

# New Labour, the market state, and the end of welfare

Jonathan Rutherford

*Jonathan Rutherford looks at the connections between government and the insurance business in their joint project to reduce eligibility for sickness benefits.*

In November 2001 a conference assembled at Woodstock, near Oxford. Its subject was 'Malingering and Illness Deception'. The topic was a familiar one to the insurance industry, but it was now becoming a major political issue as New Labour committed itself to reducing the 2.6 million who were claiming Incapacity Benefit (IB). Amongst the 39 participants was Malcolm Wicks, then Parliamentary Under Secretary of State for Work, and Mansel Aylward, his Chief Medical Officer at the Department of Work and Pensions (DWP). Fraud - which amounts to less than 0.4 per cent of IB claims - was not the issue. The experts and academics present were the theorists and ideologues of welfare to work. What linked many of them together, including Aylward, was their association with the giant US income protection company UnumProvident, represented at the conference by John LoCascio. The goal was the transformation of the welfare system. The cultural meaning of illness would be redefined; growing numbers of claimants would be declared capable of work and 'motivated' into jobs. A new

work ethic would transform IB recipients into entrepreneurs helping themselves out of poverty and into self-reliance. Five years later these goals would take a tangible form in New Labour's 2006 Welfare Reform Bill.

**B**etween 1979 and 2005 the numbers of working age individuals claiming IB increased from 0.7m to 2.7m. In 1995, 21 per cent were recorded as having a mental health problem; by 2005 the proportion had risen to 39 per cent, or just under 1 million people. The 2000 Psychiatric Morbidity Survey identified one in six adults as suffering from a mental health problem: of these only 9 per cent were receiving some form of talking therapy. The Health and Safety Executive estimate that 10 million working days are lost each year due to stress, depression and anxiety, the biggest loss occurring in what was once the heartland of New Labour's electoral support, the professional occupations and the public sector. Despite these statistics, Britain has one of the highest work participation rates of OECD countries; while benefit levels are amongst the lowest in Western Europe and benefit claims are on a par with other countries.<sup>1</sup> The system is not in crisis, and this is not the motivation for the proposed changes. New Labour's politics of welfare reform has subordinated concern for the sick and disabled to the creation of a new kind of market state: claimants will become customers exercising their free rational choice, government services will be outsourced to the private sector, and the welfare system will become a new source of revenue, profitability and economic growth.

### **The road to welfare reform**

In 1993 Richard Berthaud of the Policy Studies Institute identified the causes of the continuing rise in IB claimants.<sup>2</sup> In the period of growing unemployment under the Conservative government a fairly constant number of people left work because of ill health, only to find it increasingly difficult to re-enter the labour market. As unemployment began to fall the numbers on IB continued to accumulate. The problem lay not, as the right-wing press insisted, with malingering claimants and collusive GPs, but with the economy and with the hiring and firing practices of

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1. OECD, *Transforming Disability into Ability - policies to promote work and income security for disabled people*, 2003.
  2. See Steven Kennedy, Wendy Wilson, *The Welfare Reform Bill*, Research Paper 06/39, House of Commons Library, 2006; [www.parliament.uk/commons/lib/research/rp2006/rp06-039.pdf](http://www.parliament.uk/commons/lib/research/rp2006/rp06-039.pdf).

employers. Berthaud concluded: 'The increase has not been caused by excessive ease of entry to the system, but by difficulty of exit.' The Conservative government had its own agenda, however, and Peter Lilley, Secretary of State for Social Security in the 1992 administration, pointed the finger at claimants and the way their illnesses were diagnosed by GPs. According to Lilley: 'sickness and invalidity benefits were originally intended for those people who, "by reason of some specific disease or bodily or mental disablement" were unable to undertake work'. Social and psychological causes of illness were now being taken into account and as a result, 'the rules have been progressively widened and complicated'. The definition of incapacity had become 'fuzzy' (quoted in Kennedy & Wilson).

