) work search review at their adviser's discretion.
- quarterly work search reviews: claimants on JSA who are subject to intensive work search requirements, are required to attend an additional advisory interview every 3 months. The content of the interview includes a review of the previous quarter's activities, the claimant's skills, and widening the claimant's job search.
- lone parent conditionality: To strengthen conditionality for certain groups of lone parents and nominated carers by introducing mandatory interviews for certain lone parents on Income Support and in the ESA work related activity group whose youngest child is aged under 5. This measure ensures that parents, particularly those with a youngest child aged 3 or 4, have access to work related activity that is tailored to their needs, in the year before they move to JSA.
- annual verification: we will require income-based JSA claimants to verify their award for benefit at annual intervals, to ensure their continuing eligibility.

16. All these measures together contribute towards a core theme of the Government's welfare reform policies: to ensure that people are significantly better off in work; to increase what is required of claimants in exchange for benefits; and to strengthen how DWP monitors compliance with that increased conditionality. The combination of these measures, together with the other reforms the Government has undertaken, are designed to reduce the number of households who do not work and to address the culture of benefit dependency, and the effects of these policies are evident in recent employment statistics.

17. While it is too early for these new policies to have been evaluated, there is strong evidence that past initiatives of this sort are effective in reducing the length of time that claimants spend on benefit. Therefore, by using the savings from the waiting days change to help fund the administrative costs of the broader package of initiatives, the Government expects many claimants to move to work more quickly, an outcome which is positive for individuals, Government and the economy as a whole. On benefit spend, for example, the Department has made estimates of the savings that will accrue from weekly signing and quarterly work search reviews which total around £165 million in 2016/17.¹ These estimates have been verified by the independent Office for Budget Responsibility. There will also be advantages to individuals who move into work more quickly as a result of these interventions. For example, a single JSA claimant helped into full-time work at the minimum wage (disregarding housing and children's benefits) just a week sooner as a result of such interventions would be in the region of £150 better off.

18. The Committee has acknowledged the tough choices that the Government has to make on public spending. In this case, the Government has made the judgement that the risks of extending waiting days are outweighed by the benefits that can be derived from re-investment of the financial savings. The Government is

¹ [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209038/spending-round-2013-policy_costings.pdf]

satisfied that, for the minority of claimants who may suffer hardship from the proposal, there is sufficient mitigation in place through, for example, the Short Term Benefit Advance scheme or through other benefits that may be available, for example, Working Tax Credit which is paid for 4 weeks following the end of employment. The Government therefore intends to proceed with the regulations.

Extend the current set of exemptions: The Committee believes that the respondents have provided a particularly compelling case for the exemption of ESA from the new proposals, but the Department should consider the other vulnerable groups identified within this report.

Response -

19. The Government does not accept this recommendation. The question of whether the extension to waiting days should apply to ESA has been carefully considered. The existing 3 day waiting period applies to both JSA and ESA and the policy objective of deterring short-term claims from people who have short-term periods of unemployment or sickness applies equally to both benefits.

20. There is no evidence that there is any greater risk of financial hardship to ESA claimants than to JSA claimants. ESA claimants already benefit from exemptions that apply if for example they have had an award of certain other benefits (including Statutory Sick Pay) in the last twelve weeks, or if they are terminally ill, which means that about 60% of ESA claimants are exempt from waiting days. In addition, ESA claimants can be eligible to benefit for periods of sickness commencing up to three months prior to the date the claim is made, so they are less likely than JSA claimants to suffer hardship simply because they have delayed making a claim.

21. While people with disabilities are more likely to have lower average incomes, this is because they are likely to be receiving benefits for long periods. The proportionate effect of a 4 day increase in waiting days is less, the longer the duration of the benefit award. Just as with JSA, some ESA new claimants will also have their own or a partner's earnings or savings upon which to draw. Disabled claimants may also be receiving other benefits, such as Disability Living Allowance, which, although not intended to meet day-to-day living costs, may be drawn upon during a temporary disruption to other income. Our analysis shows that ESA claimants tend to have earned less on average in the period before their claim, but there is no significant difference between the available savings of ESA and JSA claimants. As with JSA claimants, a high proportion of ESA claimants affected by waiting days do not receive Housing Benefit, so are likely to be either living in someone else's household or to be contributory claimants whose overall income excludes them from means-tested benefits.

22. The Government also considers that to exempt ESA claimants from the change would create a perverse incentive for people to claim ESA rather than JSA in order to get an additional 4 days' benefit. This is because for the first 7 days of a claim, claimants can provide a self –certificate for their illness rather than get a medical certificate (now known as a fit note) from their GP. Forecasts in the 2013 Autumn Statement show that the number of ESA claimants is increasing. There is already a risk that people are seeking to avoid more stringent work conditionality rules in JSA by claiming other benefits, and the Government is concerned that we do not add to this risk by introducing a disparity in waiting days policy between ESA and JSA.

23. To exempt ESA would also be inconsistent with the future Universal Credit position where, due to the different structure of the legislation, most sick and disabled claimants will be placed in the all work-related requirements group (and will therefore, under current proposals, be subject to waiting days) until a Work Capability Assessment has been conducted and a decision taken on whether they have limited capability for work, or for work and work-related activity. (While a claimant presents medical evidence indicating they are unfit for work, their work-related requirements will be tailored. We will not impose work-related requirements on claimants who we cannot reasonably expect to look for or to prepare for work.)

24. The Government has also considered whether it is possible to exempt other vulnerable groups, noting that many representations have been made from different people and organisations, including those representing care leavers and domestic violence sufferers about the potential hardship that may be caused to claimants in specified circumstances. Whilst the Government accepts that any policy such as the increase in waiting days which applies general restrictions to benefit entitlement may result in hardship in some cases, the sheer range and variety of circumstances which may lead to hardship demonstrates the difficulty of introducing exemptions in legislation which would be simple to apply and fair in their application.

25. To introduce exemptions would reduce the financial savings from the change. Also, unless a complicated three-tier system is introduced, whereby some people serve 7 waiting days, some 3 and some none at all, the effect of new exemptions would be that some groups who currently serve three waiting days would serve none, reducing savings still further.

26. To introduce new exemptions would also complicate the claim process, would require the provision of additional evidence to prevent abuse of the arrangements, and require changes to IT functionality. This would be particularly difficult in the context of fortnightly benefits such as ESA and JSA where the first payment is usually due within two weeks of the date of claim and, in the case of ESA, there is normally no opportunity to interview the claimant prior to awarding benefit. Current exemptions in ESA and JSA are based on readily available factual data, such as

past benefit awards, or are applied to cases (such as the terminally ill and JSA severe hardship cases) where there are already separate processes for identifying and dealing with claims.

27. It is also worth noting in this context that, contrary to some of the representations made to the Committee, the change to JSA and ESA waiting days will have no impact on awards of Child Tax Credit and Housing Benefit. As now, these benefits will be payable at the maximum rate from the outset of a successful claim to income-based JSA and income-related ESA (including the waiting day period).

28. The Government's conclusion is therefore that to introduce further exemptions would not only reduce the savings from the change, but also could be counterproductive for individuals by complicating and delaying the processes for award of benefit.

29. Instead, the Government remains committed to further improving the efficiency of claims processing for both JSA and ESA, in order to ensure that awards are made as quickly as possible following claims.

Strengthen the existing process for highlighting the availability of STBAs and ensure that they are proactively and consistently signposted. In particular, it will be important to ensure that staff (through training and appropriately worded scripts) are encouraged to identify potential hardship and, where it has been identified, explain the process to the claimant. It is also important that the Department ensures that all supporting information channels, such as GOV.UK, highlight the existence of STBAs.

Response –

30. The Government accepts this recommendation in part. Short Term Benefits Advances (STBAs) are an advance against future benefit payments. As such, for those claimants who are entitled to benefit and in financial need, they can offer valuable help in the early days of a new claim. However the Government has a responsibility to both claimants and taxpayers to ensure that advances are made responsibly, which is why there are qualifying criteria that have to be met before any advance may be made.

31. STBAs are not a separate scheme to be advertised in the way that benefits are, or that the budget capped Social Fund was. STBAs are instead an advance of a primary benefit, such as JSA, ESA or Income Support, and as such, it is rightly the primary benefit that is advertised on sites such as GOV.UK.

32. In most cases, the best outcome for claimants is to receive their first benefit payment on the right date, rather than needing to request an advance of benefit and at present around 92% of benefit payments are processed on time. In the first year of operation, around 30% of STBA applications were cleared by paying benefit instead. While the waiting days change may result in a reduction in the amount of that first payment, it is likely to still meet the immediate needs of the claimant in a significant proportion of cases. When an advance is paid, it is necessary to ensure that the claimant can afford to repay it, as the Government has to balance the needs of the claimant with its duty to protect the public purse for the taxpayer. It would be irresponsible to offer a claimant an advance that they cannot really afford to repay and which would leave them with insufficient benefit to live on.

33. When an STBA is awarded the Decision Maker discusses repayment with the claimant, so that a recovery schedule can be agreed and the claimant understands the impact of the deductions on their budget. Unless the claimant requests an earlier repayment, STBA recovery does not normally commence until the second full benefit payment, allowing the claimant time to adjust their budget accordingly. However, delaying recovery further poses a risk to the taxpayer as many claimants move off benefit within the first few weeks, so the option to temporarily defer recovery is only available in very exceptional circumstances, such as for someone fleeing domestic violence.

