

## Helping ill or disabled people



## Chapter 2

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1 There are currently over 2.7 million people on incapacity benefits.<sup>2</sup> We know that around 80 to 90 per cent of those who come onto benefits expect to work again,<sup>3</sup> yet many never do. The longer a person remains on benefits, the less chance they have of leaving. Currently the benefits system reinforces this by offering more money the longer someone is on benefits and by requiring people to prove their ongoing incapacity, rather than actively encouraging and supporting people to take steps towards a return to work.

2 We are proposing a range of measures in three key areas:

- increasing the number of people who remain in work when they fall sick or become disabled;
- increasing the number leaving benefits and finding employment; and
- better addressing the needs of all those who need extra help and support.

3 We will achieve these aims by taking steps on prevention and proactive intervention; transformation of the gateway to the new allowance; mandatory engagement and support with all but the most severely ill or disabled people to get them back to work; and raising the expectations of everyone involved in the process.

4 This approach will be underpinned by a new Employment and Support Allowance, which will simplify the current system and replace the old incapacity benefits for all new claimants.

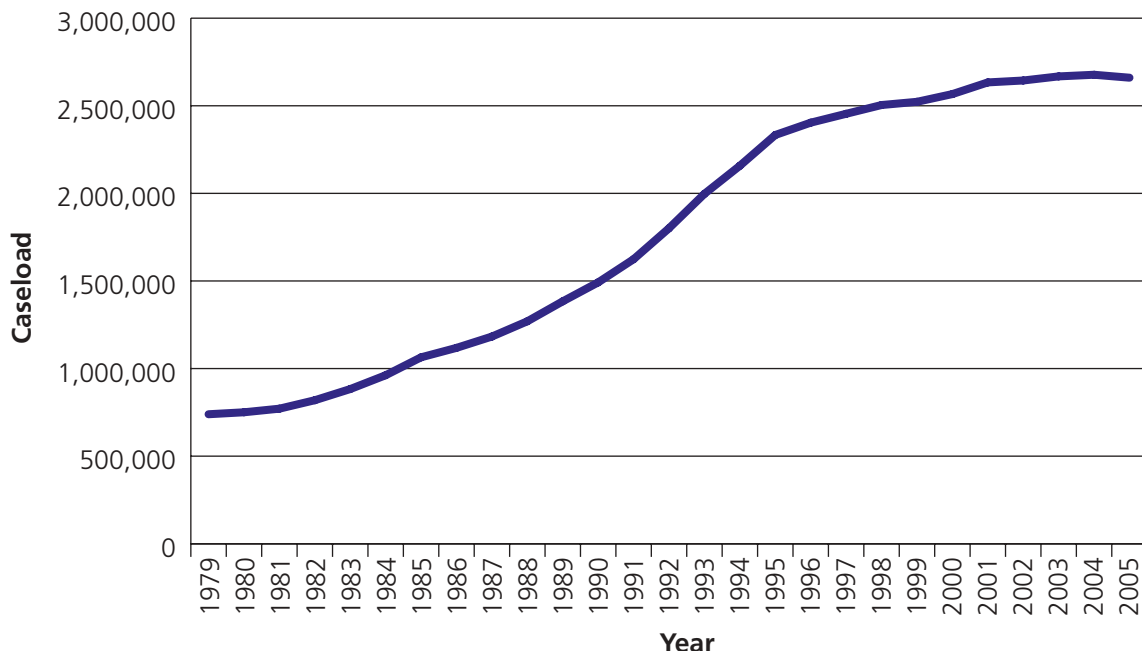
### The challenge

5 The proportion of the working-age population in receipt of incapacity benefits (or older equivalents) has increased from around 3 per cent in the 1960s to over 7 per cent today. Almost all of the increase occurred between the late 1970s and mid-1990s, when the caseload rose from 0.7 million to 2.6 million people. Since then, caseload growth has slowed, and, after over two decades of substantial growth, overall numbers fell by 41,000 in the 12 months to May 2005, to 2.74 million. This challenge is faced by many OECD countries, not just the UK.<sup>4</sup>

### New claimants of incapacity benefits

6 More than half of new claimants are out of work immediately before they come onto incapacity benefits. A quarter of all those who make a claim for incapacity benefits do so within 90 days of finishing a Jobseeker's Allowance claim, and around a tenth start within 90 days of finishing an Income Support claim. Of new claimants, 32 per cent have not been in work during the previous two years and 43 per cent have received an

Figure 2.1: Incapacity benefits caseload 1979 to 2005, excluding Incapacity Benefit Short Term (Lower)



Source: Office for National Statistics, Department for Work and Pensions Information Directorate, *Work and Pensions Longitudinal Study*

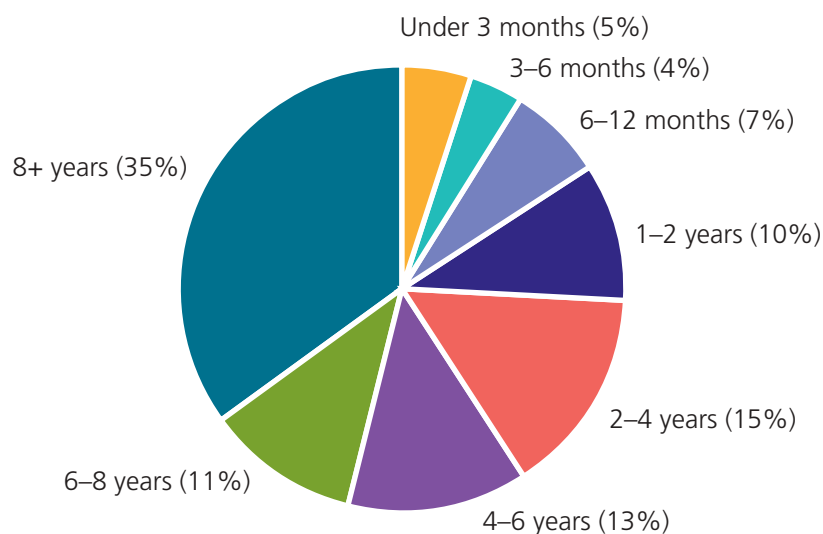
out-of-work benefit during the previous two years.<sup>5</sup> This is of major concern as a poor work record is one of the best predictors of whether people will make an early return to work.

- 7 A significant proportion of new claimants come onto incapacity benefits from employment. Seventeen per cent of those entering incapacity benefits receive Statutory Sick Pay immediately before starting their incapacity benefits claim and 12 per cent were self-employed.
- 8 So, in order to maximise the number of people staying in work rather than moving onto benefits, we need a broad strategy that provides tailored help and support to address the different routes onto benefits and deals with a variety of barriers to work – not just ill health or disability.