**T**he 1994 Social Security (Incapacity for Work) Act was designed to end the 'fuzziness'. The Act introduced Incapacity Benefit and a number of key reforms to reduce the inflow of new claimants. Lilley hired John LoCascio to advise on 'claims management'. LoCascio was at that time second vice president of Unum, the leading US disability insurance company. He joined the 'medical evaluation group' that was set up to design more stringent medical tests. Another key figure in the group was Mansel Aylward. A new All Work Test was introduced in 1997. Instead of focusing on whether or not an individual was able to do their job, it would assess their general 'capacity to work' through a series of descriptors, for example 'Is unable to cope with changes in daily routine', 'Is frightened to go out alone'. Decisions on eligibility for benefit would be decided by Department of Social Security (DSS) non-medical adjudication officers advised by a newly recruited corps of DSS doctors trained by LoCascio. The new test, and the marginalising of claimants' own doctors, brought the rise in IB claimants to a halt.

Unum's influence was now at the heart of the system of managing disability claims. In April 1997, when the new All Work Test was introduced, the company launched an expensive campaign. One ad ran:

April 13, unlucky for some. Because tomorrow the new rules on state incapacity benefit announced in the 1993 autumn budget come into effect. Which means that if you fall ill and have to rely on state incapacity benefit, you could be in serious trouble.

LoCascio replied in the negative when *Private Eye* asked if he was not concerned

about the conflict of interest involved in his company's advertising campaign, which sought to gain from benefit cuts that he had helped to institute. However Unum Chairman Ward E. Graffam did acknowledge the 'exciting developments' in Britain. Unum's influence in government was helping to boost the private insurance market: 'The impending changes to the State ill-health benefits system will create unique sales opportunities across the entire disability market and we will be launching a concerted effort to harness the potential in these.'<sup>3</sup>

**D**espite Graffam's upbeat comments, however, the company was in financial difficulties. In the 1980s Unum - along with the two other major life and accident insurance companies, Provident and Paul Revere - had been doing well from providing 'own occupation' income protection schemes for mainly upper income professionals. Insurance against loss of earnings caused by accident or sickness was seen as a lucrative market with strong growth potential. Profit for insurance companies mainly lies in the revenue generated by investing the monthly insurance premiums, and interest rates were high so the companies enjoyed high levels of profitability; they monopolised the sector by sharing a similar disability income policy that offered liberal terms. Two factors threatened future profits however. The first was falling interest rates, and the second was the growth in new kinds of 'subjective illnesses', for which diagnostic tests were disputable. The old industrial injuries were giving way to illnesses with no clear biological markers - Myalgic Encephalomyelitis (ME) or Chronic Fatigue Syndrome (CFS), Fibromyalgia, Chronic Pain, Multiple Sclerosis, Lyme Disease. In the early 1990s the new kinds of claims began to rise just as interest rates fell: profits were threatened. Unum's 1995 'Chronic Fatigue Syndrome Management Plan' sounded the alarm: 'Unum stands to lose millions if we do not move quickly to address this increasing problem'.<sup>4</sup>

It was actually Provident that was quickest off the mark, introducing an aggressive system of 'claims management' that would become the industry norm. It could not influence interest rates, but it could reduce the number of successful claims it paid out. Its Independent Medical Examination (IME) was skewed in

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3. 'Doctors On Call', *Private Eye*, issue 874, 16 June 1995, p26.

4. My thanks to activists in the US, in particular Linda Nee, and Jim Mooney of [corporatecrimefighters.com](http://www.corporatecrimefighters.com), who provided me with contacts and information. For the archive of the US campaign against UnumProvident see [http://web.archive.org/web/\\*/http://www.corporatecrimefighters.com](http://web.archive.org/web/*/http://www.corporatecrimefighters.com)