34. Where an STBA request is refused, the claimant has the opportunity to discuss the reasons for the decision and provide further supporting evidence if they wish. Where claimants feel due process has not been followed they are free to ask for their application to be reconsidered.

35. As the Committee has recommended, communications will be issued to all staff to improve staff awareness of benefit advances and remind them of the circumstances in which an advance should be considered. When a new claim is taken, staff will make it much clearer to claimants when they can expect their first payment, and its likely amount. With this information, the claimant will be in a much better position to assess their own financial position and to budget accordingly. If at any time between making the claim and payment of the first benefit payment the claimant declares to staff that they are in urgent financial need, they will be advised of the STBA facility and how to make an application.

The Department should develop a clear communication strategy to ensure that there are no misunderstandings about the policy which could lead to further hardship for claimants.

Response –

36. The Government accepts this recommendation. It is already taking steps to give clear information to claimants about the waiting days policy, its impact on the timing and amount of their first benefit payment, and the availability of advances in cases of need. This includes publicising the change on the Gov.uk website alongside the existing information we provide to claimants about JSA and ESA.

37. Telephony scripts are being amended to ensure that an explanation about the requirement to serve waiting days is given in the course of a telephone claim to benefit. The JSA On-Line application process will also describe the change. Guidance to staff who work with JSA and ESA claimants is being enhanced to ensure that an explanation of the waiting days change can be provided. All relevant staff will receive awareness training and information packs which describe the change. Staff not directly affected by this change will receive awareness communications.

The Right Honourable Iain Duncan Smith MP
Secretary of State for Work and Pensions
Caxton House
London
SW1H 9NA

1 July 2014

Dear Secretary of State,

The Social Security (Waiting Days) Amendment Regulations 2014

1. Introduction

- 1.1 The Committee² considered the above draft regulations, which extend the period of waiting days at the start of an award of a jobseeker's allowance (JSA) or an employment support allowance (ESA), at its meeting on 7 May³.
- 1.2 The Chancellor of the Exchequer had initially signalled the Government's intention to bring forward legislation that would extend the number of waiting days in JSA from three days to seven on 26 June 2013.⁴ He subsequently provided more detailed proposals in the Budget Statement on 19 March 2014, confirming that new claims for contributory and income-related ESA would be included.⁵ No public consultation on the proposed change had been undertaken by the Government either prior to, or following, either of the Chancellor's statements.
- 1.3 The proposal will generate savings of £50 million in 2014-15 which will be invested in several new labour market measures to support claimants into work (for example by improving the English language skills of claimants and providing more resources to support lone parents in returning to work).

² The Committee's membership is listed at appendix 3.

³ The draft regulations and supporting documentation is produced at appendix 4.

⁴ Hansard 26 June 2013 Col 315. The Chancellor said: "*We will also introduce a new seven-day wait before people can claim their benefits. Those first few days should be spent looking for work, not looking to sign on*".

⁵ Budget 2014 HC 1104, page 70, para 2.102

- 1.4 During its consideration of the Social Security (Waiting Days) Amendment Regulations 2014, the Committee was mindful of the potential impact that the change would have upon significant numbers of benefit recipients. We therefore took the view that it would be beneficial to look more closely at the proposals and to provide advice that was informed by the experience and expertise of a range of organisations and individuals. Accordingly, the Committee requested the formal reference of the draft regulations in accordance with sections 172(1) and 174(1) of the Social Security Administration Act 1992, and put them and the accompanying documentation out to public consultation between 22 May and 13 June.
- 1.5 The Committee is grateful to the representatives of organisations⁶ and other individuals who responded to the consultation, providing 81 sets of comments in all. We are also grateful to the DWP officials who provided assistance and support throughout the process. A summary of our recommendations is at appendix 1.

2. Background

- 2.1 The concept of waiting days goes back over a century.
- **1911:** waiting days featured in the National Insurance Act when, in common with the proposals being considered here, they were prescribed as seven days for unemployment benefit. This was a period of non-entitlement.
 - **1937:** the waiting day period was reduced to three.
 - **1942:** the Beveridge reforms changed the nature of the waiting period. Under the National Insurance Act 1946 a contributor to the National Insurance Fund could be reimbursed for the three waiting days if their period of unemployment became extended. That approach safeguarded against disproportionate administrative costs associated with benefit claims for short gaps between employment, for example leaving a job on Friday, starting new employment on the following Monday and claiming unemployment benefit for the intervening period. In that sense the term “waiting days” was apt – a person waited to be reimbursed for the days in question.
 - **1971:** The waiting days reverted to being a period of non-entitlement to benefit.
 - **1996:** At the point at which Unemployment Benefit and Income Support for the unemployed was replaced with JSA, the concept of waiting days was extended from contributory benefits to income-related benefits. The Government of the day sought to introduce proposals similar to those currently under consideration, except that the extension of waiting days was limited to JSA. The proposals were initially introduced by the then

⁶ A list of the organisations who responded to the consultation exercise is at appendix 2.

Secretary of State for Social Security, the Rt Hon Peter Lilley MP, in the period leading up to the 1997 General Election.

- **1997:** Following the change of Government, the same proposals were re-introduced by the new Secretary of State for Social Security, the Rt Hon Harriet Harman MP. This Committee consulted on those proposals⁷ and its resulting advice recommended that they should not proceed.⁸
- **1998:** The Committee's advice was not accepted and the regulations were laid in Parliament on 28 January 1998. Before they came into force, an Early Day Motion calling for their withdrawal was tabled. Following that intervention, the Government announced that it would not proceed with the proposals.

3. What has changed since 1998?

3.1 Given the history of this issue, we begin by re-examining the arguments that were put forward by our predecessors on the Committee in 1998. They considered, in particular, the specific groups which seemed most at risk from the change and identified the following issues where financial hardship was likely to arise:

- 60% of new claims for JSA would be from people coming on to benefit from employment. Of them, at least half would be from those who had been in poorly paid employment or short-term work where *"it is unlikely that they will have amassed sufficient reserves to enable their last wage to last until they receive benefit; nor are they likely to have insurance policies or to have received holiday pay or redundancy pay"*;
- the remaining 40% of new claims would include discharged prisoners, people recovering from ill health, those made homeless (for example through a breakdown in a relationship) and people leading unsettled lives;
- there was uncertainty about whether Housing Benefit (HB) would be affected by the change. While the Department advised the Committee that it would not, there were unresolved doubts about, for example, the position of those living in accommodation for which service charges were payable.

3.3 The Committee noted that the proposal was designed to save £65m a year but reached the view that *"it would add unacceptably to the hardship experienced by unemployed people and their families."* It therefore recommended that the regulations should not proceed but that if they did:

- those who had not been in full-time employment immediately before claiming should be exempt from serving additional waiting days;

⁷ The proposals were subsequently enacted as the Jobseeker's Allowance (Amendment) Regulations 1998 (SI 1998 No 71).

⁸ Cm 3829

- those with dependent children should also be exempt from the new rule;
 - the calculation of the qualifying period for mortgage interest should not take account of waiting days;
 - the social fund budget should be increased to meet the expected increased need and a category set aside within that budget specifically to deal with needs generated by waiting days; and
 - a mandatory requirement to reduce the gap between the date of claim and the date of first payment should be imposed upon the Department.
- 3.4 The Government did not accept the primary recommendation on the grounds that an administrative easement in signing arrangements would help to ensure that people would not have to wait any longer to receive their first payment of benefit than was already the case.
- 3.5 There have been a number of changes since 1998:
- In October 2007 changes were made to the rules about final earnings. Until then payments in lieu of notice, holiday pay, week in hand payments etc were computed into a forward period of time during which the claimant had no entitlement to benefit. The calculations required were often complicated and subject to dispute, not helped by the fact that claimants sometimes experienced difficulties and delays in receiving all of the pay they were due, particularly where the employer had gone out of business. The simplification initiated by the legislation was to treat final earnings as capital. This may be viewed as justification for a requirement that claimants serve a longer waiting period. The issue identified by a large number of our respondents is to what extent are new JSA claimants able to rely upon savings or final earnings to tide them over the period of waiting days?
 - The nature of employment has changed. Many of the responses to the consultation noted the increase in short-term and part-time earnings. This may equate to fluctuating employment which is low paid and precarious. Zero hours contracts were largely unknown in 1998 and now there are around a million employees engaged under such a contract.⁹
 - In 1998 payment of income-related benefits was made at weekly intervals. From April 2009 payments of other benefits were aligned with the rules relating to JSA and were paid fortnightly in arrears. This has clear implications for the effect of a lengthened waiting period for ESA claimants. Respondents also commented on the Government's stated intention to pay Universal Credit month in arrears.

⁹ CIPD Research report November 2013 - "Zero-hours contracts: myth and reality" (this equates to around 3.1% of the UK workforce).

- In 1998, the Committee was assured that the effects of lessening the amount that a benefit recipient would receive in their first payment of benefit would be mitigated by managing the individual signing arrangements of the JSA claimant. In other words they might receive less but at least they would receive it earlier. A discretionary easement has not been mentioned in relation to the current proposal.
- The 1998 proposals were limited to JSA which was then in its infancy. There were no plans at that time to extend the rule to anyone claiming incapacity benefit – the predecessor of ESA. The numbers estimated by the Government of being most at risk of suffering financial hardship are 245,000 in JSA, but only 35,000 in ESA.¹⁰ Claims for ESA could, however, be less likely to follow periods of well-remunerated employment providing a cushion of earnings or savings.
- In 1998, those who were in financial hardship as a result of this measure could be directed to crisis loans which were available to people in urgent need under the discretionary Social Fund. Today there is far less certainty about what help might be available to those in need. The Department advises that “*Contact Centre Agents will direct the claimant to the Short Term Benefit Advance process where the claimant declares financial need.*” We have received many comments about this approach. The other possibility is local provision.

