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PART TWO

To be redrafted when the public information role has been revised

SOCIAL SECURITY ADVISORY COMMITTEE

SSAC - THE BUSINESS GUIDE FOR DWP STAFF

This revised and updated version of the guide was published on **1 May 2007** and supersedes all previous versions. As well as some minor revisions to the main text, it also includes updated material on the Committee's role in relation to:

- **regulations made before the end of the period of 6 months beginning with the coming into force of the enactment under which they were made** (paragraph 1.37)
- **'complexity' and the simplification in the benefits system** (paragraph 1.45 et seq);
- new material on the Committee's role in relation to **equality and diversity**;
- new material on the Committee's interest in **business, child poverty and rural impacts information** (paragraph 1.47); and
- updated information on the Committee's **publication policy** (paragraphs 1.18).

The Committee's public information role (dealt with in Part Two of this guide) has recently been reviewed and new guidance will be issued shortly.

For general information on the Committee, and the most up to date information on membership (including details of Members backgrounds and particular areas of interest and expertise) , public consultation exercises on proposed regulations - with a direct response facility - and the Committee's publications, including the current Annual Report go to the SSAC website: <http://www.ssac.org.uk>. This can be accessed directly, or via links on this site.

THE PURPOSE OF THIS GUIDE

This guide aims to give DWP officials the information needed for effective working with the Committee.

- Part One deals mainly with the handling of proposals for regulations, and the Committee's general advisory function (including advising on proposed primary legislation and associated regulations)

- Part Two deals mainly with the Committee's specific advisory role in relation to the Department's public information strategy, in particular the scrutiny of individual information products.

EFFECTIVE WORKING WITH THE COMMITTEE AND THE SECRETARIAT – THE ESSENTIALS

Effective working with the Committee means paying close attention to the following:

- early identification of the need to engage SSAC – whether as a statutory obligation or because there is a wider business case for doing so;
- giving the Secretariat notice of time-sensitive business at the earliest opportunity, and making sure that all stakeholders understand the SSAC business process; and
- ensuring that those officials preparing papers and bringing business to Committee meetings are fully trained and prepared for their roles

Although this guide takes in all aspects of the Committee's business, it cannot address all the situations officials may encounter. Officials new to the Committee's role and remit are strongly encouraged to take part in the **SSAC Awareness Training** provided by the Secretariat, and attend a Committee meeting as an observer before bringing business to the Committee. The Secretariat will be happy to run training and awareness sessions, book 'observer' places for officials at meetings, and provide officials with whatever assistance and advice they may need.

PART ONE

THE COMMITTEE'S ROLE

INTRODUCTION

1.1 The Social Security Advisory Committee (SSAC) is an independent statutory body that advises the Secretary of State (SoS) on all aspects of the social security system and related matters, apart from industrial injuries provisions, occupational pensions and Child Support. The Committee has a similar advisory role in respect of the Department in Northern Ireland with responsibility for social security – currently the Department for Social Development – but this is not dealt with in this guide for DWP staff.

1.2 The Committee has two main roles:

- (i) to advise the SoS on his functions under the Social Security Acts; (see paragraphs 1.7 et seq.); and
- (ii) to examine most proposals to amend regulations; and, where it sees fit, report to the SoS on the proposals (see paragraphs 1.18 et seq.).

The Committee also considers, and advises HMRC in confidence on, proposals for regulations dealing with Tax Credits, NICs, Child Benefit and Guardian's Allowance. This is a purely informal arrangement, governed by a Memorandum of Understanding drawn up between the Committee and HMRC. The Committee has no statutory remit in respect of these provisions.

1.3 For the purposes of the Committee's statutory remit, the reference to "Secretary of State" covers whichever Secretary of State (currently the Secretary of State for Work and Pensions) may be responsible for bringing forward proposals dealing with social security and related matters.