favour of the company through the work undertaken by its claims adjusters and in-house doctors. Illnesses were characterised as ‘self-reported’ and so thrown into question. Only ‘objective’ test results were accepted. Some disabling conditions were labelled as ‘psychological’, which made them ineligible for insurance cover beyond 24 months. Doctors were pressured to use the ‘subjective nature’ of ‘mental’ and ‘nervous’ claims to the company’s advantage.<sup>5</sup> Specific illnesses were targeted in order to discredit the legitimacy of claims. The industry drew on the work of two of the Woodstock conference participants, Professor Simon Wessely of King’s College and Professor Michael Sharpe of Edinburgh University, in an attempt to reclassify ME/CFS as a psychiatric disorder.<sup>6</sup> Success would allow payouts to be restricted to the 24 month limit for psychological claims and save millions of dollars. By 1997 Provident had restructured its organisation to focus on disability income insurance as its main business. It acquired Paul Revere, and then in 1999 merged with Unum under the name UnumProvident.

**T**hat year New Labour introduced the Welfare Reform Act. It was heralded as an answer to Frank Field’s call for an end to a culture of welfare dependency, and to Tony Blair’s misleading anxieties about levels of spending on social security. All new claimants now had to attend a compulsory work-focused interview. This was partly because the All Work Test introduced by the Tories had failed to reduce the inflow of claimants with mental health disorders. The gateway to benefits therefore needed tightening up. Mansel Aylward, now Chief Medical Officer of the DWP, thus replaced the All Work Test with the Personal Capability Assessment (PCA). The emphasis would no longer be on benefit entitlement but on what a person was able to do and the action needed to support them in work. The task of administrating the PCA was contracted out to SchlumbergerSema, which was then taken over (along with its DWP assets) by the US corporation Atos Origin; and in 2005 Atos Origin won a further £500m contract. Claims for benefit were assessed by Atos employees with no medical training, using a computer system called Logical Integrated Medical

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5. California Department of Insurance Legal Division, ‘Accusation’, [www.insurance.ca.gov/0400-news/0100-press-releases/0080-2005/release089-05.cfm](http://www.insurance.ca.gov/0400-news/0100-press-releases/0080-2005/release089-05.cfm).

6. See the social action research undertaken by M.E. Action UK ([www.meaction.org.uk](http://www.meaction.org.uk)). For example [www.meactionuk.org.uk/Notes\\_on\\_the\\_Insurance\\_issue\\_in\\_ME.htm](http://www.meactionuk.org.uk/Notes_on_the_Insurance_issue_in_ME.htm). See also debate in the House of Lords, [www.publications.parliament.uk/pa/ld200304/ldhansrd/vo040122/text/40122-12.htm](http://www.publications.parliament.uk/pa/ld200304/ldhansrd/vo040122/text/40122-12.htm).

Assessment (LIMA). Unsurprisingly, these computerised evaluations, coupled with clearance time targets for Atos staff, made the PCA unreliable, particularly for those suffering mental health problems. Fifty per cent of IB appeals against the refusal of claims found in favour of the claimant. In 80 per cent of these the problem was poor assessment of mental health problems.<sup>7</sup> While the new Act had succeeded in further restricting the gateway to benefits, it had failed to deliver Blair's promised revolution in welfare. The reform process would go on.

### **'Active Welfare'**

In 2003 the DWP launched its *Pathways to Work* pilot projects. These were forerunners of the kind of 'active welfare' system that had been promoted by UnumProvident and the Woodstock academics. In the pilot projects all new 'customers' to IB undertake a work-focused interview (WFI) with an IB Personal Adviser (IBPA). The Personal Capability Assessments of the 70 per cent who are not screened out by the WFI are fast-tracked, and these claimants (who are deemed not to have severe functional limitations) go on to attend a further series of mandatory, monthly interviews. The role of the IBPAs is to actively encourage customers to consider a return to work, as well as discussing work-focused activity. Customers are offered a 'Choices' package of interventions to support a return to work. For claimants suffering mental illness, a Condition Management Programme is available, developed jointly between Jobcentre Plus and the NHS. A Return to Work credit of £40 per week is payable for twelve months to customers if their new job is not less than sixteen hours, and earns less than £16000. At the Labour Party conference in this same year UnumProvident organised a fringe meeting with employment minister Andrew Smith and health minister Rosie Winterton. Joanne Hindle, corporate services director for UnumProvident, spelt out the future direction of *Pathways to Work*:

Although we can say that we are 90 per cent of the way there in policy terms, the real challenge is delivery - in particular the role of the intermediary. We believe that it is absolutely vital that all employment brokers are properly

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7. Mind, Welfare Reform Bill 2006 Commons second reading debate Briefing, [www.mind.org.uk/.../11D7C4BC-7E8D-438E-A950-96ED5D4469C5/0/WelfareReformBill2006Mind2Rshortbriefing.pdf](http://www.mind.org.uk/.../11D7C4BC-7E8D-438E-A950-96ED5D4469C5/0/WelfareReformBill2006Mind2Rshortbriefing.pdf).

incentivised to move disabled people along the journey into work and that there are enough of them to do the job. The next step therefore is for private sector to work alongside government to achieve delivery, focus and capacity building within the system.<sup>8</sup>

UnumProvident was building its influence. In 2001 it had launched New Beginnings, a public private partnership that acted as a pressure group, drawing in charities and NGOs and enabling the extension of the company's influence in shaping the policy making environment, particularly in relation to *Pathways to Work*. Its annual symposium had been attended by government ministers, with Woodstock academics providing intellectual input. Then in July 2004, it opened its £1.6m UnumProvident Centre for Psychosocial and Disability Research at Cardiff University. The company appointed Mansel Aylward as Director following his retirement from the DWP in April. Professor Peter Halligan, who had forged the partnership with UnumProvident, was ambitious: 'Within the next five years, the work will hopefully facilitate a significant re-orientation in current medical practice in the UK'.<sup>9</sup> The two men were joined at the centre by Gordon Waddell, an orthopaedic surgeon turned academic and another Woodstock participant. The launch event was attended by Liberal MP Archie Kirkwood, recently appointed Chair of the House of Commons Select Committee on Work and Pensions. Malcolm Wicks, Minister of State in the DWP, gave a speech praising the partnership between industry and the university.<sup>10</sup> UnumProvident could now capitalise on its academic respectability as well as its close government connections. It understood the importance of ideas. Words do not merely describe the world, they enact it. To transform welfare into workfare would involve an ideological battle around language and culture.

### **Culture of sickness**

In 2005 the centre produced a monograph, *The Scientific & Conceptual Basis of Incapacity Benefits* (TSO, 2005), written by Waddell and Aylward and published

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8. See [www.helpisathand.gov.uk/resources/groups/disabilities/ability/ability-magazine-issue-52-november-2003-pdf-825kb.pdf](http://www.helpisathand.gov.uk/resources/groups/disabilities/ability/ability-magazine-issue-52-november-2003-pdf-825kb.pdf).

9. 'Research Centre Welcomed', 2.7.04, [www.cf.ac.uk/psych/cpdr/](http://www.cf.ac.uk/psych/cpdr/).

10. Malcolm Wicks, Minister of State for Pensions, [www.dwp.gov.uk/aboutus/2004/01\\_07\\_04\\_ucpdr.asp](http://www.dwp.gov.uk/aboutus/2004/01_07_04_ucpdr.asp).

by the DWP. In their declarations of interest at the beginning of the text neither man cites their association with UnumProvident. This matters, because the monograph provides the unacknowledged intellectual framework for the 2006 Welfare Reform Bill. And the methodology used by Waddell and Aylward is the same one that informs the work of UnumProvident.

In a memorandum submitted to the House of Commons Select Committee on Work and Pensions, UnumProvident define their method of working: 'Our extended experience ... has shown us that the correct model to apply when helping people to return to work is a bio-psychosocial one'.<sup>11</sup> The bio-psychosocial model is explained by Peter Halligan, and Derek Wade of Oxford University (another Woodstock academic), in the *British Medical Journal*: 'The old biomedical model of illness, which has dominated health care for the past century, cannot fully explain many forms of illness.'<sup>12</sup> This old model assumes a causal relation between disease and illness, and fails to take into account how cultural attitudes and psychological and social factors shape illness behaviour. In other words it allows someone to report symptoms of illness, and for society to accept him or her as sick, without their having a pathology. Waddell and Aylward adopt the same argument in their monograph: disease is the only objective, medically diagnosable pathology. Sickness is a temporary phenomenon. Illness is a behaviour - 'all the things people say and do that express and communicate their feelings of being unwell' (p39). The degree of illness behaviour is dependent not upon an underlying pathology but on 'individual attitudes and beliefs', as well as 'the social context and culture in which it occurs'. Halligan and Wade are more explicit: 'Personal choice plays an important part in the genesis or maintenance of illness'.