4. Financial Hardship

4.1 The overwhelming majority of respondents were of the view that this measure would cause financial hardship. We address below the specific groups where it was viewed that hardship would be felt most keenly and where the effects of a reduction in the amount of benefit paid would have more significant consequences.

- **18-24 year olds:** young people are less likely than others to have been in employment before claiming benefit. As well as lacking any final wages, respondents have noted that the majority are also less likely to have any significant savings which might tide them over the waiting day period.

We house and support young homeless people in the South West and this will have a large detrimental impact on our service users who are aged between 16-25 years old. The 18-24 age group is over-represented in claimants for JSA and in our client group their first claim often comes at the point of homelessness.

1625 Independent People

¹⁰ The Department has explained that the reason for this is that most claimants come to ESA having been in receipt of Statutory Sick Pay or another benefit and so are exempt from having to serve waiting days.

..... the undue pressure this would put on young people moving into their first accommodation, who get a lower rate of benefit anyway & frequently struggle with finances. I feel this will increase the probability of them entering the cycle of debt, and increase the likelihood they will make poor choices to try and cope with lack of money.

An individual

- **Homeless people:** respondents had two key concerns here: the impact on the well-being of the individual claimant; and the financial viability of organisations seeking to provide a service to meet pressing accommodation needs. Respondents have told us that claimants are likely to continue to rely upon being ‘passported’ to HB from JSA, and consequently fail to make a separate claim for HB to cover the period of waiting days. However existing legislation¹¹ provides that a person is treated as being on an income-based JSA or an income-based ESA during waiting days. Nonetheless, the point remains valid where the overall accommodation charge includes an amount for elements not covered by HB, such as food and fuel.

By definition, those who are homeless are at a point of crisis often experiencing multiple complex problems. In such a situation, the focus of the state and other stakeholders should be to support individuals to regain their independence as soon as is practical in as smooth a way as possible. We fear that this measure will directly push many homeless people into a greater state of crisis.

The waiting days measure will not affect all homeless people, but as a group, it will affect homeless people disproportionately.

Salvation Army

¹¹ Regulation 2(3)(b) and (3A)(b) of the Housing Benefit Regulations 2006.

Clients [living in homelessness accommodation and supported housing provision] usually have to pay personally a weekly service charge covering costs which are not included in Housing Benefit. These encompass utility charges and sometimes meals. Individuals will immediately find themselves in arrears on entering this accommodation. [We estimate] that everyday around 38,000 people live in residential accommodation provided by homelessness agencies alone, in addition to accommodation provided by specialist substance misuse and related services.”

Homeless Link and Drugscope

- **People with mental health issues:** respondents noted that extending the number of waiting days from three to seven for those who claim ESA is likely to expose those with mental health issues to risk, and that the consequences for some could be very serious.

JSA and ESA are essential financial safeguards assisting the most vulnerable people in our society, including individuals with complex and multiple needs such as a mental health problem. Any delay or reduction in initial benefits payments would have a highly detrimental effect to the individual claimant, at the time of greatest need.

SAMH

- **People fleeing domestic violence:** the issues reported to us here are similar for those who are homeless except that there is a greater likelihood of children being involved.

We work with women and children affected by abuse for whom such a change would be disastrous. Women escaping domestic violence often have no money and are destitute or in financial difficulty. Anything that makes this situation more problematic would add a barrier to women escaping abuse.

Birmingham and Solihull Women’s Aid

- **Disabled people:** organisations representing disabled people commented that the measure will impact disproportionately upon this group. They are less likely to be claiming ESA through having left work than other claimants. There is also a higher probability that they will take longer to secure employment and move off ESA – a factor which is relevant to the

Government's stated aim¹² of wishing to discourage short-term claims for benefit.

Habinteg is concerned about the impact of this proposal on potential rent arrears and accumulation of debt. We are particularly concerned about the impact on disabled tenants. Many housing association tenants, disabled and non-disabled, manage on fixed budgets and without recourse to savings. Periods without income can tip the balance from just managing to not managing – forcing people into debt or onto use of payday lenders and other sources of income likely to be punitive financially. Research¹³ shows that disabled people are much more likely to turn to doorstep and payday loans than non-disabled people. This reflects the impact of discrimination in impoverishing disabled people to a greater extent than non-disabled people.

Habinteg

Disabled people experience barriers to finding work, which include low academic achievement¹⁴, discriminatory attitudes of prospective employers¹⁵, lack of flexible working conditions and lack of accessible transport. As a result, while many disabled people are willing and able to work but there is still an employment rate gap of 35.4% between disabled and non-disabled people with no qualifications, and 15% gap for those with a degree.¹⁶

Inclusion London

- **People with learning difficulties:** a number of respondents told us that people in this category are also less able to secure viable employment quickly and were likely to be disadvantaged by a lengthening of the waiting period.

¹² Explanatory Memorandum: paragraph 3.6

¹³ <http://www.scope.org.uk/Scope/media/Documents/Publication%20Directory/Credit-and-Debt.pdf?ext=.pdf>

¹⁴ <http://odi.dwp.gov.uk/disability-statistics-and-research/disability-facts-and-figures.phped>

¹⁵ <https://www.tuc.org.uk/publications/disability-and-work-trade-union-guide-law-and-good-practice>

¹⁶ <http://odi.dwp.gov.uk/fulfilling-potential/index.php>

Enable Scotland believe that the proposed change is likely to have a disproportionate impact on people with a learning disability and that this has not been properly addressed within the equality impact assessment.

Enable Scotland

- **Prisoners:** there was some concern among respondents that requiring discharged prisoners to serve waiting days was likely to increase the chances of re-offending. One of our respondents quoted the Secretary of State for Justice who, in a press statement¹⁷ released on 9 January 2013 said: *“What we do at the moment is send people out of prison with £46 in their pocket, and no support at all. No wonder we have such high levels of re-offending.”*

Riverside provides housing for those individuals who have just left prison, therefore we find the proposals to extend ESA and JSA waiting days very worrying. Clients are at their most vulnerable when they first leave prison and any delays in them accessing financial support will increase the likelihood of them re-offending in the interim period between them applying for and receiving their benefits.

Riverside Group

One respondent suggested that an exemption from the waiting day rule should be extended to those who fall foul of the criminal justice system more generally.

Home Group believe that all users of the Bail Accommodation and Support Service (BASS) should be exempt from the proposed extension to benefit waiting days. These service users have been bailed or released on HDC to BASS accommodation. Many BASS service users arrive from out of their allocated area and will have to start a new claim due to being in custody until the day of release, or on bail from court. Making BASS service users subject to a 7 day waiting period could have serious consequences for our clients. Our figures show that 97% of BASS service users do not have funds to live on when they start receiving support from us, and most have exhausted the other forms of welfare support. Our service users are already at risk of significant financial hardship and we feel this should be reflected in exemptions from benefit waiting days.

Home Group

¹⁷ “Transforming Rehabilitation – less crime, fewer victims, safer communities” Cm 8619.

- **Care leavers:** another group that respondents considered would be impacted by these proposals are young people who, for whatever reason, have been brought up in care. At the point at which they become independent, care leavers are unlikely to have any finances for living expenses during the early stages of a claim to benefit.¹⁸

... we are concerned about care leavers, who are uniquely vulnerable due to the extent that they have been separated from all normal connections with family, community and networks as a result of having experienced initially inadequate parenting, and subsequently disjointed parenting by the State, who leave care to embark on fully independent adult lives, with all the responsibilities that that entails, far younger on average than their family-reared peers who are better able, and better supported to make the transition to adulthood, with a range of support networks in place. For those reared with State-as Parent, very often the State remains their only source of support when in need.

The issue presented by the concept of 'waiting days' is that someone who is reliant on benefits as their sole source of income is therefore by definition without any form of income at all during those waiting days. For care leavers – young adults who have been brought up in public care and separated from all 'normal' relations with family – some literally having no-one in the world they can call family, others living many hundreds of miles away from any family member – 'only income' means exactly that. If they are subject to seven days waiting that is seven days during which they can't eat or heat. Seven days during which, far from feeling motivated to get up off their chairs and 'do something about it' they are very likely to become more demoralised, more unlikely to be able to do anything proactive about seeking employment or training opportunities when they are cold, hungry, and feeling rejected and worthless.

Care Leavers Foundation

- **Cancer patients:** Macmillan has drawn our attention to the number of people with a primary diagnosis of cancer within the ESA caseload (45,000 as at November 2013¹⁹). They also pointed out that four in five (83%) cancer patients are hit with an average cost of £570 a month as a result of their illness.²⁰ Part of this is due to a loss of earnings, but there are increased costs attributable to the illness and its treatment. There is an existing exemption from the waiting days rule for people with a terminal

¹⁸ Care leavers can approach local authorities for financial support even after age 18, for example to help with the cost of a deposit on rental accommodation.

¹⁹ Accessed via DWP's tabulation tool statistics for November 2013 with an IB ICD (disease code of 'neoplasms').

²⁰ 'Cancer's hidden price tag: revealing the costs behind the illness' Macmillan, 2013

illness and that this exemption will continue to apply, however not all cancer patients will qualify for that exemption.