#### Time on benefits

- 9 The increase in the number on incapacity benefits that occurred between the 1970s and the mid-1990s is largely explained by a decline in the proportion of people leaving benefits within the first 18 months and consequently increasing numbers who remain on the benefits long-term. Currently just over half of the caseload has been on benefits for more than five years.
- 10 This is not because people with transitory health conditions do not recover quickly and return to work – in fact, the majority do. Almost 60 per cent of people who started to receive incapacity benefits in 2004 left within a year. However, for the remaining 40 per cent who do not return to work quickly, the prognosis is bleak – only 22 per cent of claimants

Figure 2.2: Claimants of incapacity benefits by duration of claim (May 2005)



Source: Office for National Statistics, Department for Work and Pensions Information Directorate, *Work and Pensions Longitudinal Study*

already claiming for a year will leave within the next year and 29 per cent of them will still be receiving benefits after another eight years. This is the result of a system that, rather than helping people with health conditions back into work, simply allowed them to remain on benefits with little or no intervention. **Early intervention is crucial to ensure that people do not become dependent on benefits.**

### Characteristics of incapacity benefits claimants

- 11 The stereotype is that incapacity benefits claimants are overwhelmingly older men, formerly employed in the manufacturing industries, with bad backs, living in Northern England, Scotland or Wales. It is also argued that many neither want nor expect to work again and that there are no jobs available for them.
- 12 In fact, over 40 per cent of claimants are women, over half are under 50 and nearly 40 per cent have a mental health

condition (compared with 25 per cent in the mid-1990s). And incapacity benefits are a national problem because there are at least 150,000 claimants in each region. Of course, problems are worse in some regions than others, and similarly for some groups of people more than others. For example, the scale of the challenge is typically more concentrated in some of the poorest and most disadvantaged areas, and among people who often face other disadvantages, such as low skills. But our strategy cannot be 'one-size-fits-all'. It must be:

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

### Structural problems

13 The vast majority of people – around 80 to 90 per cent – making a claim for incapacity benefits want and expect to get back into work. It is the system that has failed them, by not providing the help and support they need. There are several shortcomings in the system as it currently stands.

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

### Progress so far

14 We have introduced a major programme of measures for those with health problems and disabilities, including the New Deal for Disabled People and increased rights through the

Disability Discrimination Act. These measures involve public, private and voluntary sector organisations.

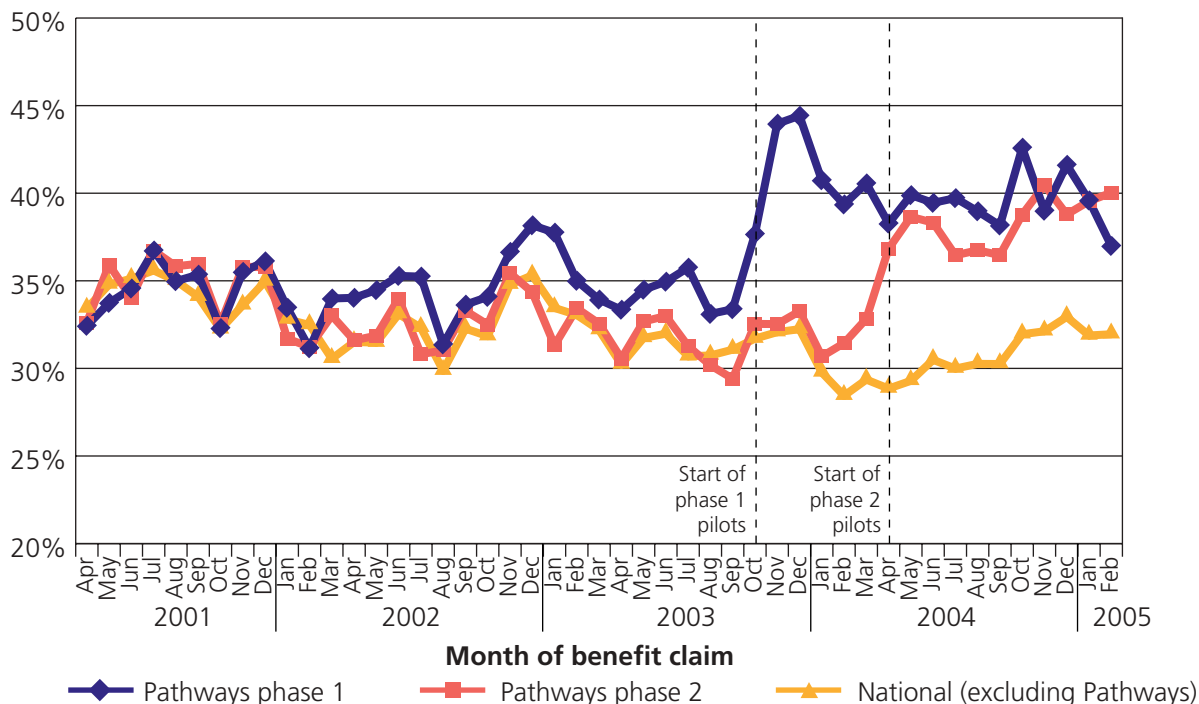
### Pathways to Work

15 A key element of our approach has been the Pathways to Work pilots, which are the first major step by any government to delivering enhanced support for people facing health problems or disabilities. They provide a co-ordinated approach to addressing the barriers that people face when they have an illness or disability, rather than simply compensating them for the disadvantage they face. The pilots offer a dual approach to assistance, providing people with financial support while also facilitating their return to independence and the ability to earn the means to live. These pilots have placed the UK at the forefront of the developed world by actively engaging with this group in an effective way.

16 The pilots combine a balanced package of rights and responsibilities, which aims to target a number of the health-related, personal and external barriers to returning to work. The programme is based on a wide-ranging review of both national and international initiatives and evidence. It consists of five broad strands of activity designed to address the various weaknesses in the existing framework of support, as follows:

- a new, much more intensive framework of mandatory work-focused interviews delivered by specially trained personal advisers;

Figure 2.3: Proportion of customers leaving incapacity benefits within six months of their claim start



Source: *Incapacity Benefit reforms Pathways to Work pilots performance and analysis*, DWP Working Paper No. 26

Note: The data presented are produced from the National Benefits Database and do not include a proportion of short-term incapacity benefits claims. Therefore the percentages shown are lower than the actual rates. However, trends over time will be consistent.

- better access to existing return-to-work support and entirely new programmes, delivered in partnership with the NHS, to help individuals to manage their health conditions;
- improved financial and non-financial incentives to prepare for and find work;
- active involvement of employers in helping people to prepare for and progress in work; and
- work to change prevailing attitudes held towards people with illness or disability among other key stakeholders, particularly GPs and employers.

17 Early evidence from the pilots is very encouraging. We are engaging

significantly greater numbers of claimants and substantially improving their prospects for work. The evaluation so far demonstrates an increase of around **eight percentage points** in the number leaving benefits in the first six months of their claim compared with national rates.<sup>6</sup>

18 Customers, personal advisers, employers and service providers have responded very positively to the pilots. This is the first large-scale intervention for people with an illness or disability to deliver such positive results. We will continue to review the pilots to ensure we learn from the emerging evidence as we develop the next phase of reform. We will also seek to ensure our proposals deliver the pilots in innovative

and more cost-effective ways as we roll out to the rest of the country.