Waddell and Aylward are exercised by the paradox of a society in which 'objective measures of health are improving' but in which numbers on IB remain 'stubbornly high'. They argue that this can be explained by adopting a bio-psychosocial model. IB trends are a social and cultural phenomenon rather than

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11. 'UnumProvident Supplementary memorandum submitted by UnumProvident following publication of the Welfare Reform Green Paper', Select Committee on Work and Pensions, see [www.publications.parliament.uk/pa/cm200506/cmselect/cmworpen/616/61602.htm](http://www.publications.parliament.uk/pa/cm200506/cmselect/cmworpen/616/61602.htm).

12. Derick T Wade, Peter W Halligan, 'Do biomedical models of illness make for good healthcare systems?', *BMJ*, Vol.329, Dec. 2004.

a health problem: ‘Severe medical conditions only account for about a quarter of the current IB caseload. Most IB recipients now have less severe “common health problems”’ (p172). The solution is not to cure the sick, but to transform the culture of welfare and tackle the ‘personal and social/occupational factors [that] aggravate and perpetuate incapacity’. Adopting this model will lead to a ‘fundamental transformation in the way society deals with sickness and disabilities’ (p123). The goal and outcome of treatment is work: ‘work itself is therapeutic, aids recovery and is the best form of rehabilitation’. For Waddell and Aylward, work is a virtue. But to make it so, they first abstract it from the material conditions of paid employment. Work becomes an idealised practice shorn of class and inequality and the reality of the large swathes of mundane and boring jobs people must endure. In contrast to their idealisation of work, the authors view worklessness as a serious risk to life. It is ‘one of the greatest known risks to public health: the risk is equivalent to smoking 10 packets of cigarettes per day’ (p17). No-one who is ill should have a straightforward right to Incapacity Benefit:

A person who is unwell may ‘feel too ill’ at present to consider returning to work, but that is not a valid basis for future, permanent incapacity. The argument that, even if they recovered, they could not ‘risk’ work because it might be ‘harmful’ to their health is invalid because of the generally beneficial effects of work and the ill effects of long term worklessness (p91).

UnumProvident, in its memorandum to the Select Committee, pursued the same logic, arguing that even the most functionally disabled could be expected to work at some future point.

**T**he Waddell and Aylward monograph draws on the considerable knowledge of the authors, but employs a methodology that skews it towards moral authoritarianism and neo-liberal policy prescriptions. They rely on the much-critiqued and outdated systems theory of sociologist Talcott Parsons, in which the individual and society are assigned to discrete spheres of existence. Hence they acknowledge the social and cultural dimensions of illness, but fail to consider that these and other structural and economic forces might be the dynamic causes of genuine ill health. Instead the *problem* of illness is located in the individual, whose beliefs and behaviour then become the focus of moral judgment and action. As Halligan and Wade argue: ‘Our model suggests

that illness is a dysfunction of the person in his (or her) physical and social environment'. This follows Parsons's theory of the 'sick role', which he viewed as an individual's deviance from the social norm. He understood society as existing in a state of equilibrium, with individuals functioning in their allotted roles. The sick role upsets this equilibrium because it provides individuals with privileges and exempts them from normal social responsibilities. In order to restore balance society must recognise the sick role as an undesirable state and individuals must accept their moral obligation to recover as quickly as possible and return to work. Waddell and Aylward explain the high levels of IB claimants as arising from a breakdown in this conditionality. The sick role is now assumed to confer a 'right' to incapacity (p47). The solution is to change people's behaviour by transforming the language and culture of welfare, and by using sanctions as a 'motivational tool' to prise people out of their sick role (p166).