Out of work benefits are therefore a vital means of support for people with cancer at a time when they need it most. Benefit levels are already set at a low level and these changes would mean that much needed support, some £50 for ESA claimants, is lost to people with cancer forever.

Macmillan Cancer Support

- **People with HIV/AIDs:** similarly, those who have HIV and Aids may be adversely affected through having to serve a longer waiting period before entitlement to ESA can begin.

NAT believes that extending the waiting period will increase the experience of poverty among people living with HIV. People living with HIV are disproportionately affected by poverty²¹. As HIV remains a stigmatised condition, some people living with HIV experience rejection by partners, families and friends, and are therefore unable to rely on traditional support networks for help during times of financial trouble and homeless...

Increasingly, people living with HIV need to rely on food banks and HIV charities to even get the food they need. Nutrition is crucial to effective management of HIV.

National AIDs Trust (NAT)

5. Policy Rationale

- 5.1 A number of respondents have commented on aspects of the policy rationale offered by the Department for the change.
- 5.2 It has been noted that the optimism which commonly characterises the newly unemployed may lead them to delay making a claim for benefit. We were told that many people do not claim straight away because they believe their unemployment will be short lived and therefore do not believe that it will be necessary. There is a view among a number of respondents that stigma and the complexity of the claiming process also contribute to a reluctance by some to put in a claim at the point at which they become unemployed.

²¹ NAT and THT. 2010. 'Poverty and HIV 2006-2009. <http://www.nat.org.uk/media/Files/Publications/Sep-2010-Poverty-and-HIV-2006-2009.pdf> THT. 2012. HIV and Poverty. <http://www.tht.org.uk/get-involved/Campaign/Poverty-report>

We believe the proposal is based upon a false understanding of newly unemployed people's behaviour. The proposal assumes they will claim for benefit immediately after becoming unemployed. In reality many people seek another job in the immediate aftermath of losing employment before signing on.

Wheatley Group

One of the grounds for this policy is that JSA and ESA are not designed for short-term unemployment. Increasing the waiting time for benefits seeks to discourage people seeking support for short periods of times. We question whether this sends out the right message to people who are at risk of debt due to a shortfall in support from benefits. Research by Bristol University's Personal Finance Centre, found that it was working households' optimism about quickly being able to find another equally well-paying job that led to people using credit to keep up with essentials. Participants in Bristol University's 20 in-depth interviews with StepChange Debt Charity clients found that their debts then spiralled as it took longer to find a new job than expected, and that new jobs did not pay enough to keep up with their increased commitments.

StepChange Debt Charity

- 5.3 Respondents have told us that people who become unemployed after a long spell of employment generally need longer to find a new job as interviews often take a while to arrange and references need to be followed up. Many of them may, therefore, move on to benefit during that process even with the proposed extension of waiting days. This may be less common for those who have cycles of low-grade, less secure, employment followed by short periods of claiming benefit and where they may be told they can start a new similar role immediately. However this group is likely to be exempt from the waiting day policy by virtue of the linking rule (ie no waiting period if there was an award of JSA or ESA within the previous 13 weeks).

If the aim is to target short period of unemployment where people are moving in and out of work regularly then this is ineffective. People who may "job hop" in and out of employment are unlikely to be affected due to the 13 week linking periods already in place.

Exeter YMCA

- 5.4 The Chancellor's statement that a key objective of the policy was that "those first seven days should be spent looking for work and not looking to sign on" has been challenged by some respondents in relation to how waiting days

policy works. Entitlement to benefit must first be established before the waiting days can be served, and therefore anyone looking for work in the first week of unemployment and not putting in a claim for benefit until the second week is likely to find that any entitlement to JSA would start from the beginning of the third week of unemployment. A request to backdate the claim is unlikely to be successful in such circumstances.

The Chancellor George Osborne has said that this change is necessary to ensure that 'those first few days should be spent looking for work, not looking to sign on'²². However, new claimants have always been subject to full conditionality requirements from the first day of their claim and so have had to actively look for work throughout their first week of claiming benefits. We do not therefore believe that the policy will fulfil its intention of supporting people back to work quickly. In fact, coping with a reduced income and experiencing financial hardship are likely to make it more difficult for claimants to focus on finding a job.

Crisis

- 5.5 Other respondents have noted that the Chancellor's statement is relevant to claims for JSA, but does not help to explain why the policy should extend to ESA claims.

... we are concerned that the policy applies to ESA customers even when in the assessment phase. Many of these clients will not be fit for work and as such, a policy which the Chancellor says is about encouraging people to 'look for work' is wholly inappropriate.

Community Links

As ESA is intended to provide financial support to individuals who are unable to work due to illness or disability, it is difficult to see how an increase in waiting days would lead to a reduction in claimant numbers.

Community Housing Cymru Group

- 5.6 Others have queried whether denying claimants benefit at the outset of an award would be counter-productive in ensuring an early return to employment. If a family is in financial hardship there is a probability that its priority will be to

²² Spending round 2013, Chancellor's speech.

minimise expenditure during the waiting days and until benefit payments are established. In those circumstances looking for work may not be the first priority, particularly as it is likely to involve a degree of cost (eg transport).

Taking money from claimants at the start of the claim will hamper their ability to look for work – they may not be able to print CVs, pay for internet usage, pay bus fares or even wash their clothes.

NAWRA

- 5.9 A potential unintended consequence of people failing to prioritise work search at any stage during an award of JSA, including the beginning, is that it may invite a benefit sanction for failure to comply with labour market conditionality.

.... given the steady rise in people being sanctioned when they initially claim JSA, and the introduction of the requirement that claimants be 'job-ready' from the start of their claim, there is a very real possibility that the 7 waiting days will in effect just be a pre-cursor to longer periods of disentitlement and loss of income.

Hertfordshire County Council

6. Evidence

- 6.1 Many respondents have indicated that they are disappointed about the lack of data made available in respect of the proposal to increase waiting days. The Committee strongly shares those concerns.

In several places the explanatory memorandum states that benefits are not intended to provide financial support from brief breaks from employment²³. Without any data of average claim lengths there is absolutely no evidence from the DWP that this proposed change will have any impact on claim levels. Instead, it simply looks like cost-cutting rather than any attempt to change behaviours or improve levels of employability. There is no data to support the DWP's claim "that this change is required in order to deter short-term claims to benefit".

Surrey Welfare Rights Unit

- 6.2 The same concern arises in connection with the proposal that savings from this measure will be diverted into strengthening initiatives in helping support people into employment. Given the commitment "to invest in several new

²³ Explanatory memorandum paragraphs 3.5 and 4.2.

labour market measures to get people off benefits and into work” the Committee would wish to see evidence to identify more clearly the cohort of people who will gain from these initiatives. For example, will those who lose benefit through this change expect to receive specific and additional help to return to work more quickly than they otherwise would have done?

The DWP do not quantify the positive impact they expect these new schemes to make. Without setting out both the cost and the benefit, it is impossible for anyone to make a considered judgment as to the effectiveness of these changes. Without quantifying the benefits, how can the DWP conclude that these changes will be overall, beneficial?

An individual

- 6.3 Many respondents have commented on the statement about people claiming benefits after having had a relatively well paid job. There is a clear view that such a proposition should be supported by evidence.

The Department has given no evidence to back-up its assertion in the Explanatory Memorandum (para 3.5) that “Many people affected by this measure will be coming to benefits from relatively well paid jobs.” We would comment that in our experience many people will be coming to benefits from short term, low paid employment and zero-hours contracts, who will be without the luxury of a final payment of any sort and are likely to have no savings or other resources, and may also have problems obtaining their final wages, if their ex-employer is un-cooperative. The Department’s own information suggests that they consider 15% of JSA claimants and 7% of Employment and Support Allowance claimants will be “most at risk of financial hardship” (para 3.9) without citing any reference points for the information used to derive this conclusion.

Derbyshire County Council

7. Claim Determination Times

- 7.1 The time taken to determine claims for benefit has been the focus of considerable interest. There will, of course, be some cases where individual circumstances may be complicated and the process of gathering the required evidence may become extended. Nonetheless some of our respondents have raised concerns about how a lengthy determination time may compound any hardship suffered as a result of this change.
- 7.2 Average annual clearance times (AACT) in JSA and ESA have fluctuated over the years, but current clearance times are on a par with what they were in 1998. At that time the AACT for incapacity benefit was 11.9 days and for JSA

it was 8.7 days.²⁴ In July 2012 it was 10.4 days in ESA and 9.7 days in JSA.²⁵ If a claim is determined within or below average clearance times the claimant should receive their first payment of benefit on time. The concern is that a combination of a delay in reaching a decision and the longer waiting period may create an unreasonable period of time for a claimant or family to go without financial support.

8. Short Term Benefit Advances (STBAs)

8.1 Several observations have been made in connection with the Department's statement in paragraph 3.12 of the Explanatory Memorandum that "*new claimants who are in financial need at the start of their claims may apply for a Short Term Advance.*" In particular, they have noted that:

- **STBAs are generally not widely advertised:** it would appear that there is no consistent approach whereby people in need are routinely directed to the STBA process, although there are some positive examples where DWP staff are taking the initiative to do so. Some respondents have queried the statement in paragraph 4.5 of the Explanatory Memorandum that "*Contact Centre Agents will direct the claimant to the Short Term Benefit Advance process where the claimant declares financial need.*" This approach presents a risk that staff will wait for claimants to apply for an STBA, whereas claimants in need will be relying on receiving advice about the help that might be available.