## Our future strategy

19 Helping those facing ill health or disability is fundamental if we are to meet the employment challenge identified earlier. We will reduce the number of people moving onto the new benefit, increase the number leaving benefit quickly, and better address the needs of all those on the benefit, including additional payments to the most seriously disabled people. The measures we propose – reform of the gateway, improvements to workplace health, increased support for claimants and removal of the perverse incentives in the system – should, over time, significantly reduce the number claiming incapacity benefits. It is difficult to model the precise impact of these measures. If, however, the Government, employers, local authorities and health professionals come together to tackle this challenge, we can aspire to reduce the number of incapacity benefits claimants by 1 million over the course of a decade.

## Reducing the number of people making a claim for incapacity benefits: prevention and proactive intervention

20 Our first priority must be to reduce the likelihood of people developing health problems that may result in them having to give up work and becoming dependent on benefits. Where they do develop health problems, we want to help them manage these so that

they can remain in work and achieve their potential.

21 This means that we must work in partnership with employers, employees, health professionals and insurers to develop a comprehensive package of support which develops healthy workplaces, retains employees in work, and maximises the effectiveness of healthcare in rehabilitating people. Central to this package of support is *Health, work and well-being*, which we published in October 2005.<sup>7</sup> This established a groundbreaking partnership with the health departments and the Health and Safety Executive. We are working with key stakeholders to:

- create workplaces where we protect the health and well-being of employees and optimise the opportunity for **people to improve their own health and well-being**, as outlined in the workplace component of the *Choosing health* White Paper;<sup>8</sup>
- ensure all employees have access to competent **occupational health advice and support**;
- support and engage **healthcare professionals** so that they recognise the importance of work for their patients' well-being;
- make sure investigation and treatment for health problems can be accessed in a way which will help people to **remain in work** and avoid unnecessary absence;
- identify ways to improve the provision of, and access to, interventions for **managing common mental health problems**

that can lead to long-term ill health with the consequent impact on work and well-being;

- ensure the development of appropriate **return-to-work support**, building on the actions outlined in the *Framework for vocational rehabilitation*;<sup>9</sup>
- **lead by example** in supporting the NHS, Government and local authorities as employers to become exemplars of good occupational health practice; and
- continue to **challenge any discrimination** in employment that exists against long-term sick and disabled people.

22 This strategy underpins all the key elements of our welfare reform plans.

23 To further support the strategy, we will appoint a National Director for Occupational Health to help us bring about the fundamental changes we need in the health of people of working age, placing this important agenda at the same level as issues such as heart disease and cancer.

## Developing healthy workplaces

24 Occupational health and safety is an integral part of workplace well-being, as well as a key part of effective business management. A clear message from a series of case studies carried out by the Health and Safety Executive is that there are business benefits associated with good health and safety management initiatives.<sup>10</sup>

25 We will work with trade unions at local, regional and national levels to build on the successful work that they have already undertaken in partnership with employers to protect employees better from health risks in the workplace. In particular, we will seek to develop the constructive and supportive role of safety representatives.

26 We have, through the Health and Safety Executive, established specific programmes running over the next three years to improve the prevention of workplace injuries and occupational ill health, and to improve the management of sickness absence and return to work. These include programmes focusing on musculoskeletal disorders and stress management. And, by 2008, the Health and Safety Executive's stress management standards will be extended to cover those parts of the financial and public sectors where there is greatest need to focus attention.

27 We also intend to use the evidence base on how employers benefit from a healthy workforce to develop a framework based around the healthy organisation, which we want to link in to the next scheduled review of the Investors in People standard in 2007.

28 Small and medium-sized enterprises need more help to face particular challenges in the management of occupational health, safety, sickness absence and return to work. That is why the Government, through the Health and Safety Executive, is piloting a new service in England and Wales – Workplace Health Connect.

- 29 We have already announced that the first pilots will begin in February 2006, with a national helpline for all employees and small and medium-sized enterprises, and local focused support for 40 per cent of small and medium-sized enterprises. But we want to go further. Through 2006, we will build provider capacity and learn quickly from the pilots. Based on this experience and analysis, our intention is to cover two-thirds of small and medium-sized enterprises by early 2007; and, following evaluation, we hope to be able to move to national coverage by 2008, subject to availability of resources.
- 30 In Scotland, Safe and Healthy Working is already providing a problem-solving service for Scottish small and medium-sized enterprises, and we will look to ensure that Workplace Health Connect meshes with this service. In Northern Ireland, a long-term, cross-cutting workplace health strategy, Working for Health,<sup>11</sup> has been in place since 2003. This has been taking forward a range of initiatives to reduce the incidence and severity of work-related illness by exploiting the workplace as a setting to tackle health issues and health inequalities.

### **Workplace Health Connect**

Workplace Health Connect will deliver advice on occupational health, safety and return to work to small and medium-sized enterprises in England and Wales. It will consist of an advice line with an associated website and a workplace-focused regional problem-solving service with signposting to specialist help.

The vision for Workplace Health Connect is that:

- everyone working in small firms will have free access to consistent, high-quality advice on creating a healthy workplace;
- employees and employers will work together to improve their working environment and help colleagues return to work when they have been ill; and
- businesses will be more profitable and everyone will enjoy the economic and health benefits of being in work.

## Supporting attendance – reducing sickness absence

- 31 Sickness absence has a significant impact on employers, employees and the benefits system. Absence from work because of illness or injury costs UK business approximately £12 billion each year in direct costs alone, and even more in indirect costs. As the Confederation of British Industry says,<sup>12</sup> it is in employers' interests to address the enormous cost of sickness absence, and the associated implications for the workplace.
- 32 Government can play its part by facilitating speedy and effective investigation and treatment, while employers can also help by intervening early when an employee goes off sick and by operating effective sickness absence management programmes in line with best practice. For example, there is good evidence that one of the most effective ways to return employees to work after a period of absence is to encourage them to start back on a modified basis (for example, by working part-time or adjusting some of their duties).
- 33 The Labour Force Survey indicates that, on any one day, about 2 per cent of the working population is absent from work for health reasons.<sup>13</sup> The majority of those off sick return to work quickly – around 60 per cent of absence is for less than five days.<sup>14</sup> But the evidence suggests that those on longer-term absence may account for a greater proportion of working time lost to an employer and so represent a higher cost.<sup>15</sup> And around 120,000 people each year move across to incapacity benefits after a spell of sick pay.
- 34 Many of these individuals will never return to the workplace, with a devastating impact on themselves, their family and the local economy. Yet most of these individuals report potentially manageable conditions, such as mental health or musculoskeletal disorders, usually of no more than moderate severity. Research shows that they retain a desire to work, and there is some evidence on effective ways of aiding their recovery (such as early intervention and modified returns to work).
- 35 We want to do more to help employers across the public sector become more efficient and productive by adopting best practice in sickness absence management. Through the Ministerial Task Force on Health, Safety and Productivity, we are promoting best practice in the public sector and making sure that the issue remains high on the management agenda. Progress has already been made. The most recent figures show encouraging reductions in absence for both the Civil Service and local government.<sup>16</sup> However, we need to sustain these improvements, so we will be considering what additional levers and incentives can be developed to drive improved performance among those organisations with above-average levels of sickness absence.
- 36 We also know that absence from work can be a particular problem for small and medium-sized enterprises. We are working with the Federation of Small Businesses on the development of its monitoring indicator on absenteeism

for small and medium-sized enterprises, which is to be launched on its website early in 2006.

