

## **Clause 52 of the Welfare Reform Bill: Why would anyone want to do this?**

On Saturday the LibDem conference passed a motion on the government's welfare reform bill which challenged one of its most controversial aspects, the limiting of contributory Employment Support Allowance (ESA) to one year for people assessed as capable of some 'work-related activity'. The aim of the motion was to ensure that those disabled people who had paid national insurance would not be forced on to means-tested benefits after an arbitrary period. As the Lords committee stage of the bill's progress begins, this motion will greatly strengthen the hand of peers of all or no political affiliations who are concerned about this aspect of the bill.

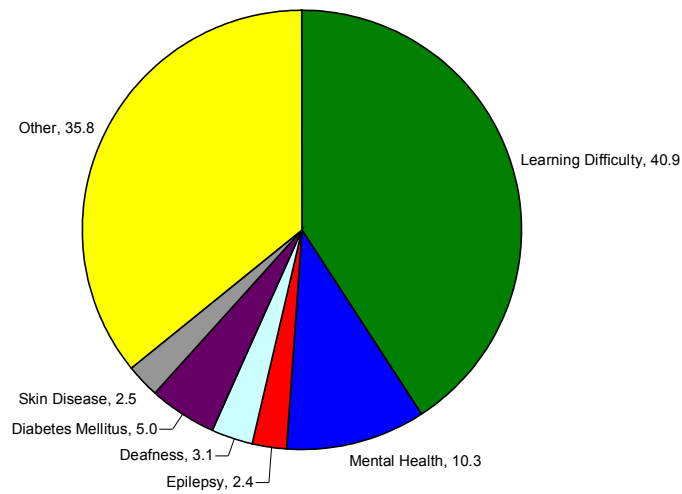
But there is another measure in the bill which will also exclude large numbers of people from non-means tested entitlement which has attracted far less attention, and which is arguably no less arbitrary than the proposal which LibDem conference has challenged. It is contained in clause 52 of the bill, which as drafted will prevent hundreds of thousands of young people with congenital or early-onset disabilities from accessing contributory ESA when they reach working age, whether or not they are deemed capable of any 'work-related activity'. People who have been disabled since childhood will no longer be entitled to benefit in their own right as adults but will be subject to means testing based on the income of their family.

The provision that clause 52 abolishes allowed people under 20 with work-limiting conditions to be treated as if they met the national insurance contributions for ESA. The rationale is obvious: people with conditions that begin in childhood may never be able to accumulate sufficient contributions to entitle them to the non-means tested benefit, and even for a system which has its fair share of anomalies, this was clearly an arbitrary exclusion. While hardly perfect, this arrangement prevented a situation where people with lifetime or early-onset conditions would generally have less favourable entitlements than people who became disabled in adulthood.

We can get a rough idea of the numbers who will be affected by clause 52 and the conditions they are living with from figures on children receiving Disability Living Allowance, the non-means tested benefit which compensates for the additional costs faced by disabled people (but which does not, it is worth stressing, provide support for everyday living costs, which are met through ESA or its predecessor Incapacity Benefit). Not all DLA recipients receive ESA/IB, but 75% of those aged 25 to 34 do, and this gives an indication of how many of the children currently receiving DLA will be affected by clause 52 when they reach adulthood.

There are an estimated 327,000 children under 16 currently receiving DLA. As the chart shows, by far the most important disabling condition is learning disability (41%). (Note that the disabling condition does not in itself lead to DLA entitlement, which is based on the specific mobility and care needs of the individual: not all children with, for example, mental health problems are on DLA, only those, generally more severely affected, whose condition leads to specific needs.)

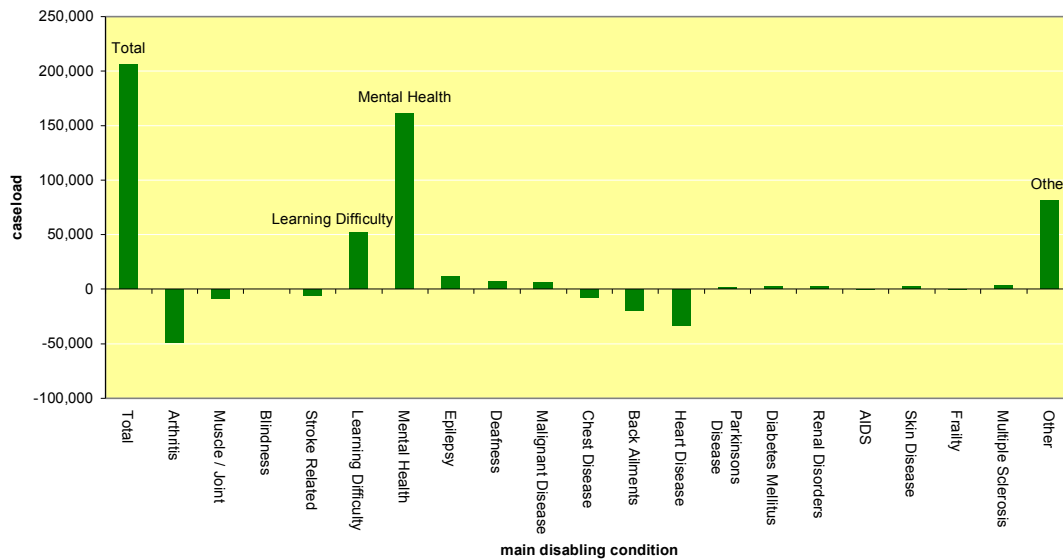
Children in receipt of Disability Living Allowance 2011: main disabling condition