The experience of our members suggests that front line DWP staff are unwilling to direct claimants to STBAs without prompting from the claimant; there is no defined claim process for STBAs with no reference to them on the DWP website; and claimants are frequently misdirected to the Discretionary Assistance Fund, only to be redirected by DAF advisors to the DWP's STBA mechanism.

Community Housing Cymru Group

- **Many applications for STBAs are rejected:** there has been a low success rate²⁶ of application following their introduction. The fact that they are discretionary with no right of appeal does not provide any real degree of confidence among respondents that they will be of widespread help in alleviating financial hardship from the increase in waiting days.

²⁴ Hansard (Commons) Col 666W, 23.02.2005

²⁵ Hansard (Commons) Col 566W, 15.07.2013

²⁶ DWP FoI release reported that the average monthly expenditure from crisis loans fell from £4.83m in 2012/2013 to £381,447 a month the following year. The success rate for crisis loans for STBAs was 90 per cent for the period 2010/2011 to 2012/2013 down to 22 per cent in the first three months of the new scheme in 2013 /2014.

There is little evidence that Short Term Benefit Advances are currently playing an active role in supporting claimants through the financial hardship created between making a claim and getting paid. They are not advertised and claimants need to request one as their availability is not mentioned as a matter of routine. From April to June 2012 there were 214,700 Crisis Loan alignments awards yet for the equivalent period in 2013 there were only 17,712 Short Term Benefit Advance awards.

Leeds City Council

- **STBAs have to be repaid and the pay-back rate is high:** because STBAs are effectively loans which are recouped relatively quickly from subsequent payments of benefit, a severe financial gap at the start of an award may mean that some claimants will find it very difficult to manage their finances throughout the period of recovery. For those struggling with existing debts it may generate a further downward spiral of accumulating indebtedness.

The impact assessment also cites that someone could claim a short term benefit advance to help smooth over the waiting time. Although this is preferable over a doorstep or high cost lender, a loan of 2 weeks' benefit (£143.40) would be required to be paid back within 3 months (unless there are exceptional circumstances), which equates to roughly £22 per fortnight. This rate of pay back would be unaffordable to most people on such limited income.

Scottish Federation of Housing Associations

.... paying back benefits in advance through reduced regular benefit payments could see already meagre budgets stretched further, creating further demand for credit to pay essential bills. Financial Conduct Authority research on payday loan customers' motivations find that reduced benefit payments due to benefits in advance and social fund repayments are key reasons why people – in their optimism – resort to payday loans²⁷.

StepChange Debt Charity

²⁷ Financial Conduct Authority, 2014. Consumer credit and consumers in vulnerable circumstances.

9. Local Provision

- 9.1 A number of our respondents have expressed concern about the potential additional pressure these proposals will put upon local authorities, charities and other organisations. In particular, there is a concern the proposals will put added pressure on food banks and increase the reliance on pay-day lenders.

We currently work giving benefits and debt advice to residents of Derby and believe that the extension of waiting days could have the following impact

- *An increase in the use of food banks to cover the waiting period*
- *An increase in the use of payday lenders and loan sharks in order to get money to cover basic living costs*

Derby City Council

- 9.2 The Committee shares the scepticism of many respondents about the statement in paragraph 4.6 of the Explanatory Memorandum that “*the Department does not consider that this proposal would have any impact on business or charities*”. It seems implausible that there will not be at least some causal relationship between an extension to the number of waiting days and an increased demand for help.

The changes to welfare have already led to many people resorting to food banks and other charities, which are operating under huge amounts of pressure. We fear that the loss of £40-£50 could push people into further hardship and increase the pressure on food banks and other charities as they try to support a growing number of people.

Cymorth Cymru

The average food voucher is only for 3 days food. To extend waiting days to 7 days will cause hunger and discomfort for thousands of people already struggling or on subsistence style incomes.

Sheffield Citizens Advice

- 9.3 As far as local authorities are concerned, it has been noted that some local schemes only extend help to people who are entitled to benefit. Because there is no entitlement to JSA or ESA during the waiting day period anyone in this situation will be automatically disqualified. We also understand that specific national funding for such assistance will only continue for the rest of

the current financial year²⁸. Some local authorities have already discontinued services.

The DWP seem to be unaware that DCLG have told local authorities that there will be no national funding for local welfare assistance schemes beyond March 31st 2015, just 6 months after the waiting days are extended.

Hertfordshire County Council

Local welfare assistance funds can be used to make emergency hardship payments though provision is patchy, and some local authorities have abandoned schemes altogether.

Shelter

10. Costs Incurred

- 10.1 The expected yield in savings to be generated by this change has been estimated by the Department to be approximately £50m in 2015/16. The Explanatory Memorandum advises that those savings will decrease significantly beyond 2015/16 as new claims to Universal Credit (UC) are rolled out nationally. Many respondents raise the concern that such savings could be offset by increased public spending pressures elsewhere.

Existing delays are a major factor in causing stress, anxiety and eventually depression with spiralling adverse impacts on the individual primarily concerned and their wider family. In turn this will place greater pressure on the already over stretched local NHS resources.

Reach Community Project

By making these planned changes I believe this will have a DOMINO effect on so many other services – NHS, Police, Probation, Prison and the support services. How can these changes benefit the tax payer? And the vulnerable people who need to survive in the community?

**(Ex offender,
now volunteer supporting adults with complex needs)**

- 10.2 Respondents also argue that costs on individual claimants and their families needs to be taken into account.

²⁸ DWP advise however that the 2015 general grant for Local Authorities takes account of the financial pressures upon them and is based on various objective measures of need, such as adult social care, and includes local welfare provision.

Given that many of these people are already sick, the real cost in terms of risk to health and well being should be offset against any potential savings. Consideration should also be given to the stress that being unable to meet basic needs will undoubtedly cause.

Salford Unemployed & Community Resource Centre

- 10.3 Overall there is concern that the Department may be underestimating the effect this measure will have upon individuals.

Based on the review of various studies and interviews with key stakeholders who have unanimously expressed significant concerns on the adverse impact of a whole range of benefit cuts on large sections of the working age population, we believe that the extension of the waiting days period is likely to cause increased hardship to an extent that is being seriously underestimated in the government explanatory memorandum for the proposed regulations...given the extremely low level of unemployment benefits in the UK, the proposed changes are likely to exacerbate poverty, which in turn could reinforce barriers to work as people cope with increasing debt.

**Middlesex University Centre for Enterprise and Economic
Development Research**

- 10.4 Any impact upon individuals needs to be considered in the context of other recent reforms in benefit provision. Although it is outside the scope of this report, several of our respondents have mentioned the cumulative impact of other changes and pointed to the added hardship beneficiaries are already facing.

11. Recommendations

- 11.1 Having considered all of the information provided by both the Department and those who responded to our public consultation, the Committee has noted the potential impacts of these proposals on individuals, their families, other government departments, local authorities and charitable organisations.
- 11.2 The Committee regrets the absence of evidence so far provided by the Department to indicate the level of that impact on each group, and **we strongly recommend that a robust analysis of the costs and benefits should be undertaken and published before a decision is taken on whether the proposed changes should proceed. Without such analysis we recommend the regulations should not proceed.** That analysis should reflect not only those who will be impacted by the extension of the waiting days, but provide information relating to those who will benefit from the

investment of the savings generated by this proposal into new labour market measures which will support unemployed claimants into work. The analysis so far presented falls well short of the level required to reach an informed view about this proposed switch of resources, but the Committee is sceptical on the basis of the evidence to date that the case for it has been made. The Committee recognises that the Government has to make tough choices given the pressures on public spending, but those choices should be informed by evidence which makes clear the full consequences of those choices.

11.3 In the event that the Department decides to introduce the waiting days proposal as planned, the Committee recommends that it:

- **extends the current set of exemptions:** The Committee believes that the respondents have provided a particularly compelling case for the exemption of ESA from the new proposals, but the Department should consider the other vulnerable groups²⁹ identified within this report;
- **strengthens the existing process for highlighting the availability of STBAs to ensure that they are proactively and consistently signposted.** In particular, it will be important to ensure that staff (through training and appropriately worded scripts) are encouraged to identify potential hardship and, where it has been identified, explain the process to the claimant. It is also important that the Department ensures that all supporting information channels, such as GOV.UK, highlight the existence of STBAs.
- **develops a clear communication strategy to ensure that there are no misunderstandings about the policy which could lead to further hardship for claimants.** For example, individuals need to understand that a claim needs to be made before waiting days are triggered, and that the waiting period is in fact a period of non-entitlement to benefit. Any lack of clarity could lead to people making unwise decisions based on incorrect assumptions about what waiting days actually are.

Paul Gray
Chair

²⁹ 18-24 year olds; homeless people; people with mental health issues; people fleeing domestic violence; disabled people; people with learning difficulties; prisoners; care leavers; cancer patients; people with HIV/AIDs.