## Supporting attendance – incentives

### Employers' Liability Compulsory Insurance

37 We know that incentives play an important part in helping employers focus on effective sickness absence management. To incentivise employers and to reduce risk in the workplace, so that fewer workers are injured and those who are out of work are helped to return as quickly as possible, these incentives must be as simple as possible to understand and loaded in favour of active, early intervention. Employers' Liability Compulsory Insurance is the insurance that employers must have to cover their liability to their employees for bodily injury or disease sustained in the course of their work. Creating healthier workplaces will not only reduce the number of employees absent because of ill health but can also result in lower insurance premiums and reduce the financial impact of sickness at work. Employers who can demonstrate excellence in the area of workplace health are more likely to attract and retain high-quality employees.

38 The Government has worked with the insurance industry (through the Association of British Insurers) and the Health and Safety Executive to ensure reduced risk in the workplace is reflected through liability insurance premiums. For example, we have developed a health and safety performance indicator for small and

medium-sized enterprises to help insurers identify good health and safety performers when insurance terms are set.

39 The Department for Constitutional Affairs is considering how the functioning of the Employers' Liability Compulsory Insurance market could be improved through its Better Routes to Redress strategy. And the Association of British Insurers has recently launched proposals for reform in this area. We welcome this engagement and will continue to work closely with the insurance industry, together with employers and trade unions, to encourage the development of products which help maximise the chance of a speedy return to work.

### Question 1:

**What else should we consider to give the right incentives to employers to provide increased health support to their workforce?**

## Engaging and supporting – GPs

40 GPs are a patient's first, and often only, contact with healthcare professionals. As such, GPs clearly have a pivotal role in providing support and advice about fitness for work and bringing about a change in current attitudes to work for people with a health condition or disability. Members of the medical profession, and GPs in particular, are often seen as 'gatekeepers' to sick pay and benefits. This tends to focus the doctor's attention on the patient's ongoing limitations, rather than encouraging both to think about

rehabilitation, including how an appropriate return to or move into work might be achieved, with all the health benefits this brings.

41 Maintaining a good relationship between doctor and patient is clearly key to the effective working of our health service. This relationship is based on trust. Work can and should be seen as a route to health, offering increased social contact, financial security and self-esteem. The idea that people facing illness or disability should be protected from work, whatever their aspirations, is outdated and can often be detrimental to the individual – the opposite of the outcome the GP intended.

42 We need to support healthcare professionals in bringing about a culture change in the way work is viewed by families and individuals. GPs, in particular, have a key role to play in making this change. A number of initiatives are planned to help them work with patients, to ensure they understand the importance of work in recuperation and the negative impacts of being out of work and can support and assist people to remain in or return to work.

43 Initiatives supporting GPs and primary care teams in their role include:

- identifying specific interventions that improve outcomes with a direct link to incapacity benefits and seeking to incorporate performance against these specific measures within primary care contracts – to reward

primary care staff who take active steps to support individuals to remain in or return to work;

- in conjunction with the health departments, taking steps to support GPs and their teams in recording sickness certification as part of good medical practice;
- reviewing the format of the medical certificate (FMed 3) to make it more user-friendly and to support GPs in providing more comprehensive and robust fitness-for-work advice;
- using the tools that all of the above will provide for evaluation and audit of the impact on entry to Statutory Sick Pay and movement onto incapacity benefits of practice and primary care trust (and their equivalents) populations;
- piloting of an occupational health advice line for GPs to help in the management of working-age patients;
- a national education programme for GPs on health and work;
- establishing GPs with special interest in occupational health within primary care trusts or practices; and
- developing further online learning modules and other relevant courses for GPs on fitness-for-work issues.

### Engaging and supporting – other healthcare professionals

44 Employees who have health conditions sometimes interact with a wide range of other doctors and healthcare

professionals. We want to build partnerships with all the UK's health professions to ensure that a work focus is included in these interactions – so that patients and their health professionals understand the health benefits of work and so support individuals to remain in, or return quickly to, work.

45 Our plan of work in this area includes:

- development of a competency training framework for inclusion in the undergraduate training of all doctors;
- working with the Academy of Medical Royal Colleges and individual colleges and faculties to incorporate competencies in health and work in the postgraduate training of doctors in all specialities;
- with the Royal College of Nursing, development of an online learning module on work and health for nurses;
- supporting the College of Occupational Therapists, which is determined to push forward strongly in this area; and
- working closely with the Chartered Society of Physiotherapists to improve the work-focused messages given by their staff.

### Question 2:

How can we best share the evidence for the role of work in recuperation and good practice regarding sickness certification to medical professionals?

## Engaging and supporting – access to employment advice

- 46 We also want to ensure a stronger link between GPs, other healthcare professionals and direct employment advice. One of the ways in which we are doing this is by trialling placement of employment advisers in GPs' surgeries, learning from and building on the experience of existing examples throughout the country.
- 47 We know that even where GPs believe an individual, with the right support, could get back to work, often no relevant support services are available. We believe that active back-to-work services available to GPs, either within their surgeries or by some other means, may enable us to reach out to more of those people who are getting medical certificates from their GP but getting no access to support via their employer.
- 48 We will be piloting this approach in some Pathways to Work areas by using a co-ordinated service to provide vital initial advice, support and reassurance on the full range of work-related issues patients may raise, and to refer them to appropriate provision. Access would be voluntary and open to any patient of working age by self-referral or recommendation from a health professional. This would mean people on Statutory Sick Pay as well as benefits claimants could access wider services including condition management programmes. We will work with the local health networks on what are appropriate referrals. We will also raise the profile of this service elsewhere, for

example, within local NHS pain clinics and community mental health teams.

## Engaging and supporting – workforce planning/ resourcing

49 It will be important to ensure that we have the right mix of key health professionals, especially in the areas of greatest need. Clearly this is not something that can be solved instantly. But we need to bring together relevant resource planning professionals across the public, private and voluntary sectors to address this problem. We believe that there is a great willingness on the part of private sector employers to work with us, including by providing training where necessary, to improve the position.

## Statutory Sick Pay reform

50 The other key incentive that can impact on an employer's ability to manage sickness absence is Statutory Sick Pay. Statutory Sick Pay is a minimum amount that employers are required to pay and employees are entitled to receive when they are unable to work because of a health condition or disability that lasts for four or more days in a row. It is payable for up to 28 weeks and is paid at a single weekly rate which is currently £68.20 (£70.05 from April 2006). When they have particularly high levels of sickness absence, employers can sometimes reclaim a proportion of these Statutory Sick Pay costs from government.

