

Chapter 5

No one written off

Chapter five – No one written off

Summary

One consequence of the recessions of the 1980s and early 1990s was that hundred of thousands of people were effectively written off on inactive benefits with no support to get back to work when the job market strengthened. We will not repeat those mistakes now, so that we avoid the long-term social and economic costs that it caused.

Our vision is a society where there is equality for disabled people. We are determined to take the steps needed to help them build their capabilities and increase the power they have over their lives. To support this goal, we have replaced incapacity benefits with the Employment and Support Allowance, and made support through Pathways to Work available nationwide. This has improved the help available to disabled people or people with a health condition who are on benefits. Building on the Green Paper and the Gregg Review proposals, we want to go further in making sure that everyone gets personalised support, with a responsibility that they engage with this support on their own journey back to work.

This White Paper confirms that we will build on this progress by:

- improving the Work Capability Assessment to identify work prospects more effectively and to monitor recovery;
- transferring current incapacity benefits claimants onto the Employment and Support Allowance so they benefit from increased work-related support where they can;
- increasing the requirements on claimants to take up the offer of support in return for benefits;
- providing better support for people who have poor mental health in and out of work, including people who have fluctuating conditions;
- removing barriers to work for disabled people by working with employers and doubling the support provided through Access to Work; and
- increasing support for disabled people and people with health conditions to stay in jobs.