THE COMMITTEE SECRETARIAT

1.4 In carrying out its duties, the Committee is supported by a Secretariat, made up of members of staff 'on loan' from the Department. The Secretariat is based at New Court, where the Chairman has an office and meetings of the Committee are usually held. The full address is:

Room 344
New Court
48 Carey Street
London WC2A 2LS

Directions and maps are available on the Intranet

1.5 The Secretariat is responsible for managing and facilitating all aspects of the Committee's business. Members of the Secretariat can be contacted direct for information and further guidance.

G6	Gill Saunders (Committee Secretary)	Room 344	NC	GTN (358)21506
SEO	Ethna Harnett	Room 344	NC	(358) 21509
HEOs	vacancy	Room 344	NC	(358) 21510
	Bob Elbert (p/t Mon-Thurs)	Room 344	NC	(358) 21507
AO (temp)	Kylee Wisnewski	Room 344	NC	(358) 21508

Main external number: 0207 412 1506

G7 Research and Policy Specialist – Anna Bee (based in Sheffield - please consult the Departmental Directory for current contact details)

E-mail: (external) ssac@dwp.gsi.gov.uk
(internal) SSAC DWP

Fax: 0207 412 1570 (GTN 358 21570)

THE COMMITTEE'S SPONSOR TEAM

1.6 The Committee's sponsor minister is James Plaskitt (PSC-JP)(Pensions Protection & Stewardship Division – JP). The Committee sponsor team, led by Mark Aldridge ADI ext. 22350) is based in the Adelphi, London and forms part of the Pensions Protection and Stewardship group. The Committee's senior sponsor is Phil Wyn Owen (Director General Pensions & Strategy).

THE COMMITTEE'S ROLE

THE GENERAL ADVISORY FUNCTION AND THE SCRUTINY OF PROPOSALS FOR REGULATIONS

ADVISING THE SECRETARY OF STATE ON HIS FUNCTIONS (THE GENERAL ADVISORY ROLE)

1.7 The Committee may advise the Secretary of State on any topic falling within its remit as it sees fit, or the Secretary of State may refer specific matters to it. In practice, this general advisory role also covers a number of areas in which advice may be offered informally (i.e. not within the terms of the statutory remit). For all parts of the statutory advisory role, the Department is required to provide SSAC with "such information as the Committee may reasonably require for the proper discharge of its functions" (Section 170(4) of the Social Security Administration Act 1992), and it is customary for officials to provide information in connection with the Committee's informal activities when requested to do so.

1.8 The Committee undertakes one or two major pieces of advisory work on its own initiative each year. The Committee has the services of a dedicated Research and Policy Specialist on the Secretariat team and a small supporting budget for funding additional research and development activities. The Specialist also supports the Committee in preparing its responses to Green Papers and other strategic documents, and its mainstream work on proposed regulations. However, when the Committee requests additional assistance and/or information directly from the Department, officials should be as forthcoming as possible, making it clear to the Committee and/or the Secretariat where any information is to be treated as confidential (see also paragraphs 1.17 – 1.19).

1.9 From time to time, the SoS may ask for the Committee's advice on a particular topic. The Committee has a number of ongoing tasks, such as the scrutiny of the Department's public information strategy and its progress in reducing complexity in the benefits system (detailed guidance on the former is contained in Part Two of this guide). In preparing papers for the Committee's scrutiny of proposals for regulations officials must include a 'complexity impact statement', following the Department's guidelines set out in *Simplification: A Guide to Best Practice* – see paragraph 1.45 below)

1.10 The SoS may also make one-off requests for advice. For example, in recent years, advice has been sought on Social Fund provisions for funeral payments, and on a proposed scheme for the provision of redress to people misled about changes to SERPS inheritance rules; advice has also been requested on specific aspects of the Department's public information and advice strategy. Again, officials should be fully prepared to provide information to support the Committee's work, and expect to work closely with the Secretariat whilst its advice is being formulated. In addition the Committee may also offer general advice informally (i.e. not under the terms of its statutory remit) on legislation that is otherwise excluded from its scrutiny (see paragraphs 1.12 - 1.13 and 1.24 - 1.25)

1.11 The Committee has no specific remit to advise on operational matters. However, it takes a close interest in how policy translates into practice, and in the organisation and delivery of services to the Department's customers. Members participate in a programme of visits to local and national delivery sites, meeting staff and customers. Advice to the Secretary of State will often reflect what they have seen and heard, and take in views and recommendations on operational, as well as policy, matters, particularly in relation to customer service.