51 Many employers (covering about 90 per cent of employees) have their own occupational sick pay scheme. In such cases, the employer must ensure

their scheme is at least as generous as Statutory Sick Pay (often it is much more generous). But whether or not they have their own occupational sick pay scheme, employers are still required to keep additional and complex records as though Statutory Sick Pay were payable, particularly when employees end up moving across to incapacity benefits.

52 Much of this complexity does nothing to support an employer to manage sickness absence more effectively. Rather it is connected to rules within Statutory Sick Pay such as the need to:

- ignore the first three days of sickness;
- link together periods of sickness less than eight weeks apart, even where that absence occurred with a previous employer; and
- not pay Statutory Sick Pay in many cases where a sick employee was previously claiming incapacity benefits.

53 Employers tell us that they would, therefore, like to see changes to Statutory Sick Pay, with fewer rules, complications and requirements for record keeping, to ease regulatory burdens imposed upon them. We support this as we believe that, particularly for small firms, a much simpler approach will enable employers to focus on the issue that truly matters – encouraging their employees back to work.

54 The Government has already responded to the concerns raised by giving employers more help to navigate their way through the current scheme.

- 55 In particular, we have worked with HM Revenue and Customs (who have responsibility for ensuring employers' compliance) in recent years in order to:
- introduce CD-Rom and web-based Statutory Sick Pay calculators to enable employers to work out whether an employee is entitled to Statutory Sick Pay and, if so, the payments required and the amount of Statutory Sick Pay they may be able to recover. They also significantly simplify the completion of Statutory Sick Pay forms;
  - introduce a new service within our HM Revenue and Customs Employer Helpline to help employers calculate Statutory Sick Pay entitlement over the phone (by April 2006);
  - use feedback from employers to overhaul and simplify HM Revenue and Customs Employer Guidance, ensuring that it meets their needs; and
  - market these tools to all employers, particularly smaller ones, to reduce the number of firms completing complicated paper-based calculations or relying on paper-based guidance (and to provide better support to those who choose to continue to do so).
- 56 We will continue to work with employers, their representatives and HM Revenue and Customs to develop and further improve all of these areas.
- 57 But we also need to go further. We believe the following changes are appropriate.
- 58 We propose to introduce a much simpler way for employers to assess when entitlement to Statutory Sick Pay arises and when the maximum period of entitlement has been reached by abolishing:
- the requirement to link periods of sickness separated by no more than eight weeks;
  - the need to link together periods of sickness with a previous employer;
  - the need to apply the current three waiting days before an employee can first become entitled to Statutory Sick Pay; and
  - the complex rules that prevent employers from paying Statutory Sick Pay where they have previously been claiming incapacity benefits.
- 59 We believe this will mean a much simpler system for employers to administer, where Statutory Sick Pay becomes payable on the first day a person is sick for work and where the maximum period when Statutory Sick Pay is payable is 28 weeks from that date.
- 60 Alongside this, we also want to shift the resources we currently use to compensate some employers for high levels of sickness absence and invest further in additional support for (particularly small) employers to manage sickness absence more effectively. We plan to do this by abolishing the overly complex percentage threshold scheme. We propose to use the money saved to support small employers in other ways that would help them to get sick employees back to work quickly (in line with the key elements of the prevention

package) and we welcome respondents' views on how we could do this most effectively.

**Question 3:**

**Does this simplification package for Statutory Sick Pay provide incentives for improved absence management and meet the need for reduced bureaucracy? How could the redirected sums of the percentage threshold scheme be most effectively utilised?**

## Jobseeker's Allowance rules

61 The need for early intervention does not only arise where people are already in work. We are also keen that, when people on Jobseeker's Allowance fall sick, they do not automatically switch to incapacity benefits, particularly where the illness is of a short-term nature. People need to receive the benefit that is of most direct relevance to their usual status. We therefore propose to make full use of the current rules where people on Jobseeker's Allowance are allowed two spells of short-term sickness within a 12-month period. Instead of moving across early, Jobseeker's Allowance recipients will have to exhaust these permitted spells of short-term sickness before claiming incapacity benefits. This will be supported by more proactive sickness management arrangements within Jobseeker's Allowance, including 'return from illness' interviews and, where necessary, revision of the Jobseeker's Agreement and referral to specialist assistance.

## Reducing the number of people making a claim for incapacity benefits: transformation of the gateway

- 62 The current Personal Capability Assessment process – already recognised by the OECD as being one of the toughest in the world<sup>17</sup> – is used to assess individuals claiming incapacity benefits. It is often viewed simply as a hurdle that must be cleared to receive benefits and, as a consequence, it focuses on incapacity rather than capability.
- 63 We intend to transform the current assessment process within the gateway so that it:
- provides a professional assessment of an individual's eligibility for financial support based on their functional capability;
  - identifies those people who are capable of taking part in work-related activity and the support and interventions required to help them get back to work; and
  - identifies people who are so limited by their illness or disability that it would be unreasonable to require them to undertake any form of work-related activity in the foreseeable future. This group, which will replace the existing 'exempt' group is described more fully below.
- 64 We will work with health professionals, personal advisers and disability groups (including the Disability Rights Commission and the Disability

Employment Advisory Committee) to ensure that the transformed assessment process is fair and equitable in application and operation.

- 65 People will need to satisfy the Personal Capability Assessment before they become eligible for the additional Employment Support or Support component of the new allowance (as described later in this chapter). Until they do so, they will receive the basic level of Jobseeker's Allowance. We will also develop proposals so that the assessment distinguishes between eligibility for the benefit and capability for work. While the former will be determined on the basis of evidence provided by medical practitioners, the latter could be assessed by other health professionals as well.
- 66 Everyone who wants to work, whatever their health condition or disability, should get the necessary help and support to enable them to work as soon as they are able to do so. For the majority of people, the prospects are good with the right advice and help. However, we recognise that for people with the most severe functional limitations, it would be unreasonable to expect that they engage in work-related activity.
- 67 This group of people will fall into the new category of people who receive the Support component of the Employment and Support Allowance, and conditionality will not be imposed on them. It will differ from the current 'exempt' group, which it will replace, in that it will not be based on the nature of the specific illness or disability the individual has, but on the severity of the impact of that condition on the individual's ability to function. For example, blind people are currently consigned to the exempt group whereas most blind people, with support, are capable of and indeed wish to undertake suitable work. Our proposals will correct this anomaly.
- 68 Although it is likely that the majority of individuals in this new category will never be able to work again, we recognise that for some their situation may change such that return to some form of appropriate work may become an option. In these circumstances, individuals will be provided with the support necessary to help them achieve this if they wish. This group currently carries the working title of 'reserved circumstances' but we are seeking a more suitable name as part of our consultation process.
- 69 Following completion of the assessment, the report to the claimant's personal adviser will include a recommendation regarding an appropriate timescale for review. This will take into account the anticipated time for improvement in an individual's functional capability, assuming that appropriate health interventions have been undertaken. Recommendations for such interventions will also have been included in the report to the personal adviser. Review of progress will normally be no later than 12 months from the date of the previous assessment unless the person's condition suggests that a review in that timescale would be inappropriate.
- 70 We acknowledge that for many people the term Personal Capability Assessment has rather negative

implications and we therefore intend to change the name to reflect the enabling purpose of the assessment.