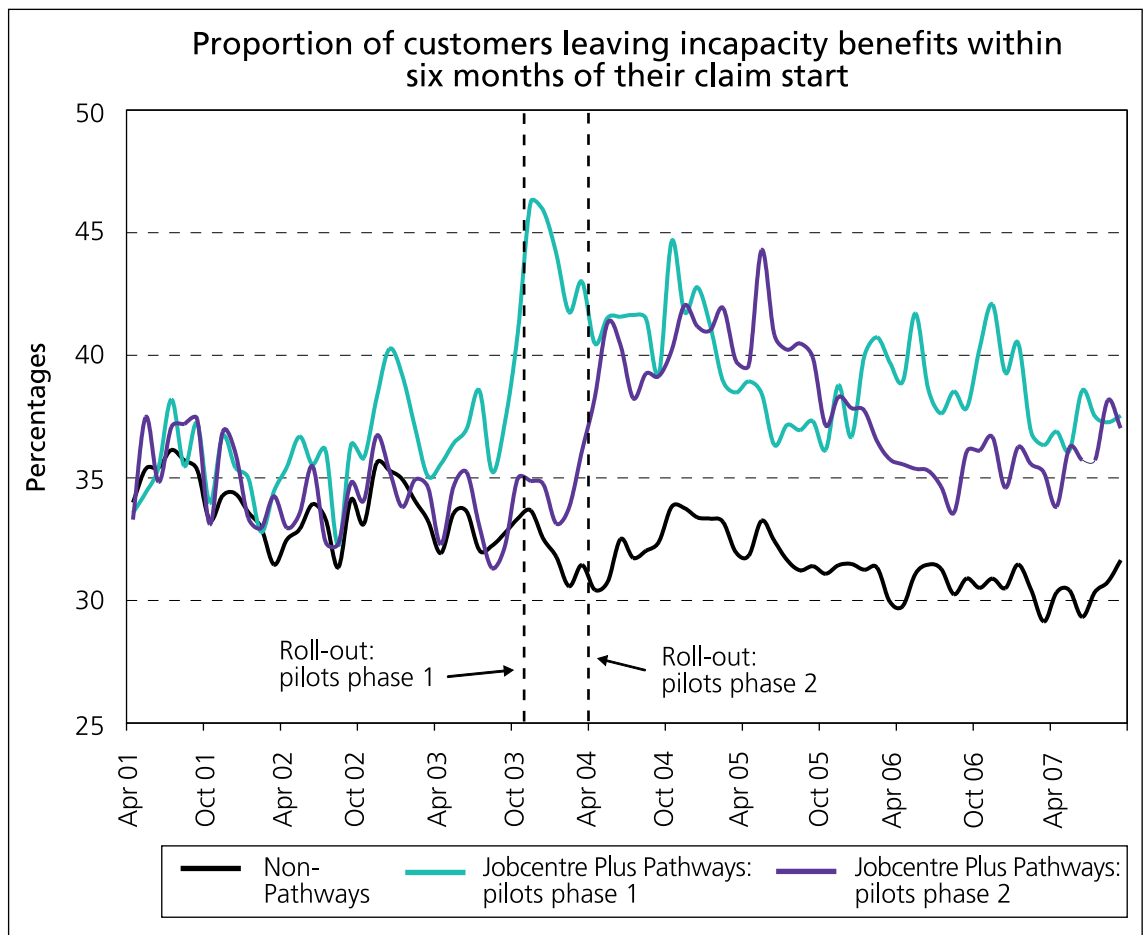
Context and progress so far

- 5.1 Ensuring we harness everyone's potential is vital to building a fair society, as well as for our economic success as a country. We can only achieve these goals if we help people overcome the barriers which prevent them from working. This is particularly important for disabled people and people with health conditions.
- 5.2 By offering improved and personalised support, we have slowed and reversed the increase in the numbers on incapacity benefits. But with well over two and a half million people still claiming these benefits, we need to step up efforts to provide people with the support they need to return to work. Also, further to the Freud and Gregg reviews, we need to make clear our expectation that claiming incapacity benefits is associated for most people with activity to prepare for a return to work.
- 5.3 By offering more support we will also be meeting the ambitions of those who are on incapacity benefits. Around four in five of those people want or expect to work again. We intend to meet these expectations and have set ourselves the aim of reducing the number of people on incapacity benefits by one million by 2015.
- 5.4 There is no doubt, of course, that the job market will be more difficult in the coming months. This expectation led, in our consultation, to many people expressing doubts about employment prospects for disabled people and those with health conditions. But history underlines the case for increasing rather than relaxing back-to-work support in more difficult times.
- 5.5 In the past, hundreds of thousands of people were moved onto incapacity benefits with no support and little expectation that they would work again. For many, there was too little thought given to what other jobs they could do and no help for them to get these jobs or to retrain. The consequent lack of support and expectation meant that temporary job-loss became permanent, even when the labour market strengthened. We are determined not to repeat this mistake and to ensure that no one who can work is consigned to a life on benefits.
- 5.6 In welcoming the Gregg Review, we agree that active engagement and support for disabled people and people with health conditions is the best way of moving towards this vision. So we are improving medical assessments to ensure the right level of support can be offered and to make sure demands are not placed on anyone which might worsen their condition.
- 5.7 In light of the consultation responses received and the Gregg Review recommendations, we can confirm that we will not be placing a requirement on anyone receiving the Employment and Support Allowance to actively seek work or apply for any job. We also agree that we should not require anyone with the most severe conditions to do any work-related activity at all. But for the rest, we intend to legislate so that we can implement the Gregg vision in full, rolling this out gradually, initially through a series of pathfinders. These will test the new work-related activity requirements so that expectations and requirements will

be tailored to individual circumstances and based on a relationship of co-operation and trust between the personal adviser and the claimant. We agree with the Review’s analysis of the strengths of our current conditionality and support regime which gives us a lead over most of the rest of the developed world.

5.8 There is considerable progress to build on. We have strengthened rights for disabled people and we have introduced the New Deal for Disabled People. Our Pathways to Work programme, an innovative and personalised approach to supporting disabled people and people with health conditions into employment, has improved the chances of a new claimant being in work after 18 months by 25 per cent.²² Chart 5.1 illustrates the success of the Pathways to Work programme.

Chart 5.1: The success of Pathways to Work



²² Bewley H., Dorsett R. and Haile G. (2007). *The Impact of Pathways to Work*. Department for Work and Pensions Research Report No 435.

- 5.9 Pathways to Work has been internationally recognised for its success in supporting disabled people and people with health conditions into work. We have also increased support for disabled people to stay in work. In October 2008, we introduced the Employment and Support Allowance, a completely new benefit which has replaced incapacity benefits for new customers as described in Box 5.1.

Box 5.1: The Employment and Support Allowance

The Employment and Support Allowance was introduced in October 2008 to replace incapacity benefits (Incapacity Benefit and Income Support) for new customers. It provides a personalised programme of support, helping people to manage their health conditions and prepare for a return to work. For the vast majority, it is intended to be a temporary benefit which helps people make the most of their abilities. While protecting those with the most severe conditions, the new benefit ensures that people receive the personalised support they need to return to work.

Following introduction of the new Work Capability Assessment, focusing on what people can do as well as what they cannot do, we expect around 90 per cent of claimants to be placed in the Work Related Activity Group. People in the group take part in Work Focused Interviews, draw up action plans with a personal adviser and have access to a range of support under the Pathways to Work programme. In return for this help, they are encouraged to take up opportunities to prepare for work.

A minority of claimants, those with the most severe disabilities or health conditions, will be placed in the Support Group. These claimants are not required to take part in work-related activity. However, they receive extra financial help and have access to support through Pathways to Work on a voluntary basis.

- 5.10 However, we accept the analysis of the Gregg Review that too many of those claiming incapacity benefits or the Employment and Support Allowance still do not engage in back-to-work activity. This is bad for them and bad for the country. So we are going to reform the system to ensure the right people are on the right benefit; and that they get the right support. This will involve better health assessments, individual Work Focused Interviews to arrive at the appropriate support and work-related activity focused on helping people to prepare for a return to employment. Those now on incapacity benefits will gradually be moved onto the Employment and Support Allowance on which, over time, they will benefit from the increased support. Nothing will be required of people which would damage their health or put back their recovery. But for those who could work there will be increased obligations on them to take up the help on offer, including activity to address their employment related skills needs, with better links to pre-employment and in-work training.

- 5.11 We also recognise the importance of supporting people, including disabled people and people with health conditions, to remain in work. Keeping people well and in work has obvious benefits: protection against financial hardship, promoting a better quality of life and allowing people to make the most of their potential. Conversely, being out of work can exacerbate physical and mental health conditions and increase the chance of social exclusion.

Claiming the Employment and Support Allowance

- 5.12 Now that the Employment and Support Allowance is in place, we are committed to ensuring that the routes onto the benefit are fair, accurate and run smoothly. This is why we are reviewing the medical assessment, as outlined in the Green Paper.

Reviewing the medical assessment

- 5.13 Continued advances in medical treatment mean that some conditions, which previously caused a high level of impairment, can be managed more effectively. Workplaces are always changing and new kinds of employment and opportunities are being created. The Disability Discrimination Act has strengthened employers' responsibilities towards disabled people. Schemes such as Access to Work are offering support to make work available to many individuals to whom it was previously denied.
- 5.14 This progress has enabled us to introduce the Work Capability Assessment, which is designed to identify those able to look for work immediately (who should not be on the Employment and Support Allowance); those whose condition means they should be able to return to work with appropriate support and encouragement; and those whose illness or disability means they are not currently able to prepare for work (the Support Group).
- 5.15 Some responses to our consultation questioned the effectiveness of the Work Capability Assessment. As with all new processes, we are committed to monitoring it. The law already provides for an independent review of the Work Capability Assessment every year for the first five years, but we will also evaluate how effectively it is in identifying the level of disability and health conditions among claimants throughout next year, and will publish a report. This will include suggestions to refine the assessment if required and recommendations on how it could be changed to better take account of people's adaptation to their condition. We envisage that, as a result of these recommended changes, there will be around a 10 percentage point increase in those considered able to look for a wide range of jobs straight away and thus be eligible for Jobseeker's Allowance.