Examination of primary legislation

1.12 The Committee has no statutory scrutiny or advisory powers in relation to either proposed primary legislation or regulations made within six months of the enabling Act. Any advice the Committee chooses to give on such measures is offered on an informal basis to officials who are not required to respond to it, such advice will only be made public to the extent that it may be summarised in the Committee's Annual Report.

1.13 However, in 2004 the SoS accepted a recommendation of the Department's Quinquennial Review of the SSAC (published as Cm 6189) that the Committee's informal role in relation to secondary legislation made within six months of the enabling Act should be strengthened. Since 1998, the Department has been giving the Committee sight of those regulations that are excluded from formal scrutiny under the 'six months rule' (see paragraphs 1.20 and 1.23) on a 'for information' basis. However, commencing with the Welfare Reform Bill in 2006, the Department has been giving the Committee more detailed information about proposals for primary legislation, together with information about the relevant regulation-making powers and how it is planned to use them. These informal exchanges are intended to enable the Committee to better prepare to carry out its formal, statutory duties when the new legislation comes into force and proposals for amendments come to the Committee for scrutiny in the normal way. These arrangements will be reviewed by the Committee in 2007/8 in order to assess their impact and their effectiveness.

Supporting the general advisory function

1.14 The Committee receives regular updates on the Department's strategic, policy, operational, and organisational plans, and officials are strongly encouraged to keep the Committee up to speed with relevant developments. For example, early engagement in major policy initiatives – such as preparations for a Green Paper – is desirable. Officials should contact the Secretariat for advice on what to bring, and when. These updates generally take the form of presentations or briefing papers commissioned by the Committee Secretary. Frequently they will involve Ministers and/or senior officials attending to the Committee meetings to talk to Members and discuss their interests and concerns. Thus, the Committee's 'advice' to the Department may travel by this more informal route. The Secretariat will inform a senior official whenever a Minister accepts an invitation to meet the Committee. The Secretariat will provide basic background briefing about the Committee and a note of issues that are likely to be raised. Specific briefing - including lines to take - should be provided by officials, and will be coordinated by the Committee Sponsor Team, led by Mark Aldridge (ADI ext. 22350). Please contact the Secretariat for further guidance on handling this part of the business.

1.15 In addition, it may also be helpful to introduce the Committee to complex, novel, and/or controversial measures at an early stage of their development before they become fully worked-up proposals for regulations. This enables the Committee to offer views whilst policy is still under development, and satisfy itself that the requisite 'impact assessments' (see paragraph 1.42 et seq below) are being carried out as development proceeds. It may simplify and streamline the scrutiny process, particularly when it is likely that the Committee will ask for the proposals to be 'formally referred' (see paragraph 1.54).

1.16 It is also important to alert the Committee to forthcoming proposals for legislation that are being introduced by other Departments that may have an impact on social security benefits, programmes and services, even when they will not fall to be considered under the terms of the statutory remit. Recent examples include DTI legislation on Maternity and Paternity Leave, DCA legislation on the recovery through benefits of unpaid fines, and Home Office legislation dealing with the recovery from benefits of Refugee Integration Loans. Information can be put to the Committee in the form of a paper for circulation to Members, or a presentation to a meeting. Sometimes both will be needed. Any advice the Committee chooses to offer on these provisions is 'informal', and is generally offered to officials, rather than ministers. Please contact the Secretariat for further guidance on the handling of this part of the business.