## Mental health conditions

- 71 Around 40 per cent of all claimants are on incapacity benefits because of a mental health condition. These conditions can vary widely and be complex and challenging.
- 72 To respond to the needs of these individuals, we have invested heavily in training for personal advisers and in condition management programmes in Pathways to Work areas. We intend to develop our work with health services to meet the particular needs of this group, many of whom are likely to require ongoing support, whether they enter work or remain in receipt of benefits. Given the changing pattern of mental health, we need to ensure that the mental health component of the new medical assessment reflects the type of conditions prevalent today. Accordingly, we are convening a group of experts in this field to undertake a comprehensive review of this and make recommendations.

## Appeals process

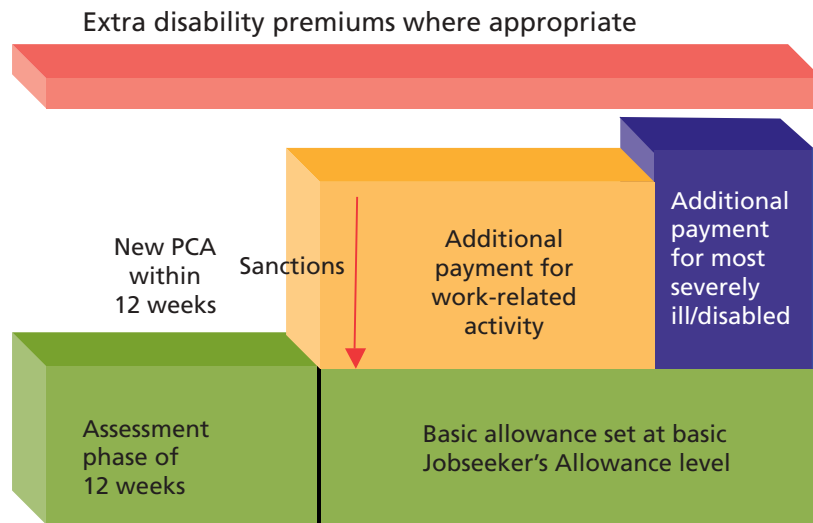
- 73 We recognise that a robust and independent appeals process is an integral part of any fair system of assessment. The current system generates a very high number of appeals, many of which are successful. We believe that improvements can be made so that the need for appeals is minimised. We intend to review the appeals process to:

- ensure that claimants have a clearer understanding of the basis for the initial decision, thus reducing claims resulting from a lack of that understanding;
- incorporate a comprehensive reconsideration process as part of the initial assessment of any appeal to further reduce the number of appeals needing to progress to tribunal, with clear feedback to appellants; and
- ensure that all new evidence is, wherever possible, included in the reconsideration process rather than at tribunal.

## Increasing the number of people leaving incapacity benefits quickly: engagement and support for new claimants

- 74 The way that the welfare state interacts with people who are claiming benefits because of a disability or health condition needs to change. Building on the success of the Pathways to Work pilots, we need to engage people to support those who are able to work back into employment and use employer resources and expertise to improve access to job vacancies.
- 75 At the same time, we need to continue to offer support to people who are unable to work in either the long or the short term, while offering incentives to encourage people to prepare to work if they can. Where people are unlikely to be able to work for the foreseeable future, we will offer them unconditional support.

Figure 2.4: The new Employment and Support Allowance



## A new Employment and Support Allowance

76 The Pathways to Work pilots have demonstrated that, with the right help and support, many people on incapacity benefits can move back into work, reinforcing our view that labelling people on incapacity benefits as 'incapable of work' is wrong and damaging. This, coupled with the complexity and structure of incapacity benefits, works against our intention to help people focus on their aspirations. So our next step is to replace incapacity benefits with an entirely new Employment and Support Allowance.

77 We propose that the new allowance focuses on how we can help people into work and does not automatically assume that because a person has a significant health condition or disability they are incapable of work. It is vital that the Employment and Support Allowance is built on the principle of rights and responsibilities.

78 The new allowance will:

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

## The assessment phase

79 When an individual applies for the new allowance with appropriate evidence such as a medical certificate, they will

enter an assessment phase lasting three months. Individuals will have their functional capability assessed to determine their entitlement. While this process is undertaken, they will receive the assessment phase benefit, set at Jobseeker's Allowance basic rates (subject to income tests where individuals do not meet the contribution conditions).

- 80 During the assessment phase, we will not make any judgement about the most appropriate benefit for that individual. That said, we will ask all claimants to undertake a work-focused interview after eight weeks – as is the case at present – so that we can offer individuals the opportunity to access all the help that is available through Jobcentre Plus, for example, existing employment programmes. In this way, we can ensure that support is available before benefit assessment is finally determined.
- 81 We will undertake to complete the assessment, including the revised Personal Capability Assessment (as described above) within three months.

## Employment and support – the main phase of the allowance

- 82 If the new Personal Capability Assessment confirms that a person is eligible for the new benefit, they will automatically move on to the main phase of the allowance. For most people, where a return to work (full- or part-time) is feasible in the short or medium term, they will receive the Employment Support component of the new allowance. This will be conditional

on drawing up a personal action plan focused on rehabilitation and eventually on work-related activity. This work-related activity group will be paid at a higher rate than during the assessment period. The additional amount will fix the total received by a claimant at a rate above the current long-term rate.

## People with the most severe disabilities and health conditions

- 83 People with the most serious disabilities and health conditions would not be required to undergo such activity as a condition for the allowance, though they would be able to engage on a voluntary basis. After the assessment phase, they will be paid the Support component, and receive more money than they do now.

## Continuous engagement

- 84 To help the work-related activity group engage, we will continue, as in Pathways to Work, to utilise the support and encouragement of our personal advisers. We will also use private and voluntary sector expertise to provide personal advice and support for individuals to help them back to work.
- 85 We anticipate that, given support to build up their capacity, most claimants will be capable of and would benefit from some form of activity or employment, which would often increase over time as personal advisers work with claimants to build up their individual capacity for work. As we learn more about what works, as the Pathways to Work approach is

Figure 2.5: Examples of activity suitable for inclusion in claimants' action plans

Activity type	Examples
<i>Work tasters</i>	<ul style="list-style-type: none"> <li>■ Work trials</li> <li>■ Voluntary work</li> <li>■ Permitted work</li> <li>■ Preparation for self-employment</li> </ul>
<i>Managing health in work</i> <sup>18</sup>	<ul style="list-style-type: none"> <li>■ Condition management programmes</li> <li>■ Progress to Work programme</li> <li>■ NHS Expert Patients programmes</li> </ul>
<i>Improving employability</i>	<ul style="list-style-type: none"> <li>■ Undertaking a basic skills programme</li> <li>■ Over-50s 'confidence in working programme</li> <li>■ Jobcentre Plus or external training programmes</li> </ul>
<i>Jobsearch assistance</i>	<ul style="list-style-type: none"> <li>■ New Deal for Disabled People Job Brokers</li> <li>■ Additional support from other specialist Jobcentre Plus advisers, such as Disability Employment Advisers, New Deal 50 plus, New Deal for Lone Parents, or similar external programmes</li> <li>■ Independent job searches</li> </ul>
<i>Stabilising life</i>	<ul style="list-style-type: none"> <li>■ Activities to stabilise health conditions (including mental health problems), for example use of cognitive behavioural therapy</li> <li>■ Assessing childcare options</li> <li>■ Managing financial situation</li> <li>■ Stabilising housing situation</li> </ul>

established across the country and as resources permit, we will ask everyone apart from those with the most severe disabilities and health conditions to engage in work-focused interviews, produce action plans and engage in work-related activity, or see their benefit level reduced.