APPENDIX 1

Summary of recommendations

1. The Committee strongly recommends that a robust analysis of the costs and benefits should be undertaken before a decision is taken on whether the proposed changes should proceed. That analysis should reflect not only those who will be impacted by the extension of the waiting days, but provide information relating to those who will benefit from the investment of the savings generated by this proposal into new labour market measures which will support unemployed claimants into work.
2. In the event that the Department decides to introduce the waiting days proposal as planned, the Committee recommends that it:
 - (a) extends the current set of exemptions. The Committee believes that the respondents have provided a particularly compelling case for the exemption of ESA from the new proposals, but the Department should consider the other vulnerable groups³⁰ identified within this report;
 - (b) strengthens the existing process for highlighting the availability of STBAs to ensure that they are proactively and consistently signposted. In particular, it will be important to ensure that staff (through training and appropriately worded scripts) are encouraged to identify potential hardship and, where it has been identified, explain the process to the claimant. It is also important that the Department ensures that all supporting information channels, such as GOV.UK, highlight the existence of STBAs.
 - (c) develops a clear communication strategy to ensure that there are no misunderstandings about the policy which could lead to further hardship for claimants.

³⁰ 18-24 year olds; homeless people; people with mental health issues; people fleeing domestic violence; disabled people; people with learning difficulties; prisoners; care leavers; cancer patients; people with HIV/AIDs

APPENDIX 2

List of Organisations who responded to the Consultation Exercise

1625 Independent People Bristol
Isle of Anglesey County Council
Birmingham and Solihull Women's Aid
Calderdale Voluntary Action
Care Leavers Foundation
Centra (Housing)
CAB Scotland
Community Housing Cymru Group
Community Links
CPAG
Crisis
Cymoth Cymru
Derby City Council
Derbyshire County Council
Enable Scotland
Exeter YMCA
Falkirk District Council
Friends First
Gofal (mental health charity)
Habinteg (Housing Association)
Halton CAB
Hertfordshire County Council
Hestia Housing and Support
Home Group
Homeless Link and Drugscope (joint submission)
Inclusion London
Income Management Cambridge
Isle of Wight CAB
Joseph Rowntree Foundation
Kingston CAB
L & Q Housing Association
Leeds City Council
Local Government Association's Liberal-Democrat Group
Macmillan Cancer Support
Money Advice Service
Melin Homes
Middlesex University Centre for Enterprise and Economic Development Research
NASUWT
National Aids Trust
National Housing Federation
NAWRA
Northampton Borough Council
Norwich City Council
Oldham Council Leader of Opposition & Liberal-Democrat Group
Origin Housing
Peabody

Preston Forum's Welfare Rights Sub-Group
Reach Community Projects
Riverside Group (Housing Association)
Salford Unemployed and Community Resource Centre
Salvation Army
SAMH (for Scotland's mental health)
Scope
Scottish Council for Voluntary Organisations
Scottish Federation of Housing Associations
Shared Lives Leicester
Sheffield CAB
Shelter
South Ayrshire Welfare Rights
StepChange Debt Charity
Stoke Expert Citizens Core Group
Surrey Welfare Rights Unit
TUC
Wheatley Group (registered social landlord in Scotland)
Wirral Advisory Centre
Working Families
Wyre Forest Community Housing
YMCA England
Ynys Mon CAB

APPENDIX 3

Members of the Social Security Advisory Committee

Paul Gray (Chair)
Les Allamby
John Andrews
Simon Bartley
Adele Baumgardt
John Ditch
Keith Faulkner
Colin Godbold
Chris Goulden
Matthew Oakley
Nicola Smith
Diana Whitworth

Expert Adviser (Scotland) to the Committee

Jim McCormick

APPENDIX 4

Department for Work & Pensions
Working Age Benefits Division
Quarry House
Leeds

0113 232 4242

22 April 2014

Denise Whitehead
Social Security Advisory Committee
5th Floor, Caxton House
6-12 Tothill Street
London SW1H 9NA

DRAFT REGULATIONS: THE SOCIAL SECURITY (WAITING DAYS) AMENDMENT REGULATIONS 2014

Dear Denise,

The purpose of this letter is a formal request, in accordance with section 172 of the Social Security Administration Act 1992, for the Committee to consider proposals to amend the income-related benefits regulations and other Social Security regulations.

The amendments proposed in this package reflect a change of policy: in line with the budget announcement of 19 March 2014, they will increase the number of “waiting days”³¹ served at the start of a new claim to Jobseeker’s Allowance and Employment and Support Allowance from the current level (3) to 7.

For the benefit of the Committee, I am attaching:

- a full explanation of the purpose and effect of the proposals, at section 3 of the accompanying **Explanatory Memorandum**; and
- an assessment of the impacts of these proposals, at section 4 of the Memorandum, with the Equality Assessment at **Annex 3**.

I also attach, separately, a copy of the draft SI for the Social Security (Waiting Days) Amendment Regulations 2014 at **Annex 2** (which remain subject to legal checks, and in respect of which further minor drafting amendments may therefore be required).

I hope these documents fully explain the proposals, and that they will aid the Committee members in their consideration of these changes. However, if you or any

³¹ “Waiting days” are the days at the start of a period of unemployment or period of limited capability for work in respect of which claims for JSA and ESA, respectively, are being decided, but in respect of which no entitlement to benefit arises. Entitlement to benefit first starts from the day after the last waiting day.

member of the Committee has any queries or requires further information, please do not hesitate to contact me.

None of the proposals impact on legislation in respect of Housing Benefit, so no consultation with the Local Authority Associations has been required.

The Committee is invited to consider whether these Regulations may be made without further formal references.

Neil Walker
Working Age Benefits

**Working Age
Benefits Division**

Strategy Group

**Explanatory Memorandum
for the
Social Security Advisory
Committee**

**The Social Security
(Waiting Days) Regulations
2014**

**For the meeting of
the Social
Security Advisory
Committee on 7
May 2014**

DWP Department for
Work and Pensions

1. Introduction

1.1 The Department for Work and Pensions is putting a small package of amendments before the Social Security Advisory Committee, designed to amend the following items of secondary legislation -

- regulations 141(2) and 46(2) of the Jobseeker's Allowance Regulations 1996 (SI 1996/207)
- regulation 144 of the Employment and Support Allowance Regulations 2008 (SI 2008/794)
- regulation 36(2) of the Jobseeker's Allowance Regulations 2013 (SI 2013/378)
- regulation 85 of the Employment and Support Allowance Regulations 2013 (SI 2013/379)

2. Commencement and application of the proposed changes

2.1 The proposed changes are intended to come into force in October 2014. They will apply, with some exceptions, to all new claims for Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) made in respect of a period which starts on or after the commencement date.

2.2 Claimants who are protected from service of waiting days by the existing exemption provisions (which the Department proposes to carry forward unchanged) will be unaffected by the proposed change. (See paragraph 3.7)

3. Explanation, purpose and effect of the proposed changes

3.1 The Budget statement of 19 March 2014 announced that the number of waiting days in Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) would be increased from 3 to 7.

3.2 Waiting days are the days at the start of a claim in respect of which claimants (who otherwise satisfy the conditions of entitlement) are not entitled to benefit. Within JSA and ESA, waiting days apply to both contribution-based and income-based benefit entitlement.

3.3 This proposed change will therefore have the effect of reducing the value of the first benefit payment made to a claimant.

3.4 This policy change is intended to generate savings which are to be invested into several new labour market measures to get people off benefits and into work. For example, the money will be spent on measures to improve English language skills of claimants and provide more resources to support lone parents to return to employment.

3.5 The fundamental principle behind a waiting days policy is that benefits are not intended to provide financial support for very brief breaks in employment or periods of sickness. Many people affected by this measure will be coming to benefits from relatively well paid jobs. Their final earnings are disregarded in the assessment of their benefit, so it is reasonable to expect them to use those earnings to budget for an initial period of unemployment.

3.6 The aim of the policy is also to discourage people from claiming benefit when they only have a short gap between jobs or a short period of sickness. But if claimants have no job to go to, the increase in waiting days will encourage them to claim more quickly so that they don't lose out on their entitlement and can access the labour market support we have available at the earliest opportunity.

Exemptions

3.7 This change will not affect all new JSA and ESA claims. Rules already exist to exempt claimants from serving waiting days in certain circumstances. These exemptions generally apply where a claimant has had a linking claim to another benefit within the last 13 weeks, including JSA, ESA, Income Support and Carer's Allowance. In addition, JSA claimants who are under 18 years old and in severe hardship and ESA claimants who are terminally ill are exempt from serving waiting days. These exemptions will continue unchanged after waiting days are increased to 7.

Impact on claimants

3.8 Our analysis indicates that approximately 70% of new JSA claimants and 40% of new ESA claimants will need to serve waiting days at the start of their claim because their circumstances do not fall within one of the reasons for exemption as described in paragraph 8 above. Some of these claimants will of course have other financial support available to them during the first few days of their claim, and consequently may be considered to be not at risk of financial difficulty during those first few days.

3.9 For those that may be most at risk of financial hardship, the tables below provide a breakdown of their circumstances:

70% of JSA new claimants will serve waiting days
Of which, 60% will not have been employed or received a redundancy payment in the previous 3 months
Of which, 35% will be in a benefit unit without capital over £1,500 or income over £150 per week
This means around 15% of new JSA claimants may be most at risk of financial hardship

40% of ESA new claimants will serve waiting days
Of which, 80% will not have been employed or received a redundancy payment in the previous 3 months
Of which, 21% will be in a benefit unit without capital over £1,500 or income over £150 per week
This means around 7% of new ESA claimants may be most at risk of financial hardship

3.10 For 2015/16, we estimate that around 1,680,000 new JSA claims and 550,000 new ESA claims will be made. Of these, around 1,180,000 JSA and 166,000 ESA claimants will need to serve waiting days. The above analysis indicates that for 2015/16, the number of new claimants likely to be most at risk of suffering financial hardship are around 245,000 in JSA and 35,000 in ESA.