Publication and confidentiality issues

1.17 Before any of the Committee's general advice is sent to Ministers, or published (for example, material in the Committee's Annual Report or in one of its 'Occasional Papers'), the Secretariat will make arrangements for the appropriate officials to have the opportunity to check that any factual material it contains is accurate. The Secretariat will send drafts of documents to interested officials to be checked for accuracy, and will take account of comments on points of fact. Note that the Committee is wholly independent of the Government, the Department and any lobby group. Its views, opinions, conclusions and recommendations are entirely its own. A statement of the Committee's publication policy can be viewed on the Committee's website (www.ssac.org.uk).

1.18 With effect from May 2007, the Committee will also post on the website the agendas for its regular business meetings and the meeting minutes covering routine business items, once the latter have been approved by the Committee. Minutes are always cleared with officials before the record of proceedings is finalised. Business conducted under Chatham House rules - e.g. informal discussions with ministers and/or senior officials - does not form part of the record of proceedings. These items will not be included in the published record.

1.19. It is sometimes necessary to give the Secretariat advance details of confidential matters so that the Committee's work can be planned and managed effectively. In preparing its advice, the Committee and the Secretariat will treat as confidential information which it has been told is not in the public domain. Where ministers specifically request it, or where the Committee decides it is appropriate to do so, advice may be given in confidence and not made public in any form. When such advice is planned or requested, the Secretariat will liaise with officials in advance of its despatch.

EXAMINATION OF PROPOSED AMENDMENTS TO SECONDARY LEGISLATION (REGULATIONS)

1.20 The Department is required by the Social Security Administration Act 1992 to submit to SSAC almost all proposals for secondary legislation apart from those affecting industrial injuries or occupational pensions. (Sections 170 and 173 of the Social Security Administration Act 1992 provide this legislative basis). In practice, this scrutiny of proposed regulations forms the bulk of the Committee's business.

1.21 The Social Security Administration Act 1992, Schedule 7, Part 1 details a number of exemptions from scrutiny, and provides that it is not necessary to let SSAC examine proposals for regulations if:

- the secondary legislation is made under a new Act, within the so-called "quarantine period" of six months from the commencement of the relevant provisions (**but see paragraph 1.37**); or
- the parent Act contains an explicit exemption from the need to consult SSAC; or
- there are reasons of urgency (see paragraph 1.63 et seq.); or
- the instruments involved are for uprating or re-rating (broadly, those which do no more than increase cash sums in previous legislation).

1.22 In cases of uncertainty, legal advice should be obtained from SOL to confirm that regulations are, or can be, exempted from the Committee's scrutiny under any of the provisions listed above. This is especially important when 'urgency' is at issue (see paragraph 1.63 et seq.) or when the Department will be using an alternative to social security secondary legislation to make changes to the law. Examples include Orders under the Regulatory Reform Act and the Electronic Communications Act.

1.23 If regulations are not exempt from scrutiny, they must be put to the Committee to decide whether it wishes them to be 'formally referred' for a report to the Secretary of State (see paragraph 1.29 et seq.).

The '6 months rule'

1.24 As is explained in paragraph 1.12 regulations made within 6 months of the enabling Act must be put to the Committee on a 'for information' basis (note that in these circumstances the Committee cannot ask for the regulations to be 'formally referred'). It is important that the Committee understands the main elements of significant changes to established policy/practice, and has an opportunity to become acquainted with the regulation-making powers in a new Act that will become the foundation of new social security provisions. Detailed guidance on the procedures to be followed when presenting new primary and associated secondary legislation to the Committee is at paragraph 1.35 et seq.

Alternative instruments

1.25 On occasion the Department may effect a change in the social security system using an instrument other than regulations. As mentioned above, examples include Orders under the Regulatory Reform Act or the Electronic Government Act.