Employment and Support Allowance as a temporary benefit for the majority

- 5.16 We have changed the emphasis so that the Employment and Support Allowance is seen as a temporary benefit for the majority, with most claimants expected to move back into work within two years. We will take steps to reinforce this principle.
- 5.17 The Work Focused Health Related Assessment currently provides an opportunity for individuals to discuss their situation with a healthcare professional. We will undertake repeated and revised Work Focused Health Related Assessments to expand this interaction. These will focus on why people have had difficulties adapting or moving towards work and provide the opportunity to draw up a more detailed plan of what work might best suit them, to guide individuals and their personal adviser in their preparation for work.
- 5.18 As well as looking at how individual claimants are working with healthcare professionals, we will establish a maximum period of two years between medical assessments and look at the process by which renewals are handled to make sure that people do not remain on benefit longer than they need to. We will also consider how cases are reviewed once entitlement has been determined and look at the process by which renewals are made. The measures we are pursuing to reduce time spent on the Employment and Support Allowance create new opportunities to help get people closer to work.

New Employment and Support Allowance customers: extending support

- 5.19 When people are unable to work due to a health condition or disability, the Employment and Support Allowance must meet their needs as quickly and as comprehensively as possible. As evidence shows, work is generally good for your health. No one should be cut off from the labour market when they may be able to work in the future.

A personalised, work-focused approach

- 5.20 We had a very positive consultation response to our focus on personalised support, tailored to individual circumstances. This focus was also backed by the Gregg Review. This White Paper confirms our intention to proceed with the Green Paper proposals, informed by the Gregg review, including:

- a series of Work Focused Interviews, extended to the two-year point of a claim to provide a longer, more comprehensive framework of engagement with personal adviser;
 - in pathfinder areas, an action plan agreed by the customer together with a personal adviser, outlining appropriate activities that will help the customer move towards work; and
 - in pathfinder areas, a requirement for individuals to show that they have been undertaking activities that support their own route back towards work, between Work Focused Interviews, including a requirement to undertake activities specified by a personal adviser in some cases.
- 5.21 In return for this extra support, there will be new requirements to take up the help on offer which will be backed up by sanctions. These could include a reduction of benefit payments.

Work Focused Interviews

- 5.22 We want to build on the approaches that work best. Central to our successful Pathways to Work programme are Work Focused Interviews, where customers meet with a personal adviser. They discuss ways in which the customer might be able to move towards work, and draw up an action plan. The adviser explains what extra support is available to the customer.
- 5.23 Independent evaluation of the Pathways to Work programme highlights the importance of the relationship between customers and personal advisers. Customers were found to generally value the role of advisers, especially when they addressed practical concerns.²³
- 5.24 Employment and Support Allowance customers currently have six Work Focused Interviews with a personal adviser between roughly the two and eight month points of their claim. We know that having a series of interviews is important to build up trust and understanding between customers and personal advisers.²⁴
- 5.25 Many people will succeed in moving off benefits within this period. For those who face more significant barriers, from late 2010, we will increase the duration of the personalised support programme for new Employment and Support Allowance customers. After the first six Work Focused Interviews, claimants will have a further interview every three months, until the point where they have been on benefit for two years. In light of the Gregg Review recommendations we will look to ensure that the exact timing of Work Focused Interviews would be agreed between advisers and claimants to fit their circumstances.

²³ Dorsett R. (2008). *Pathways to Work for new and repeat incapacity benefits claimants: Evaluation synthesis report*. Department for Work and Pensions Research Report No 525.

²⁴ *ibid.*

Action plans

- 5.26 Professor Gregg's 'Progression to Work' path envisages a system which offers support, but requires people to engage in return. We want to run eight pathfinders across the country which will test out how we can make this work.
- 5.27 The Gregg Review has proposed that action plans owned jointly by the adviser and the customer should become more central to return-to-work efforts. We agree. This White Paper confirms our intention to strengthen the role of action plans which will play a key role in guiding work-related activity. Any appropriate activities which would help the customer back to work should be agreed by the individual and their adviser. Activities would then be recorded in the action plan. There would be a commitment to undertake at least one of the activities that has been written in the action plan. This helps claimants and advisers understand clearly what the requirements are. We would not ask anyone to do anything that is unreasonable or inappropriate, and would review the action plan regularly, in line with the customer's needs.

Work-related activity

- 5.28 To match extra support with higher expectations, we will introduce further reforms to the Employment and Support Allowance. From late 2010, we will test out Professor Gregg's vision of progression to work through eight pathfinders. As part of this, we will ask new Employment and Support Allowance customers to undertake work-related activity appropriate to their situation, so that they can move towards a return to work.
- 5.29 In these areas, with the help of a personal adviser, claimants will decide what kind of activity would be most suitable and beneficial for them, taking their disability or health condition into account. For those with particular skills needs, or who are problem drug users, we will actively identify the extra support they need, where appropriate, for example through skills assessments or interviews with a drug treatment provider. If claimants do not take part in any activity to address their barriers to work, without good cause, they may be sanctioned.

Higher expectations

- 5.30 We want to support claimants to choose their own programme of work-related activity, as we recognise they know their own individual circumstances, needs and goals best. However, a minority may need more guidance. The activities they choose may prove to be ineffective over a sustained period of time. An even smaller number may refuse to co-operate with support from which they could benefit. They may deliberately choose ineffective activities, or not take part at all.