3.11 The estimated average loss of benefit to each claimant from this policy change is £40 for JSA claimants and £50 for ESA claimants.

Support for claimants in financial need

3.12 New claimants who are in financial need at the start of their claims may apply for a Short Term Benefit Advance. These payments provide an advance of up to 60% of a claimant's first full benefit payment and are repaid through deductions from subsequent benefit payments. Where entitlement to such an advance exists, it can provide a way of smoothing the impact of the increase in waiting days across a longer period.

3.13 Waiting days do not apply to other benefits that a claimant may receive. Payments to JSA and ESA claimants for housing costs and children are therefore unaffected by waiting days.

Financial Implications

3.14 The implementation costs for delivering this policy change are approximately £1m for the required IT system changes.

3.15 The increase to 7 waiting days in JSA and ESA is expected to generate savings of approximately £50m in 2015/16. Those savings will decrease significantly beyond 2015/16, as new claims to Universal Credit are rolled out nationally. Once the full UC roll out has been completed, small savings will continue to be generated from the continued new claims to the contribution based JSA and ESA.

Waiting Days in Universal Credit

3.16 It is proposed that 7 waiting days be introduced into UC, from April 2015. The exact details of how waiting days will be applied in UC have yet to be finalised, but it is likely to apply to people in the full conditionality group (which is broadly equivalent to the client groups who claim ESA and JSA under legacy arrangements). However, UC is a monthly benefit which includes amounts for housing costs and children, so the potential hardship for claimants is much greater. Therefore, it is likely that the detail of the UC policy will differ from that for ESA and JSA. For example, consideration is being given to exempting certain vulnerable groups, namely ex-prisoners, care leavers and domestic violence sufferers, from serving waiting days. The relevant legislation to introduce waiting days into UC will be presented to SSAC at some future date.

4. Impacts of the proposed changes

Impact on equality and diversity

4.1 To meet the requirements of the Equality Act 2010, the Department for Work and Pensions carries out Equality Analysis on any measures it proposes. Such an assessment considers the potential impact of the proposed policies in terms of the protected characteristics (disability, ethnicity and gender), and the additional protected characteristics (age, gender reassignment, sexual orientation, religion or belief, marriage and civil partnership, and pregnancy and maternity) and helps to ensure that the Department's strategies, policies and services are free from discrimination.

4.2 In respect of the proposed change, the analysis (held at **Annex 3**) has identified that there is an impact for claimants with defined disabilities because of the increase in waiting days in ESA. This is due to the relatively high proportion of people with defined disabilities who claim ESA compared to the general working population. However we believe that this change is required in order to deter short term claims to benefit. Mitigation for this adverse impact exists through the provision of short term benefit advances, and through an existing exemption to serving waiting days for new ESA claimants who have a terminal illness.

Impact on complexity and operations

4.3 Changes to the JSA and ESA IT platforms and operational processes will be required, to ensure that new JSA and ESA claimants are made aware of the increase to waiting days during the new claims process. These changes will be predominantly to IT systems and to a lesser extent to operational processes.

Increasing waiting days will not impact on the speed of processing of claims at benefit centres, which will continue to be processed to current targets.

4.4 JSA claimants will be advised during their New Jobseeker Interview (NJI) of the requirement to serve waiting days. It is standard practice for a JSA Personal Advisor to explain the claim process to the claimant and the change to waiting days would be an extension of this process. The current desk aid for JSA Personal Advisor interviews will be enhanced to include an explanation of waiting days in the conversation.

There is a possibility of a small increase in footfall if claimants decide to visit Jobcentres to query the amount of their first payment. Lines to take will be provided to manage such queries. Where financial need is indicated the claimant will also be signposted to the support available.

4.5 ESA new claims do not involve face to face contact, so Contact Centre scripts for the new claims process will be amended to explain that claimants may have to serve 7 waiting days before benefit is put into payment. Contact Centre Agents will direct the claimant to the Short Term Benefit Advance process where the claimant declares financial need.

Impact on business, charities and voluntary bodies

4.6 The Department does not consider that this proposal would have any impact on business or charities.

Impact on child poverty

4.7 Child Poverty Unit have advised that the change from 3 to 7 waiting days will have no measurable impact on child poverty levels, although there is a risk that it may increase reliance on short term loans. Transferring money saved from this measure to new work-focused activities aims to tackle the root causes of poverty by moving people into work. As noted above, benefits for children (Child Tax Credits and Child Benefit) are not affected by waiting days.

Impact on the sustainability of rural communities

4.8 The Department does not consider that the proposals would have any impact on the sustainability of rural communities.

5. Consultation on the proposed changes

5.1 It was not possible to undertake an external consultation before the policy change to increase waiting days was announced.

5.2 The proposal does not impact on legislation in respect of Housing Benefit so no consultation with the Local Authority Associations has been required.

6. Information and communications strategy for the proposed changes

6.1 All JSA and ESA claimants will now be advised of the requirement to serve waiting days when they make a claim to JSA or ESA. The existing process for ESA and JSA affords DWP operational staff opportunities to communicate these changes. Different approaches will be taken for JSA and ESA due to the differing nature of interaction these claimants experience. In all instances the claimant will:

- be informed about the possible requirement to serve 7 waiting days;
- have the entitlement conditions explained to them; and
- have the financial support available, should they require it, explained to them.

6.2 The communications approach for DWP staff will include raising awareness through existing communications channels such as Operational Senior Leaders Brief, Change and You, DWP Headline News, Advisory Bulletins, together with more targeted operational communications through implementation updates and operational guidance at the appropriate time.

6.3 For external advisers, stakeholders and intermediaries, we will provide information about the change in articles within the DWP Stakeholder Bulletin and Touch base publication.

A series of face to face meetings are also scheduled to take place from May 2014 at the:

- DWP Operations Stakeholder Engagement Forum (OSEF) which includes over 45 national customer representative groups;
- Policy and Strategy Forums; and
- Local Authority engagement.

6.4 MPs, Members of the Scottish Parliament and Welsh Assembly Members will also be made aware of the changes.

7. Monitoring and evaluation of the proposed changes

7.1 DWP is committed to monitoring the impact of all its policies. We will therefore be developing plans for monitoring the actual impact of the increase in waiting days on those groups who share protected characteristics under the Equality Act 2010..

End

Equality Analysis for JSA and ESA: Increase in waiting days for new claims.

Date: 2 April 2014

Completed by: Neil Walker, JSA Strategy

Equality Analysis for the increase from 3 to 7 waiting days for new claims to JSA and ESA.

Introduction

This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

Brief outline of policy

Waiting days are designed to prevent payment of benefit for short periods of time – currently three days- where it is reasonable for people to manage on their own resources. The measure also prevents large numbers of very short-term claims for illness or unemployment.

In his Budget statement of 19 March, the Chancellor of the Exchequer confirmed that waiting days will be increased from 3 to 7 from October for both Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA) This means there would be no payment of benefit for the first 7 days of the claim.

The provision applies to both the contributory and income-related elements of both JSA and ESA and is consistent with our goal of ensuring that everyone is treated consistently at the outset of their claim.

Many people who claim JSA or ESA may also have entitlement to other benefits such as housing benefit and child tax credits to which waiting days are not applicable. This new policy measure does not affect entitlement to these other benefits.

As per the current Universal Credit (UC) migration assumption, there are not expected to be any new claims for income-related JSA or income-related ESA by October 2016. A similar policy is being introduced for new claims to UC.

Evidence and analysis

Impact of policy on protected groups

The following sections look specifically at the possible impact of the policy changes in terms of the protected groups (age, gender, disability, race, sexual orientation, gender re-assignment, pregnancy and maternity, marriage and civil partnership and religion and belief).

The group exempted from this policy change are primarily those with linked claims as they have already served a waiting day period. A JSA claim is linked if the claimant has claimed JSA, ESA, Income Support, Incapacity Benefit or Carer’s Allowance in the previous three months before their JSA claim.

30% of JSA claims between September 2011 and August 2012 were linked.

In ESA, a claim is linked if the claimant has claimed JSA, ESA, Income Support, Incapacity Benefit, Carer’s Allowance, Severe Disablement Allowance, State Pension Credit or Maternity Allowance in the previous three months, but also includes whether they received Statutory Sick Pay (SSP) directly before their ESA claim. 40% of ESA claims were linked in the same period excluding SSP. This is 60% if including SSP.

We have used administrative data from the Work and Pensions Longitudinal Study (WPLS) on the overall JSA/ESA on flows in 2011/12 and this data was then matched with data from the latest Family Resource Survey (FRS) for 2011/12 for the characteristics of the claimants.

There are two types of analysis presented. The distribution of unlinked new claimants by characteristic are compared to all claimants of these benefits from the FRS as well to the overall working age population from the FRS.

Age

Tables 1 and 2 shows a percentage breakdown by age of JSA and ESA claimants

The data set out in Table 1 suggests that the policy may have a marginally greater impact on those claiming JSA who are over 45. 34.5% of those potentially affected by the policy in JSA are over 45 compared to 24.7% of the total JSA caseload. However, the overall JSA caseload is generally younger compared to the overall working age population –with 41.9% of the working age population over 45.^a

Table 2 shows that for those claiming ESA, the policy may have a marginally greater on the over 45’s. 56.6% of those affected by the policy are over 45 compared to 48.7% for the overall ESA caseload. The overall ESA caseload tends to be older than the overall working age population.