### **UnumProvident exposed**

Meanwhile, in the US UnumProvident's business activities had been coming under increasing scrutiny. In 2003, the Insurance Commissioner of the State of California announced that the three big insurance companies had been conducting their business fraudulently. As a matter of ordinary practice and custom they had compelled claimants to either accept less than the amount due under the terms of the policies or resort to litigation. The following year a multistate review identified four areas of concern: an excessive reliance on in-house professionals; unfair construction of doctor's or IME reports; a failure to properly evaluate the totality of the claimants' medical condition; and an inappropriate burden on the claimant to justify eligibility for benefit.<sup>13</sup> UnumProvident was forced to reopen hundreds of thousands of rejected insurance claims. Commissioner John Garamendi described UnumProvident as 'an outlaw company': 'It is a company that for years has operated in an illegal fashion.'<sup>14</sup>

To secure its financial position the company presented a public evaluation of the costs of the multi-state settlement. It estimated that there were potentially 25,000 long-term disability claims (out of a total of 275,000 claimants) that

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13. 'Targeted Multistate Market Conduct Examination', November 2004, [www.maine.gov/pfr/insurance/unum/Unum\\_Multistate\\_ExamReport.htm](http://www.maine.gov/pfr/insurance/unum/Unum_Multistate_ExamReport.htm).

14. 'State Fines Insurer, Orders Reforms in Disability Cases', *Los Angeles Times*, 3.10.05, [www.insurance.ca.gov/0400-news/0100-press-releases/0080-2005/release089-05.cfm](http://www.insurance.ca.gov/0400-news/0100-press-releases/0080-2005/release089-05.cfm).

would qualify for re-examination. Between \$325m and \$415m was allocated to cover the likely costs. However this estimate did not include a further potential 14,000 claimants under the separate California settlement. And it was based on a deadline being imposed in early 2007 after which claimants would not be able to elect to have their claim re-examined. The company failed to make it public that this deadline had been nullified by pending multi-district claimants' class actions in Tennessee. This was misleading because there remains the possibility that many more of the 289,000 denied or terminated disability claimants may seek re-evaluation of their claims or litigation. Such potential future actions expose UnumProvident to a potentially ruinous financial outlay.<sup>15</sup>

In response to the outcry this caused the company has rebranded itself, and has now adopted the name Unum Group. There are reports that as the bad publicity is subsiding the company is returning to its aggressive claims management strategies in order to recover its profitability.<sup>16</sup> In January 2007 a performance rating from Credit Suisse was low, but with an upside driven by higher than expected UK earnings and a lower than expected tax rate.<sup>17</sup> Graffam's strategy has paid off. UnumProvident UK, with 2.3million covered by its insurance schemes and pre-tax profits of £109.8m, provides up to 25 per cent of the post-tax operating income of the UnumProvident group of companies. The company had also played an important role in shaping a workfare culture and policy strategy in the Department of Work and Pensions. In April 2007 UnumProvidentUK changed its name to Unum.

### **New Labour's Welfare Reform Act**

In July 2006 the Government published its second Welfare Reform Bill (which was passed as an Act in May 2007). The aim was to radically reduce levels of worklessness amongst single parents, older citizens and those on Incapacity Benefit (IB), and a target was set of an 80 per cent employment rate amongst working age adults. *Pathways to Work* will be rolled out across the country by 2008. Secretary of State for Work and Pensions John Hutton praised the pilot schemes: 'The largely

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15. Details received in private correspondence and from Yahoo message boards, <http://messages.finance.yahoo.com>.