- 5.31 The Gregg Review recommended that conditionality should be based around encouragement, co-operation and co-ownership. Nonetheless, it also recognised that on occasions the conditionality would need to be stepped up where people consistently fail to engage effectively with the personalised support regime. In line with this proposal, we are introducing legislation which will allow personal advisers, where a claimant is not complying with the requirements, where they have particular needs such as skill needs or they are problem drug users, or they are not addressing their main barriers to work, to decide the appropriate activity. In these cases, claimants will be required to take part in the specific activity their adviser has chosen.
- 5.32 We want to make sure that people's barriers to work are identified as early as possible, because we believe that early support is most effective in getting someone back to work in the long-term. To this end, we will seek to engage early with those who we think could benefit from skills or drugs interventions. In the Green Paper, *No-one written off: reforming welfare to reward responsibility*, we consulted on when we should require those who start to claim the Employment and Support Allowance to identify their skills needs, and whether we should subsequently make full receipt of benefit conditional on attending relevant and appropriate training. We have built these requirements into our overall framework for specific work-related activity.
- 5.33 Following an initial Skills screen by Jobcentre Plus, people with skills needs will be referred to the Adult Advancement and Careers Service, when operational from autumn 2010, who will conduct an in-depth skills health check to identify the specific skills needs for that person. People with very obvious language, literacy or numeracy needs will be referred directly for a Basic Skills assessment. The personal adviser would then discuss the results of this health check or assessment with the claimant, and encourage them to consider the action recommended. Where a claimant refuses to take any action to address those needs, and does not undertake anything else that is relevant or effective, we will give advisers the power to require them to do the activity set out, in appropriate circumstances.
- 5.34 Similarly, people who have declared they are, or who we think are, problem drug users, will be referred for an initial health assessment with a healthcare professional who will decide whether the individual has a heroin or cocaine problem, and will determine whether they should be referred to the new programme for problem drug users.
- 5.35 While drugs and skills barriers are ones which we want to address urgently, we agree with Professor Gregg that we should also give personal advisers the capacity to mandate customers to a specific activity in other cases as well. We believe that it is not right for some claimants who are unwilling to engage, or who deliberately try to avoid addressing their main barriers to work, to be able to continue doing so. In these circumstances, the adviser will also be able to require the claimant to do something specific, to ensure their barriers to work are addressed.

- 5.36 We will ensure that a clear and comprehensive set of safeguards are built into the support we offer, making sure claimants are not required to undertake inappropriate activities. In particular, this power would never be used to force claimants to apply for or take up specific jobs, or to undergo medical treatments that would clearly fall foul of human rights legislation or violate medical ethics, professional codes of practice or clinical governance. We would also be clear about when sanctions would apply, so that people do not misunderstand them, or are sanctioned unfairly. The success of Pathways to Work is based on a supportive and co-operative relationship between the claimant and adviser. This is something which we want to preserve while ensuring that people are progressing towards work.
- 5.37 There were some responses to the consultation which questioned whether sanctions and work-related activity requirements were effective. We have recently published research that shows that conditionality can have a measurable impact on the likelihood of returning to work,²⁵ but we are aware that this is new territory. This is why we intend to run pathfinders to test the effects of requiring more of customers, while providing a much more engaged service.

Community Allowance pilots

- 5.38 Community Allowance is a scheme proposed by CREATE, a consortium of organisations, where benefit claimants would undertake paid work to benefit the community in which they live, while continuing to receive benefit payments.
- 5.39 We are committed to giving disabled people or people with health conditions the opportunity to try out work while still on benefit, to help them move into work. Working with the Department of Communities and Local Government (DCLG), we have agreed that CREATE can pilot Community Allowance within the existing Employment and Support Allowance system.
- 5.40 If pilots show that Community Allowance improves the Employment and Support Allowance customers' chances of moving into work and off benefit, we will consider introducing it on a larger scale.
- 5.41 We will continue to work with the Department of Communities and Local Government to consider how we can work with other local partnerships and voluntary sector organisations to test how community and voluntary work opportunities can benefit a wider range and number of out-of-work claimants, both improving their personal circumstances and the community in which they live.

²⁵ Department for Work and Pensions. (2008). *More Support, higher expectations: the role of conditionality in improving employment outcomes*. TSO.

Moving to the Employment and Support Allowance

- 5.42 Our reforms have transformed back-to-work support for disabled people and people with health conditions. In 1997, very little help was available for those on incapacity benefits. Since then, we have moved from piloting the Pathways to Work programme of personalised support to making it available to all incapacity benefits customers nationwide.
- 5.43 However, we want to go further still. While we expect all new Employment and Support Allowance customers to take part in Pathways to Work, around two million people (out of the 2.6 million on incapacity benefits) have not, unless they volunteered to take part, gained access to the personalised support that could help them. It is not right that people on incapacity benefits should continue to be left behind. Many have been out of work for a number of years and many have lost contact with the labour market. Often, they will lack the skills and confidence that they need to return to work.
- 5.44 This is why we set out in the Green Paper, *No-one written off: reforming welfare to reward responsibility*, our plans to transfer all claimants from incapacity benefits to the new Employment and Support Allowance between 2010 and 2013. As part of this process, they will undertake the new Work Capability Assessment which includes the Work-Focused Health Related Assessment. In this way, we can ensure that the right people are claiming the right benefit and that they receive the best personalised support possible. It will allow those with the greatest needs to receive the higher level of benefit paid to the Support Group. We will ensure that the transition from Incapacity Benefit to the Employment and Support Allowance runs smoothly, fits within our overall programme and that our plans are flexible enough to adapt to changing economic circumstances as necessary.