- 86 Opposite are some examples of what type of activity might be considered as suitable for inclusion in the action plan. This list is not exhaustive, nor should it be seen as prescriptive.

### Question 4:

**Do the types of 'suitable activity' we have set out provide a sensible range of activities that could be undertaken in order to fulfil an acceptable action plan?**

- 87 If individuals do not participate, as in Pathways to Work, their benefit will be reduced in a series of slices. Ultimately, if people continue not to comply, the benefit will return to the level seen during the assessment period.
- 88 Claimants will, as now, have a right of appeal at appropriate points in the decision-making process.

### What about fluctuating conditions?

- 89 Not only do health conditions vary widely, but they can fluctuate in intensity. We need to have a system that can be flexible to the claimant's changing condition and both advisers and employers will need to deal with these challenges.

- 90 There are three broad scenarios we have to prepare for:

- a person who has an illness that has a varying impact on them on a daily or weekly basis;
- a person whose illness worsens, but is likely to improve again, or who needs a spell in hospital; and
- a person whose condition progresses with significant impact on their functional capacity, and which is unlikely to improve again.

- 91 For the first two groups, we propose that personal advisers should, wherever possible, agree appropriate action which reflects these variations. In a small number of cases, it may be necessary to allow a gap until the condition has improved sufficiently to enable some form of activity to re-commence. For the third group, personal advisers will look to establish whether they should move into the reserved circumstances group.

## Additional costs of disability

- 92 As well as the higher amount of benefit paid either in recognition of the work-related activity an individual undertakes, or the unconditional support they need, many claimants will continue to be entitled to some of the disability-related benefits that currently exist. For example, Disability Living Allowance provides a non-contributory, non-income-related and tax-free contribution towards the disability-related extra costs of people who require personal care and/or have mobility difficulties. Because it is paid both in and out of work, it remains

available to disabled people who are able to return to work. We do not intend to make changes to Disability Living Allowance as part of these reforms.

- 93 For those receiving the means-tested part of the new Employment and Support Allowance, we propose that the current basic Disability Premium in Income Support be replaced by the new Employment Support and Support components. This will provide a 'something for something' contract, recognising an individual's right to support and responsibility to act within their capabilities. We also recognise that, for many disabled people, the extra support currently provided through the Enhanced Disability Premium and Severe Disability Premium is important. We anticipate that people on the income-related strand of the Employment and Support Allowance who meet the relevant criteria will continue to get the additional help currently provided through these premiums.

**Question 5:**

**Is the combination of Disability Living Allowance plus the Enhanced Disability Premium/Severe Disability Premium for those on low incomes, the right way to target support towards disabled people with the greatest needs?**

**Contributory benefit additions**

- 94 The current benefits system is complex and enshrines outmoded concepts that do little to support those with a health condition or disability back to work.

- 95 The new Employment and Support Allowance aims to tackle this and provide a modernised and simpler benefit. We propose that the Employment and Support Allowance should not contain age additions. These send the message to young people who are disabled early in life that society does not think it is a worthwhile aim for them to aspire to participate in the world of work. Instead, the new benefit will incentivise those incapacitated early in life to consider their capabilities and help them reach their goals.
- 96 We also propose that the Employment and Support Allowance should not contain adult dependency increases, which enshrine a system of 'dependent' spouses, rather than the equal partnerships of today.

**Question 6:**

**Do you agree that these proposed simplifications more accurately reflect the principles underpinning our modern society?**

**What happens if people try working?**

- 97 It is clear from our research that many people facing an illness or disability believe that to be on incapacity benefits you need to be incapable of any work and, worse still, that showing any potential for work risks disallowance.<sup>19</sup> Alongside this, the name of the benefit clearly associates the claimant with being 'incapacitated' in some way.
- 98 These are not fair or helpful associations as they focus on what is limiting the individual, rather than focusing on their

potential. The new system will not equate a person's health condition or disability with incapacity to work. Rather the enhanced medical assessment and personal adviser processes will help people focus on what they could do, given the right support.

99 It is vital that a person making the move from benefits into work has the right financial security to back them up. Not least, people need to know they will be supported if things go wrong. The 'linking rules' in incapacity benefits previously allowed individuals to return to the same level of benefit they were on before going back to work (providing they still met the associated conditions) for the first year of being in work.<sup>20</sup> But they were complex and claimants had to apply for them.

100 We recognised the importance of doing better than this and making it easier for people to return to their previous benefit levels. We announced in the 2005 Budget that we will double the linking period to cover the first two years of being in work and we will make the process automatic. These changes come into effect from October 2006. We will transfer linking rules to the Employment and Support Allowance and will continue to consider, in the light of evidence, whether we can improve them yet further.

101 Even with the security of the linking rules, we appreciate that moving into work can be a daunting prospect for many reasons. We also need to make sure there are the right incentives to try working. This is why there are a number of options for people to try out work before leaving incapacity benefits.

For example, claimants can undertake unlimited voluntary work, and various forms of part-time paid work.

102 Volunteering is one of the key ways an individual can build up confidence and gain valuable work-related skills after a period out of work. People on incapacity benefits can already undertake unlimited voluntary work for charities and voluntary organisations and we intend to extend this provision to the new Employment and Support Allowance.

103 The recent Russell Commission report on youth action and engagement recommended that young people on benefits and their families should not suffer a financial barrier when they volunteer. The Department for Work and Pensions and the Home Office are working together to communicate existing rules more effectively to volunteer-involving organisations, local authorities and young people.

104 Key to making these changes have an impact is ensuring that people are aware of the opportunities. We are issuing detailed guidance to our staff about how to encourage claimants to volunteer without affecting their benefit entitlement.

105 For people currently on both income-related and contributory incapacity benefits, it is possible to earn a certain amount of money without affecting benefit entitlement. People can undertake some part-time and temporary work or engage in work trials without their benefits being affected. This allows people a period of financial stability while they adjust

to working (via a small number of hours a week) and move towards more sustained employment. This option has often been a vital tool to build up an individual's confidence to make that last step into work. But in their present form, these rules are not as effective as we would like in acting as routes into work, and are underused.

106 We are looking at this provision, alongside the measures outlined above, to see what improvements we can make to ensure that we offer the clearest possible incentives into work in the new Employment and Support Allowance. We are already moving in this direction. For example, we have announced changes to permitted work that will improve the support and guidance available from personal advisers and we have also announced that we are going to make it easier for people on incapacity benefits to undertake test-trading (preparation for self-employment) while retaining their benefit, as we believe that self-employment offers one of the best and most flexible routes back into the labour market for people with health conditions and disabilities.