16. Private correspondence; see also, 'Case Reviews fall short for hurt workers', *LA Times*, 12.4.07.

17. [www.newratings.com/analyst\\_news/article\\_1465881.html](http://www.newratings.com/analyst_news/article_1465881.html).

voluntary approach of *Pathways* has been a success'.<sup>18</sup> But not successful enough.<sup>19</sup> To achieve its target the government will need to reduce the numbers on incapacity benefit by one million, and persuade into work one million more older people, and 300,000 extra lone parents. Employers, particularly in the public sector, will be helped to create more effective management of sickness absence, and benefits will not be given on the basis of a certain disability or illness but on an assessment of the capacity to work. In 2003 the OECD reported that Britain's benefits gateway was 'one of the toughest in the world'.<sup>20</sup> But it was not tough enough, and still more stringent policing was required. The new Act offers GPs and primary care staff rewards for taking active steps to get individuals back into work. 'Employment advisers' will be attached to surgeries to help in 'bringing about a cultural change in the way work is viewed by families and individuals'. The PCA will be redesigned by two technical working groups, one for mental health and one for physical disability. Both groups involve representatives from UnumProvident and Atos Origin.

In 2008, IB will be replaced by a two-tier Employment and Support Allowance. Minister of State for Employment and Welfare Reform Jim Murphy, in a Parliamentary written answer, emphasised that the new allowance will 'focus on how we can help people into work and will not automatically assume that because a person has a specific health condition or disability they are incapable of work'.<sup>21</sup> Apart from those with the most severe disabilities (around 15-20 per cent, who will qualify for a higher rate of benefit) 'customers' who fail to participate in work-focused interviews or to engage in work related activity will be subjected to a 'motivational tool', as suggested by Waddell and Aylward. Current levels of IB average £6500 per annum, but claimants unable to manage or refusing the motivation could lose as much as £10.93 a week, rising to £21.8 for a second refusal of work.<sup>22</sup> There is no evidence to

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18. John Hutton, 'The Active Welfare State', speech to the Work Foundation, 16.1.06, [www.dwp.gov.uk/aboutus/2006/16\\_01\\_06.asp](http://www.dwp.gov.uk/aboutus/2006/16_01_06.asp).

19. For statistics and percentages of those entering work through the pathways see David Laws MP written questions to Jim Murphy Minister of State, DWP, 27.3.07, at [www.theyworkforyou.com](http://www.theyworkforyou.com).

20. OECD, op cit.

21. Jim Murphy written answer, [www.publications.parliament.uk/pa/cm200506/cmhansrd/cm060620/text/60620w1094.htm](http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm060620/text/60620w1094.htm).

22. 'Hutton unveils benefits shake-up', BBC news, [http://news.bbc.co.uk/1/hi/uk\\_politics/4641588.stm](http://news.bbc.co.uk/1/hi/uk_politics/4641588.stm). Average Benefit rate in Waddell and Aylward, *The Scientific and Conceptual Basis of Incapacity Benefits*, TSO 2005, p85.

suggest that impoverishing people who are ill will prompt them into longer-term employment, and this is particularly true for those with mental health problems. In 2006 the DWP published a report on the impact of the *Pathways to Work* pilots on people with mental health problems. It concluded that: 'the estimated impact of the policy on the outcomes of interest for those who report having a mental illness (as a single health condition) is never statistically different from zero at conventional levels'.<sup>23</sup> The future looks bleak for those who have 'symptoms without diseases', or mental health conditions, and who cannot demonstrate that their illness has an 'objective medical pathology'. Jim Murphy was blunt: 'Work is the only way out of poverty ... the benefit system will never pay of itself [enough to lift people out of poverty] and I don't think it should.'<sup>24</sup>

### **The future of welfare**

The Welfare Reform Act is short on detail, and secondary legislation delegates powers to the DWP minister to continue the reform process and tighten up rules. In 2006 Hutton commissioned David Freud, a senior banker at UBS AG, to conduct a review of New Labour's welfare to work policies. Published in March 2007, *Reducing dependency, Increasing opportunity: options for the future of welfare to work* quotes Waddell and Aylward's dictum that work is 'therapeutic' and provides a business model for workfare. Freud argues that the government target can be achieved by bringing in the private sector on long-term, outcome-based contracts. The contracts are central to the success of the scheme. A price per claimant is calculated on the savings in IB costs when the claimant moves back into work. Payments to providers would then be paid over a three-year period from when an individual client enters paid employment. The income generated by the outflow of people from IB would be the incentive driving business towards the government target. The contracting regime would set a minimum standard of service that all 'customers' would receive. However: 'beyond this there would be freedom between the provider and the individual to do what works for them'. Those claimants furthest away from the labour market - and who are most costly

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23. Stuart Adam et al., *Early quantitative evidence on the impact of the Pathways to Work pilots*, Research Report No 354, DWP 2006.