Smoothing the transition to the Employment and Support Allowance

- 5.45 Employment and Support Allowance is a new benefit with a very different structure of rates and allowances. Over time, we believe it is fair to make sure that everyone receiving benefit because of sickness and disability is treated equally. This White Paper confirms that we will begin the process of aligning rates from April 2009. This will smooth the transition of existing incapacity benefits claimants moving to the Employment and Support Allowance, as we proposed in the Green Paper.

- 5.46 All those on contributory Incapacity Benefit without an age addition, will have their benefit uprated by the Rossi index²⁶ from 2009 instead of the Retail Prices Index (RPI). This aligns their uprating arrangements with the Employment and Support Allowance, Jobseeker's Allowance, and Income Support, and is a significant simplification. It also means that their benefit will be higher than it otherwise would have been in the next few years. Longer-term Incapacity Benefit customers will also benefit from the increase in the Christmas Bonus this year from £10 to £60.
- 5.47 The Incapacity Benefit age additions do not exist in the Employment and Support Allowance and are a key misalignment between the benefits. Age additions served to compensate people on Incapacity Benefit for the earlier onset of incapacity. However, we no longer presume that these people will never work again simply because they became ill at a certain age. In Employment and Support Allowance we target those in greatest need through higher benefit rates in the Support Group.
- 5.48 For all those on contributory Incapacity Benefit with an age addition, the Green Paper proposed that many would receive no cash increase in their overall benefit because their benefit would be higher than the amounts payable to people on ESA. However, this proposal raised concerns in the consultation responses and the economic climate has become more difficult since the Green Paper. We have therefore decided they should receive a cash increase in their overall benefit, despite the difficult fiscal position we face. The cash increase in their overall benefit from 2009 will be half of Rossi. This will begin the process of achieving alignment with ESA.

Support for existing customers moving to the Employment and Support Allowance

- 5.49 As people move from incapacity benefits to the Employment and Support Allowance, we want to make sure that they benefit from the personalised back-to-work support on offer. In the Green Paper, *No-one written off: reforming welfare to reward responsibility*, we said that we would extend support through the Pathways to Work programme to all existing claimants under the age of 50, while testing the most effective approach for those who are over 50. Our goal of a more personalised support system is supported by the Gregg Review and received many positive responses in our consultation. We now want to take these reforms forward to create a truly active Employment and Support Allowance which consistently supports employment outcomes and reinforces the expectation of work for people, no matter how long they have been on the benefit.

²⁶ The Retail Price Index less housing costs.

- 5.50 Evidence shows that an approach like Pathways to Work can work for existing customers. Pathways to Work pilots for existing claimants have shown that, with the right support, even those who have been claiming incapacity benefits for a number of years can move into employment. For those who had a Work Focused Interview within the first six months of the pilots, the chance of being in work after 18 months was increased by three to four percentage points.²⁷
- 5.51 However, we don't believe that the same interventions will work in all circumstances, and for that reason we are proposing a range of approaches. As well as extending Pathways to Work support to existing customers, we will test new approaches to see what works best.
- For existing claimants aged under 50, a Pathways to Work style approach, including a series of mandatory Work Focused Interviews.
 - A less intensive regime of Work Focused Interviews for most existing customers aged over 50, with a piloted regime to seek further evidence on what approaches might be most effective for this group.
 - Five larger-scale pathfinders, funded via an innovative arrangement with the Treasury, that will test how we can best help those who have been on benefit the longest not only to get jobs, but also to stay in them. We will also look to test the Gregg vision for personalised conditionality with existing customers through these pathfinders. These pathfinders are discussed in Chapter 3.

Pathways to Work – support for existing customers under 50

- 5.52 As people are transferred from incapacity benefits to the Employment and Support Allowance, we will ensure all those placed in the Work Related Activity Group are given a personalised programme of back-to-work support based on the successful Pathways to Work extension pilots. The mandatory element of the programme will be less intensive than for new Employment and Support Allowance claimants; they will only be required to take part in three Work Focused Interviews and can take up voluntary provision during this time. Many will never have engaged with Pathways to Work before. We therefore believe that this is a significant but reasonable step towards better engagement with these customers. It will also allow us to gather more evidence on what works best before looking at whether, in the future, we might ask all clients to engage with us further.

²⁷ Bewley H., Dorsett R. and Ratto M. (2008). *Evidence on the effect of Pathways to Work on existing claimants*. Department for Work and Pensions Research Report No 488.

- 5.53 Participating in three Work Focused Interviews will be the minimum engagement required of existing customers. All customers will continue to have access to Pathways to Work support on a voluntary basis once the three interviews have taken place. Customers placed in the Support Group will also be able to access Pathways to Work if they wish.

Existing customers over the age of 50

- 5.54 Economic and demographic change makes it crucial that we do not write off older people. We have outlawed age discrimination in employment and we are committed to increasing employment opportunities for older workers. However, people over the age of 50 may have more complex barriers to work. In addition, analysis consistently shows that Pathways to Work has a stronger effect on increasing employment and reducing benefit receipt among younger claimants.²⁸ So we will adopt a more flexible approach for existing incapacity benefits claimants in the over 50 age group.
- 5.55 We want to ensure that everyone has the opportunity to engage with us – and to require some participation so that we have the chance to explain to everyone what support is on offer. Therefore, most existing claimants over the age of 50 will be offered a single Work Focused Interview, with the opportunity to take up further support on a voluntary basis. However, we will also be undertaking an additional pilot to assess the specific barriers to employment these claimants face, and to test and gather evidence on what support works best to address these barriers. This will also help us to explore the recommendations of the Gregg Review.