107 These improvements will be carried into the new benefit and we will continue to look for further ideas to help people take opportunities without fear of their benefits being removed.

108 We will also need to ensure that work pays for people moving into employment. We would therefore envisage the roll-out of the 'Return to Work Credit' in new Pathways to Work areas.

### Question 7:

How do you think that we can best improve work incentives within the new Employment and Support Allowance so that individuals have the opportunity to try out periods of work and progress to full-time work where possible?

## Addressing the needs of all those on the benefit: engagement and support for existing claimants

109 The benefit structure and conditionality requirements outlined above will only apply to new claimants. Existing claimants will remain on their current benefit level. However, many existing claimants will have potentially manageable conditions, which may have changed or improved while they have been on benefits. We propose to work more proactively with this group of people, balancing their responsibilities to prepare for a return to work with the need to treat them fairly.

110 The Pathways to Work pilots have, since February 2005, been extended to require some existing claimants to take part in three mandatory work-focused interviews, and will be extended to cover more of the caseload on a mandatory basis in the pilot areas from April 2006. And, as has been the case in all of the original seven Pathways to Work pilots from their inception, anyone already on incapacity benefits may volunteer for the support we offer – support that we will highlight to individuals so that they are fully aware of what is available to them, for example by providing information at medical examination centres when

- claimants attend for review. This will be especially important for people whose health condition has changed or improved.
- 111 In addition to this option of volunteering for help, in time we will increase the frequency with which claimants are assessed and have to attend work-focused interviews. As resources allow, we will, over time, consider extending work-focused interviews to existing claimants to ensure that they are aware of the opportunities available to them, including Pathways to Work support as it becomes available. This will be in addition to the regular Personal Capability Assessments that people will undergo to gauge whether their condition has changed or improved.
- 112 It is estimated that around 1.2 per cent of expenditure on incapacity benefits is overpaid through fraud and error – this is one of the lowest rates across the benefits system. Despite this relatively low level of fraud and error, we are not complacent and we continue to seek to drive out all types of error in incapacity benefits, as we do with all other benefits, through our current and developing range of policies aimed at tackling fraud and error.
- 113 The more proactive and more frequent engagement with future claimants that is envisaged under the new Employment and Support Allowance will itself reduce the risk of fraud and error creeping in. It will help ensure that the level of benefit in payment remains correct over time.
- 114 But we recognise that there may be a minority of claimants who, although able to undertake some work, will seek to prolong unnecessarily their time on the protected level of incapacity benefits. It is important, therefore, in the interests of fairness to genuine claimants and to the taxpayer, that we identify any such cases and review them. Therefore, in line with our core principle of balancing rights with responsibilities, we will complement the existing routine case review (currently held at varying intervals) by introducing the additional safeguard of randomly selected, ad hoc case checks, to be carried out by a dedicated team which will be specially created for this purpose. Where these checks produce doubt about the nature or extent of an individual's incapacity, a fresh Personal Capability Assessment will be required.
- 115 This process will provide confirmation to the genuine claimant of the appropriateness and correctness of their ongoing entitlement and also assurance to the taxpayer of the integrity and security of the benefit.
- 116 Building on these measures, and learning from the evidence gained, we will set out later a strategy specifically aimed at the barriers faced by existing claimants. A key part of this strategy will be the initiative on cities, described in Chapter 5. We will discuss our developing strategy, as well as ways of ensuring fairness for existing claimants, with stakeholders.

## Addressing the needs of all those on the benefit: raising expectations

- 117 Disabled people looking for work face a range of barriers – discrimination, policy design and delivery, physical and environmental barriers, and a lack of empowerment. We need to change the current culture and raise the expectations of employers, health professionals and disabled people themselves that these barriers can be overcome.
- 118 Since 1997, we have set about implementing the most profound extension of disability rights this country has ever seen. We have strengthened civil rights for disabled people in such areas as access to goods and services, and to public transport, and we established the Disability Rights Commission in April 2000 to help disabled people understand and enforce their rights.
- 119 In October 2004, we extended the employment provisions of the Disability Discrimination Act 1995 to provide protection against discrimination for an additional 600,000 disabled workers. A further 7 million jobs and 1 million employers were brought within the scope of the employment provisions of the Act. Most recently, amendments made to the Disability Discrimination Act in 2005 require public authorities to promote equality of opportunity for disabled people. The legislation will ensure greater opportunities for disabled people to work by tackling discrimination in recruitment and employment.
- 120 The Prime Minister's Strategy Unit report *Improving the life chances of disabled people*<sup>21</sup> sets an ambitious 20-year vision to bring disabled people fully within the opportunity society. The radical programme of service delivery reform set out in this report; the Department of Health's Green Paper *Independence, well-being and choice*;<sup>22</sup> and the forthcoming Department of Health White Paper *Well-being in our communities: A new direction* will increase the opportunities available to disabled people to take fuller control of their lives.
- 121 The Strategy Unit report proposed a new cross-government Office for Disability Issues, to act as a focal point within government and drive forward the implementation of the overall strategy. This was established on 1 December 2005.
- 122 The report also recommended measures including:
- improving support for families with young disabled children;
  - helping a smooth transition into adulthood by, for example, removing 'cliff edges' in service provision;
  - improving the support and incentives for entering and staying in employment; and
  - encouraging more employers to recruit and retain disabled people while making the Government's welfare-to-work initiatives respond more effectively to the needs of both employers and disabled people.

123 The Government is developing individual budget pilots in 13 local authorities in England. These will build on the existing direct payment schemes operated by social services departments to give severely disabled people and others more choice and control over the support provided by different agencies. The aim will be to ensure that people who receive support or services are at the centre of the process and have the power to use their budget in a way that best suits their own particular requirement.

124 The pilots will look at practical ways of streamlining assessments and pooling funding streams, including social services support, the Supporting People and Access to Work programmes, and Disabled Facilities Grants for housing adaptations. Just as importantly, the pilots will also be looking at support arrangements, including effective advocacy for disabled people, to ensure that they are confident in managing their budgets independently.

125 Each local authority is trialling a different mix of services, client groups and support to test out different potential arrangements. Severely disabled people who receive incapacity benefits will be among the service users involved in these pilots. This means that, as the pilot programme works to develop viable models of individual budgets, the needs and requirements of this group will be taken fully into account. We will also ensure more broadly that we join up the developmental work on individual budgets and the continuing development of the welfare reform programme.

## Delivering the reforms

126 Given the significant resource commitment that these reforms represent, we will clearly wish to ensure that we base our reforms on the best possible evidence. As well as building up the evidence base through rolling out the Pathways to Work pilots to the rest of the country, we will wish to build up increased conditionality on the basis of what evidence tells us is most effective. We would envisage doing this from 2008. However, many of the other measures outlined in this Green Paper will be implemented across the whole country before the new Employment and Support Allowance comes into full effect.