24. 'Only work ends poverty, says minister', *Financial Times*, 28.3.07.

to the Exchequer - will command the highest rewards.

To carry out this transformation of welfare the DWP would need to establish a new kind of contracting system, which would open up public finance to private companies. According to Freud, the private sector is the only body capable of shouldering the financial risks and arranging the private finance that will reduce costs to the Exchequer. And using the private sector will bring in the banks, which will be able to fund the 'extremely large investments implied here'. Private companies would take the lead in the bidding process for contracts, and in building up consortia of groups in each of the regions and countries in Great Britain. This annual multi-billion pound market, and the creation of regional monopolies, 'would attract major players from around the world' (p62-3). As Freud concludes: 'The fiscal prize is considerable'. Hutton's public reaction was to describe the report as a 'compelling case for future reform'.<sup>25</sup>

**W**elfare reform exemplifies the transformation of the old style nation state into a new kind of 'enabling' market state. Instead of providing social protection, the market state offers 'opportunities' and 'choice' to 'customers', who in return must shoulder a greater degree of responsibility for their individual predicament. Alongside this transformation in the nature of service provision is the blurring of the boundaries between public service and private business, not least in the revolving door that operates in the higher echelons of the state. The logic of welfare reform is to reduce costs by keeping claims to a minimum. To achieve this, New Labour has adopted the practices of a private insurance company whose claims management in the US has been described as 'illegal'. With the Freud Report it has opened the door for further privatisation.<sup>26</sup> The workfare system that is taking shape in this country is turning the logic of welfare onto its head. It is no longer a system that seeks to help people who are sick or disabled; instead it is increasingly asking them how they can help us. The demand for performativity in return for a meagre subsistence robs people of their autonomy - but New Labour dresses it up in the language of individual career development and dignity for the disabled. John Hutton

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25. John Hutton, speech on 'Welfare Reform in the UK', 26.3.07, [www.dwp.gov.uk/aboutus/2007/26-03.07.asp](http://www.dwp.gov.uk/aboutus/2007/26-03.07.asp).

26. Freud's scheme may be a bridge too far for Gordon Brown. See: 'Leak shows that Treasury has consigned Blair welfare privatisation to the back burner', *The Guardian*, 20.4.07, <http://society.guardian.co.uk/futureforpublicservices/story/0,,2061933,00.html>

describes workfare as a 'something for something' approach, and Tony Blair calls it 'mutual responsibility'. But the compact between the state and an individual whose life has been disrupted by disability or sickness is not an equal one.

The 'sick role' as an explanation for a person's actions and attitudes makes the individual who is incapacitated responsible for what are socially produced problems. The logic of the reforms serves the need of the market, attempting to turn the individual into an efficient, docile unit of consumption and productivity.

**T**he Conservatives have now announced their own approach to welfare reform. Shadow Chancellor George Osborne argues that David Freud has not gone far enough: 'We should seriously consider a bold "no-win, no-fee" approach to getting people off benefits. Prime contractors, be they companies or charities, would be paid primarily if they get people back into work, and keep them there - in other words payment by results.' In return, more will be expected from those on employment related benefits, and tougher sanctions will be introduced against 'those who can work but refuse to take steps to get back into the labour market'.<sup>27</sup> The history of the British welfare system has always been one of grudging, paternalistic and sometimes punitive forms of social protection. But even measured against its own limited ambitions, the future of welfare looks bleak.

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27. [http://www.conservatives.com/tile.do?def=news.story.page&obj\\_id=137035](http://www.conservatives.com/tile.do?def=news.story.page&obj_id=137035).