Promoting opportunity and equality

- 5.56 As we support disabled people and people with health conditions to move from inactivity to work we want to ensure they have the same opportunities to develop fulfilling working lives as non-disabled people. To do so we need to ensure that we have the right legislation in place to prevent discrimination. At the same time we need to work with employers so they understand the talent and potential that people in these groups can bring to the workplace.

²⁸ Bewley H., Dorsett R. and Haile G. (2007). *The Impact of Pathways to Work*. Department for Work and Pensions Research Report No 435. Bewley H., Dorsett R. and Ratto M. (2008). *Evidence on the effect of Pathways to Work on existing claimants*. Department for Work and Pensions Research Report No 488.

Disability Equality Duty

- 5.57 We have continued to work to reduce the barriers faced by disabled people. Legislation already in place²⁹ protects disabled people against discrimination in key areas. These areas include work, schools, and access to services such as shops and restaurants.
- 5.58 In 2005, the legislation was amended to place a Disability Equality Duty on all public authorities (including government departments and local authorities). This general duty came into effect in December 2006. Public authorities now have to take account of the needs of disabled people when carrying out their business. The duty requires public authorities to have due regard to:
- eliminating unlawful discrimination and disability-related harassment of disabled people;
 - promoting equality of opportunity and positive attitudes towards disabled people;
 - taking steps to meet disabled people's needs, even if this requires more favourable treatment; and
 - encouraging the participation of disabled people in public life.
- 5.59 In addition, there are specific duties under which, for example, listed public authorities are required to publish disability equality schemes setting out how they will carry out the Disability Equality Duty, monitor and report on progress and how they have involved disabled people in producing their schemes.

The Equality Bill

- 5.60 The Government is also working to streamline and strengthen existing discrimination rules, regulations and legislation. Over the last 40 years, a substantial body of equality legislation has built up protecting millions of people from discrimination and promoting greater equality. However, this legislation, including disability legislation, has become increasingly complex and difficult to understand. There are also some gaps in protection, including against age discrimination, in the provision of goods, facilities and services.
- 5.61 The Office for Disability Issues is working with the Government Equalities Office and other government departments to develop a single Equality Bill that will deliver a streamlined and strengthened legal framework.

²⁹ The Disability Discrimination Act 1995, as amended (DDA).

Working with employers

- 5.62 Respondents to our Green Paper stressed the importance of a partnership with employers in our welfare to work programmes. We recognise the need to make sure that our programmes are delivering the skills and qualities that employers need. We also understand the need to work with employers to make sure that vulnerable people get a fair chance in the labour market.
- 5.63 The Disability Discrimination Act (DDA) has done much to increase employers' awareness of the need for them not to discriminate against disabled people. However, legislation alone does not open up enough opportunities for disabled people or employers. Many employers who are aware of DDA requirements, particularly larger organisations, have tended to design their recruitment and retention processes defensively, to avoid litigation. Also recent research³⁰ has shown that small to medium-sized enterprise employers questioned knew little or nothing about employing disabled people.
- 5.64 We know that the overwhelming majority of employers do not set out to discriminate against disabled people in their recruitment and retention decisions. Too often, however, a lack of good advice has resulted in unintended discrimination and negative attitudes towards disabled people.
- 5.65 We want to see employers of all sizes adopt a more flexible and informed approach to employing disabled people. Such an approach, based on an understanding of the skills, knowledge and expertise that disabled people can bring to the job, will promote better opportunities for all disabled people. Our reforms, which focus on what disabled people are able to do, will help employers to appreciate this vast reserve of untapped potential.
- 5.66 We have asked employers already committed to recruiting and retaining disabled people, what more could be done to persuade other employers to develop and sustain the same commitment. They gave us two important messages:
- employers take more notice of the ideas of other employers and their support organisations than they do of government and pressure groups. So, we need an employer-led national campaign to engage more employers to recruit and retain disabled people; and
 - we need to work more effectively with employers to design and deliver processes that help disabled people get or keep jobs.

³⁰ Needels K. and Schmitz R. (2006). *Economic and social costs and benefits to employers of retaining, recruiting and employing disabled people and/or people with health conditions or an injury: A review of the evidence*. Department for Work and Pensions Research Report No 400.

- 5.67 This is why we have asked employers, disability-focused employers groups and other stakeholders to help us build the foundations for an employer-led campaign. This campaign seeks to promote good corporate recruitment, retention and development practices. A series of 'expert employer panel' events are taking place from July 2008 to March 2009 to begin this campaign. These events will give committed employers the opportunity to share good practice and develop an employer 'agenda for change'. From these events we will seek to establish a 'beacon group' of employers who will agree to take a lead in promoting further initiatives and put into practice good ideas that will work for them, and potentially for other employers.
- 5.68 We will begin to review the impact of these events in January 2009. The outcome of this review will determine further action for us to take forward with employers and other stakeholders. We will continue to keep all participating employees informed as work progresses. Working with the Department for Business Enterprise and Regulatory Reform and other partners, we will identify effective employer and employer support channels. These channels will support the sharing of information and advice which will build and support employer commitment.
- 5.69 It is also important that we improve on existing in-work support mechanisms for disabled people. For example, Employment Retention Assessments are a valuable tool in considering reasonable adjustments when people acquire a disability or when an existing impairment worsens. We will work with and support employers and employees to develop guidance and good practice in this area.
- 5.70 We will work with the Office for Disability Issues, the Government Equalities Office, the Equality and Human Rights Commission, as well as business and other stakeholders, to consider appropriate references to Employment Retention Assessments in the guidance and the codes of practice that will accompany the Equality Bill.

Employ ability

- 5.71 Since October 2007, the Employ ability campaign has successfully challenged the attitudes and perceptions of small and medium-sized enterprise employers towards disabled people. Building on this success we intend to widen the reach of Employ ability during 2009-10. We will expand the campaign to promote the business benefits of employing a diverse workforce to target groups of employers. Employ ability will become one of the means by which we engage employers in adopting good practice on diversity and making employment opportunities available to our disabled customers.