Source: DWP 5% sample

While not all of these children will be eligible for ESA in adulthood, and while there will be many who are eligible for ESA who are not receiving DLA, these figures do point to one important implication of clause 52: a large proportion of those affected will have learning difficulties or mental health problems at the more severe end of the spectrum. There are currently 134,000 children with learning difficulties on DLA, and these conditions are one of the major sources of growth in working age disability benefit receipt. The chart below shows working age DLA caseload change, adjusted to take out the effect of demographic change: for most disabling conditions, apart from learning difficulties and mental health, there has been very little change (so much for the notion that the DLA caseload is ‘out of control’). This may explain why a policy which will particularly affect entitlement for people with learning difficulties looks attractive from a narrow fiscal perspective, although from a broader policy perspective, the growth of claims by people with learning disabilities represents a *desirable* outcome, reflecting increased life expectancy and less reliance on institutional care.

Change in working age Disability Living Allowance caseload by main disabling condition: adjusted for demographic change: 2002-2010



Source: author's calculations from DWP 5% data, WPLS and ONS mid-year population estimates

The question posed by clause 52 is why would anyone want to do this? Of course the proposal will save money: the savings could well be significant, precisely because financial support is being withdrawn from people many of whom will never be able to support themselves. At the same time there are likely to be offsetting effects. The impacts on work incentives for other family members are likely to cut in to any fiscal savings (how many parents or partners would be as well off leaving work and claiming carer's allowance after this change?). Some people who would otherwise have lived as part of a family will move into rented accommodation and claim housing benefit as well as possibly having greater needs for local authority support services. And demand for institutional care is likely to be swollen by those cases where independent living is not an option but where families are simply unable to meet the additional financial cost.

But even without these factors undermining any savings, and even if one completely accepted the government's arguments for aggressive deficit reduction, there are better and worse ways of reducing public expenditure, and making long-term disabled adults dependent on their families is surely at the worse end of the range. If they are unable to work and wish to remain in the family home, they will be imposing the burden of their maintenance on their parents and siblings. If they marry or move in with a partner, they will be bringing a huge negative dowry of long-term financial need to the relationship. Why would we want to impose a tax on families and partners who are providing non-financial forms of support? Why would we want more disabled adults to have to factor in the financial costs they might impose on others into critical decisions about where to live and who to live with? Why, in a wealthy country with a functioning welfare state, should any parent ever be faced with the question of whether they can *afford* to have their disabled child living with them into adulthood?

I don't believe that anyone of any political persuasion seriously believes these effects are desirable. For thirty years there has been a clear direction of policy on severe long-term disability, accepted and promoted by all the main parties: towards greater

independence and community support, away from segregation, institutionalisation and enforced dependency. Of course there will always be a need for debate about ways and means but unconditional financial support *in one's own right* is one of the more uncontroversial building blocks of any strategy for greater autonomy and integration for the most severely disabled. Clause 52 represents a major departure from the spirit of decades of progressive policy making by successive UK governments.

Those who are concerned with arbitrary restrictions on contributory ESA have every reason to extend their concerns to clause 52. An amendment proposed by Stephen Timms in the Commons was rejected: his speech is available here and is well worth reading [

<http://www.publications.parliament.uk/pa/cm/cmtoday/cmstand/output/pbc154/pb110503a-05.htm>. ]

The bill as it stands does include a partial exemption to the new measure for people who are already in the ESA support group: the logic of this exception could be extended both to new claimants meeting the support group criteria and to those IB claimants being reassessed under the ESA rollout. This would not be perfect: it would still be necessary to deal with the arbitrary one-year time limit for those capable of some work-related activity, and the position of people with severe adult-onset conditions who don't meet ESA contribution conditions would remain anomalous to say the least. But it would prevent a serious step backwards in a policy area which has seen great progress over recent decades, supported by a powerful public and political consensus.