Table 1: JSA Age Distribution

	Unlinked JSA Claimants	All JSA claimants	Working Age Population
Under 18	0.6%	0%	0.5%
18-24	24.0%	28.1%	11.4%
25-34	19.7%	22.6%	21.1%
35-44	21.3%	24.6%	25.1%
45-54	21.9%	17.1%	24.1%
55 and over	12.6%	7.6%	17.8%

^a Taken from the Family Resources Survey 11/12

Table 2: ESA Age Distribution

	Unlinked ESA Claimants	All ESA claimants	Working Age Population
Under 18	0%	0%	0.5%
18-24	8.2%	14.2%	11.4%
25-34	12.6%	14.0%	21.1%
35-44	22.5%	23.2%	25.1%
45-54	33.5%	30.6%	24.1%
55 and over	23.1%	18.1%	17.8%

Conclusions

This policy measure will affect all new claims to JSA and ESA, and does not take account of the age of the claimant. Our analysis shows that the over 45 age group are very slightly more likely to be affected by this change than younger claimants. This is a very marginal effect and is likely to reflect that older workers are more likely to claim JSA or ESA after a period of work, rather than moving from another benefit.

Gender

Table 3 gives the gender breakdown for the total JSA caseload and those potentially affected by the policy proposal. It appears similar levels of males and females could be affected when compared with the JSA caseload.

Table 4 gives the gender breakdown for the total ESA caseload and those potentially affected by the policy proposal. It appears similar levels of males and females could be affected when compared with the ESA caseload.

The difference in the gender composition of each potentially affected subgroup is small.

Table 3: JSA Gender Distribution

	Unlinked JSA claimants	All JSA claimants	Working Age Population
Male	59.3%	62.6%	49.8%
Female	40.7%	37.4%	50.2%

Table 4: ESA Gender Distribution

	Unlinked ESA claimants	All ESA claimants	Working Age Population
Male	47.3%	46.3%	49.8%
Female	52.7%	53.7%	50.2%

Conclusions

This policy measure could apply to all new JSA and ESA claimants and does not distinguish between gender. On the basis of the above analysis, we are content that there is no gender specific disadvantage brought about by this policy measure.

Disability

Tables 5 and 6 show percentage breakdowns of JSA and ESA claimants according to whether a defined DDA disability is recorded for them within our records.

For measuring disability rates among the populations, we looked at whether respondents reported that they are disabled according to the Disability Discrimination Act (DDA) definition or not.

Table 5 shows there is little difference between those unlinked JSA claimants and the overall JSA claimant population for those reported as having a disability according to the DDA definition.

Table 6 shows that, given the nature of the benefit, the potentially affected group and the overall ESA caseload are much higher than the working age population at 81.8% and 93.1% respectively. The proportion of the unlinked claimants that may be affected by this policy change shows a lower percentage self report having a disability compared to overall ESA.

Table 5: JSA Disability Distribution

	Unlinked JSA claimants	All JSA claimants	Working Age Population
Has a DDA defined disability	29.5%	28.2%	26.4%
Does not have a DDA defined disability	70.5%	71.8%	74.6%

Table 6: ESA Disability Distribution

	Unlinked ESA claimants	All ESA claimants	Working Age Population
Has a DDA defined disability	81.9%	93.2%	26.4%
Does not have a DDA defined disability	18.1%	6.8%	74.6%

Conclusions

This policy measure will apply to all JSA and ESA new claimants and does not consider disability status. However on the basis of the available data, our analysis concludes that for claimants with a defined disability there is a disadvantage as a result of the extension of waiting days compared to the general working age population. This is as a result of the relatively high proportion of ESA claimants who have a defined disability. However this group of claimants will be able submit claims for short term benefit advances which would smooth the impact of extended waiting days across a longer period. In addition any new ESA claimant with a terminal illness are already provided with an exemption from serving waiting days where they would have applied.

Race

Due to small sample sizes, the breakdown has been limited to white and other ethnic backgrounds.

^a Taken from the Family Resources Survey 11/12

Table 7 shows an ethnicity breakdown of the potentially affected group and the overall JSA caseloads. The proportion of the unlinked claimants group that is white is slightly higher than the proportion of the overall JSA caseload. Though this higher proportion is similar to the proportion in the working age population which the FRS estimates is 88.7%.

Table 8 shows that the proportion of the subgroup caseload that is white is estimated slightly higher at 91.8% and the proportion of the overall ESA caseload is 90.4%

Table 7: JSA Ethnicity Distribution

	Unlinked JSA claimants	All JSA claimants	Working Age Population
White	89.6%	83.2%	88.7%
Other ethnic background	10.4%	16.8%	11.3%

Table 8: ESA Ethnicity Distribution

	Unlinked ESA claimants	All ESA claimants	Working Age Population
White	91.8%	90.4%	88.7%
Other ethnic background	8.2%	8.6%	11.3%

Risk of negative impacts and mitigation

This policy measure will apply to all JSA and ESA new claimants irrespective of race. Our analysis shows that the ethnic distribution of claimants likely to be affected by this policy is in line with the overall working age population, and does not show a particular disadvantage to any ethnic group.

The Department has considered equality in respect of the introduction of this change on the remaining “protected characteristic” groups below, but there is no or limited data available to impact the policy on these groups:

- Gender reassignment
- Sexual orientation
- Pregnancy and maternity
- Religion and belief
- Marriage and civil partnerships

This policy measure applies to all new JSA and ESA claimants. The primary factor used to determine whether a claimant serves waiting days is whether they have a linking claim from another benefit. Therefore, we do not believe that any of the above groups will be disproportionately affect through the implementation of this policy.

Sign off

This Equality Assessment has been signed off by Iain Walsh, Working Age Benefits Strategy.

2014 No. []

SOCIAL SECURITY

The Social Security (Waiting Days) Amendment Regulations 2014

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - - - 27th October 2014

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 21, 35(1), 36(1) and (2) to (4)(a) of, and paragraphs 4 and 10(1) of Schedule 1 to, the Jobseekers Act 1995(a) and sections 22, 24(1) and 25(1) to (5)(a) of, and paragraph 2 of Schedule 2 to, the Welfare Reform Act 2007(b):

[In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred the proposals in these Regulations to the Social Security Advisory Committee.] *or*

[The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(c).]

Citation, commencement, application and interpretation

—(1) These Regulations may be cited as the Social Security (Waiting Days) Amendment Regulations 2014.

These Regulations come into force on 27th October 2014.

They apply in relation to a person who claims—

an employment and support allowance where the period of limited capability for work for the purposes of paragraph 2 of Schedule 2 (Supplementary Provisions) to the Welfare Reform Act 2007 begins on or after 27th October 2014;

a jobseeker’s allowance where the jobseeking period(d) for the purposes of paragraph 4 of Schedule 1 (Supplementary Provisions) to the Jobseekers Act 1995 begins on or after that date.

In these Regulations, “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(e).

(a) 1995 c. 18; Section 35(1) is an interpretation provision and is cited because of the meaning of “prescribed” and “regulations”; section 36(1) was amended by the Social Security Act 1998 (c. 14), section 86(1) and paragraph 145 of Schedule 7 and by the Welfare Reform and Pensions Act 1999(c. 30), section 70 and paragraph 29(6) of Schedule 8; section 36(4)(a) was amended by the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2), section 2 and paragraph 63 of Schedule 3.

(b) 2007 c. 5; Section 24(1) is an interpretation provision and is cited because of the meaning of “prescribed” and “regulations”; section 25(1) was amended by the Welfare Reform Act 2012 (c. 5), section 51(2).

(c) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(d) See regulation 47 of the Jobseeker’s Allowance Regulations and regulation 37 of the Jobseeker’s Allowance Regulations 2013 (S.I. 2013/378) for the meaning of “jobseeking period”.

(e) S.I. 1996/207.

Amendment of the waiting days' provisions

—(2) In regulation 144 of the Employment and Support Allowance Regulations 2008(a) and regulation 46(2) of the Jobseeker's Allowance Regulations, in each place it occurs, for "3" substitute "7".

In regulation 85 of the Employment and Support Allowance Regulations 2013(b) and regulation 36(2) of the Jobseeker's Allowance Regulations 2013(c), in each place it occurs, for "three" substitute "seven".

Consequential amendment

In regulation 141(2) of the Jobseeker's Allowance Regulations(d) (circumstances in which an income-based jobseeker's allowance is payable to a person in hardship), for "4th" substitute "8th".

Signed by authority of the Secretary of State for Work and Pensions

Date Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) and the Jobseeker's Allowance Regulations 1996 (S.I.1996/207) by increasing the number of waiting days before which a person may be entitled to either of those benefits from 3 to 7 (regulation 2).

They also make similar changes to the Employment and Support Allowance Regulations 2013 (S.I. 2013/379) and the Jobseeker's Allowance Regulations 2013 (S.I.2013/378), which are contributory-only versions of those benefits.

Regulation 3 makes a consequential amendment to the Jobseeker's Allowance Regulations.

An impact assessment has not been produced for this instrument as it has no impact on businesses and civil society organisations. The instrument has no impact on the public sector.

(a) S.I. 2008/794. Relevant amending instruments are S.I. 2008/2428 and S.I. 2012/913.
(b) S.I. 2013/379.
(c) S.I. 2013/378.
(d) Regulation 141(2) was amended by S.I. 1996/1517 and 2538.

ISBN 978-1-4741-1065-5



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