Local Employment Partnerships

- 5.72 The Local Employment Partnership initiative was introduced in March 2007. Local Employment Partnerships bring together Government and public and private businesses to tackle the increasing recruitment and skills challenges of our labour market and economy.
- 5.73 Public and private employers across the country have signed up to working in partnership with the Government to open up opportunities for people who, for whatever reason, have not yet been able to take advantage of the employment opportunities. These individuals will be people who have been out of the work environment for a while. They will include: lone parents; job seekers who have been unemployed for more than six months; people who have been out of work as a result of illness or disability; care leavers; and former offenders. The Department for Work and Pensions is working with the Department for Innovation, Universities and Skills to ensure that our work with employers is not just about getting people ready for work, but also about developing skills once in a job.

In-work support for disabled people and people with health conditions

- 5.74 Evidence shows that work is generally good for health and inactivity bad for it. Yet too often when people develop health conditions they leave work, often never to return. Tackling long-term sickness absence requires a something-for-something deal between the State, employers and individuals.
- 5.75 Dame Carol Black's Review of the health of the working-age population³¹ presented a compelling economic and social case for action: too many people are out of work, particularly with mild health conditions, resulting in annual economic costs to the UK of working-age ill-health exceeding £100 billion.
- 5.76 The Review called for a new vision for health and work in Britain and made wide-ranging recommendations to the Government. It also urged other stakeholders to take responsibility. No single stakeholder group can achieve success on its own – partnership working is essential if we are to succeed.
- 5.77 The Government published its response to Dame Carol Black's Review,³² on 25 November 2008 and set out the measures that form the Government's commitment to meeting the challenge of working-age ill-health.

³¹ Black C. (2008). *Working for a healthier tomorrow*. TSO.

³² HM Government. (2008). *Improving health and work: changing lives*. Cm 7492. TSO.

- 5.78 Building on commitments in the Green Paper to support employers, individuals and healthcare professionals to help people stay in or return to work from a period of ill-health, the Government Response sets out plans to:
- deliver a range of early intervention 'Fit for Work' services that meet local needs, working with local strategic partnerships;
 - implement a 'fit note', a revised medical certificate that focuses on what people can do, not what they cannot do;
 - pilot a national occupational health help-line for small and medium-sized enterprises;
 - appoint Health, Work and Well-being Co-ordinators across the country to ensure effective focus on health and work issues at a local level;
 - develop a National Strategy for Mental Health and Employment;
 - establish a challenge fund to encourage small and medium-sized enterprises to take steps to improve employee health and well-being in their organisation; and
 - develop a National Centre for Working-Age Health and Well-being to create a focus for:
 - improved data-gathering and analysis;
 - the development of evidence-based guidelines;
 - the evaluation of interventions; and
 - the identification of evidence gaps with the co-ordination of research activities to close those gaps.
- 5.79 Early intervention is the single most important determining factor in successful action to tackle long-term sickness absence. This is most effective when it is a workplace-based solution. Evidence of what works within vocational rehabilitation firmly points to this. Employers are best placed to know when to intervene and we know that some employers are playing their part. However, we know that many could do more.
- 5.80 Just as for customers on the Employment and Support Allowance who are supported back to work with action plans, in our Green Paper we set out plans to work with employers to encourage the use of voluntary back-to-work action plans for people who are on sick leave. These have proved a successful tool in countries such as the Netherlands, where employers and employees work together to develop a plan to facilitate a return to work once an employee has been absent from work for a period of time.

- 5.81 Such an employer-focused approach has been welcomed in this country through the consultation process. We will now work with employers and other stakeholders to develop the tools and guidance necessary to support back-to-work action planning.
- 5.82 We also announced in the Green Paper that we would explore how to provide appropriate incentives for employers that might further encourage investment in health and well-being programmes to tackle sickness absence in the workplace effectively. In doing this we will also look at incentives for individuals and the Government to ensure that the system is balanced and creates a 'fair deal' for everyone.

Understanding the needs of people with mental health conditions

- 5.83 The Green Paper, *No one written off: reforming welfare to reward responsibility*, drew attention to the fact that mental health conditions are now the single biggest cause of absence from work and of claims for incapacity benefits. Several respondents to our consultation on the Green Paper highlighted the particular needs of people with fluctuating or mental health conditions and the effects of increased expectations on them. There were also some calls for increased in-work support for people with mental health conditions.
- 5.84 Improving support for people with mental health conditions is an area we are keen to understand more fully. Our evidence on the effectiveness of Pathways to Work for people with mental health conditions has shown some positive results on employment, especially for existing customers. An independent study found that Pathways to Work more than doubled the employment rate for existing customers claiming Incapacity Benefit on the basis of mental health conditions.³³ We will continue to research this area and disseminate good practice to those who deliver Pathways to Work.
- 5.85 This approach received a very positive response in our consultation. We will only require people to take part in activities which would be appropriate for their condition and we would not put in place sanctions against anyone with a mental health condition without first contacting them, their carer or their health professional.

³³ Bewley H., Dorsett R. and Ratto M. (2008). *Evidence on the effect of Pathways to Work on existing claimants*. Department for Work and Pensions Research Report No 488.

- 5.86 We are also looking at how we can use increased Access to Work funding to provide better support for people with mental health conditions in work. We are sure that with a better framework of support, and by equipping employers to be better at supporting their employees with a fluctuating mental health condition, we can improve employment experiences for people with a mental health condition. We set out later in this chapter pilots within Access to Work through which we will test arrangements for making support available for this customer group.
- 5.87 We signalled in the Green Paper, *No one written off: reforming welfare to reward responsibility*, that we would work to develop the first ever cross-government National Strategy for Mental Health and Employment covering the full spectrum of mental health conditions, including severe mental health conditions. As announced in the recently published Response to Dame Carol Black's Review³⁴, Dame Carol now chairs an independent expert steering group to oversee its development.
- 5.88 We have also selected 12 Primary Care Trust pilot sites which, from spring 2009, will test embedding employment advisers as a core component of the Improving Access to Psychological Therapies (IAPT) programme. They will work alongside therapists, providing information, advice, guidance and practical support to help people with poor mental health remain in work or return to work as quickly as possible. These pilots are an opportunity to test the impact of early access to integrated health and work support for job retention and job outcomes more generally. We are working to ensure that, wherever possible, Pathways to Work is effectively linked with the IAPT programme in England and similar programmes in Scotland and Wales.

Enhanced disability employment provision

- 5.89 While the commitment of employers is key, we also recognise that some disabled people cannot work without more intensive support than services like Pathways to Work usually provide. We are developing a modernised framework that will provide effective support for disabled people moving into and progressing in work.
- 5.90 On 11 November 2008 we published our response³⁵ to a public consultation on proposals to improve specialist disability employment services. We said we wanted to create a more flexible provision, with a greater emphasis on helping those who can make the move into sustainable, unsupported paid work. For those who will have an ongoing need for support, we will ensure that support continues to meet their needs.

³⁴ HM Government. (2008). *Improving health and work: changing lives*. TSO.

³⁵ Department for Work and Pensions. (2008). *Helping people achieve their full potential: Improving Specialist Disability Employment Services*, Summary of Responses.

- 5.91 Our proposals were for services with less prescription and greater flexibility. Better links between elements of provision and a greater focus on helping people into work would mean that our services were more capable of being able to meet the needs of each individual. We proposed moving away from a 'one size fits all' approach. Services would be tailored to what each customer needs to move into and stay in work. The responses we received were overwhelmingly supportive of the proposals we set out. The Green Paper, *No one written off: reforming welfare to reward responsibility*, said that the Department for Work and Pensions would press on with the reforms, and responses to the Green Paper also gave strong support to the improvements that we are now working on.
- 5.92 This White Paper confirms that we will go ahead with these changes. For those people who need more help than available through Pathways to Work and other programmes, we will be introducing from October 2010 a new programme that will help, by 2014-15, an additional 3,500 customers in supported employment at any one time. Moreover, the new programme will have delivered an additional 5,000 progressions into unsupported employment by 2014. Some additional funding is to be made available to achieve this. Support available will be customised to the needs of individuals and include vocational guidance, job search and application support, in-work coaching and helping with career progression. And a greater focus will be placed on working with employers. Contracts for the new programme to improve disability employment provision and make it more flexible will be awarded from April 2010, and we plan to start the new programme from October 2010. Before then, we will set up a series of design events and workshops for customers, providers, employers and disability representative organisations over the next few months to firm up on the detail of the services we want to see established.

Increased support from Access to Work

- 5.93 Access to Work is a flexible, popular, and effective programme which removes a range of disability-related barriers to paid work. It currently helps some 40,000 people annually to take up or keep work which would not be possible without the programme. In the Green Paper, *No one written off: reforming welfare to reward responsibility*, we said that we would double the Access to Work budget and we confirm in this White Paper that we will do so.
- 5.94 Responses to the Green Paper have confirmed that people with a fluctuating condition, including a fluctuating mental health condition, frequently lack the support they need in the workplace. The Government is determined to make it possible for greater numbers of people in these circumstances to move into, and retain, paid work. We therefore recognise that there is a need to put in place support for customers with a fluctuating condition.

- 5.95 This is why we announced in October 2008 that we would be piloting flexible Access to Work provision for people with a fluctuating mental health condition. These pilots are now underway.
- 5.96 This approach builds on the Support Worker element of Access to Work. Working with specialists in the field of mental health and work, we are using Support Workers to work with employers to develop solutions which are adapted to the different needs of each person. The support is available when it is needed, waiting in reserve to respond quickly when mental health deteriorates or problems emerge.
- 5.97 At the same time, the Support Worker equips the employer to provide the support that the individual needs. This might just include a willingness to consider more flexible working arrangements. Throughout the process, specialist support is on hand until the employer is confident about providing from their own resources any further support which their employee may require. We believe that this approach will increase the confidence of employees and reassure employers.

Working in co-ordination across government

- 5.98 Mental health conditions are the single biggest cause of absence from work and of claims for incapacity benefits. While there is a wide range of healthcare, skills and employment advice available for this group, we believe there is more we can do to integrate and personalise the current offer.
- 5.99 In our response to Dame Carol Black's Review, we highlighted that we are working across government to explore how, for those with mental health conditions, we may more fully integrate health and work services with the wider skills agenda and we intend to ask key independent government advisers to look at how this could best be achieved.

Conclusion

- 5.100 Replacing incapacity benefits with the Employment and Support Allowance and extending Pathways to Work nationwide has already transformed the support offered to disabled people and people with health conditions, making it more personalised and work focused. To help the over two and a half million people already on incapacity benefits, we now intend to make this support available to existing claimants. This will help meet the ambitions of the overwhelming majority of incapacity benefits claimants who want to work. It will also help the Government meet its aims of making the most of the talents of everyone and of reducing the number on incapacity benefits by one million.
- 5.101 The new Work Capability Assessment will ensure that people who cannot work will not be forced into work or take part in any activity which might set back their recovery. But in return for the extra support being offered, it is right for the individuals involved and the country that people be expected, where their health allows it, to take up these opportunities.