1.26 There is no explicit statutory power to require these alternative instruments to be referred to the SSAC. However, by custom and practice, where one of these alternative instruments is to be used to change social security provisions, the Committee is given full details of the Department's plans. Accordingly, early discussion with the Secretary on the presentation and handling of these items is advised.

PLANNING AND MANAGING 'LEGISLATION' BUSINESS FOR THE COMMITTEE

1.27 Paragraphs 1.29 – 1.34 of this section outline the normal arrangements for handling routine 'proposals for regulations' business and set out how to work with the Secretariat. Where officials identify a possible need to deviate from these arrangements (for example, where legislation is required to a very tight timetable), please contact the Secretariat for further guidance.

Notifying and handling proposals for primary legislation and associated regulations

1.28 The presentation of proposals for primary legislation and associated regulations is dealt with in paragraphs 1.35 -1.37 et seq. These procedures will be used relatively infrequently and by the time a draft Bill is presented to Parliament it is anticipated that officials will have been in regular contact with the Committee and the Secretariat for several months (see paragraph 1.15), preparing to bring material to the Committee. Accordingly, the guidance in paragraph 1.35 et seq below need not always be followed. However, it remains important for the Bill Team Leader to keep the Secretariat informed of the Department's plans and timetables (so that slots can be reserved in the work programme and in the monthly meetings where necessary) and to agree with the Committee Secretary the format in which documents and papers will be presented to the Committee.

Notifying and handling all other 'regulations' business

1.29 It is essential that the Secretariat is notified as soon as it is known that proposed regulations will be subject to Committee scrutiny. Departmental plans and timetables must take account of the Committee's timetable for scrutiny, including the possibility that a request for 'formal referral' may extend the timetable (see paragraph 1.54 - 1.57 et seq. describing the formal referral process). Close liaison with the Secretariat at all stages will streamline and simplify the business process. Officials should not wait for the Secretariat's quarterly Business Trawl – see paragraph 1.30 below – to notify forthcoming business. Late notification may put plans and timetable at risk.

1.30 Approximately every quarter, the Secretariat will write to Business and Divisional Managers seeking details of legislation and information products (see Part Two of this Guide) that the Committee will be asked to scrutinise in forthcoming months, and any associated briefings and presentations to the Committee that are

planned. The trawl letter includes a list of meeting dates. The information supplied is used by the Secretariat to construct a six month 'forward look' and business plan. However, the trawl is intended to operate as a 'fail-safe', picking up items that have not been separately notified, or have been subject to change. In practice, the forward look is under constant review as timetables are modified and adjusted. The Committee's agendas often become very congested, and it is therefore essential that officials keep the Secretariat informed of all changes and developments.

1.31 In all cases, as soon as you (consulting SOL as necessary) have confirmed that planned regulations need to be scrutinised by the Committee, they should contact the Secretariat directly as early as possible to book a place on the agenda of a forthcoming meeting, plan the timetable, and discuss how best to handle the presentation.

1.32 On the basis of the information supplied, the Committee Secretary may be able to indicate whether the Committee will be likely to ask for 'formal reference' (see paragraph 1.54 et seq) of the proposals for report to the SoS. However, the decision on formal referral rests with the Committee once it has considered and discussed all the information placed before it. Historically, around 5% of proposals have been formally referred.

1.33 For every set of proposals an Explanatory Memorandum (EM - see paragraph 1.40-1.42 et seq.) must be prepared for presentation to the Committee, explaining the proposals in detail. The EM must be cleared by Ministers and should be with the Secretariat at least ten days ahead of the Committee's meeting. It is advisable to let the Secretariat see drafts dealing with complex or controversial proposals at least two weeks ahead. This is to allow the Secretariat time to decide whether the papers can go to the Committee without amendment (and where necessary agree changes with officials), process the papers, and to give Members at least a week to study them and prepare for the meeting with officials.

1.34 The Committee meets on the first Wednesday of each month (there is usually no meeting in September, and the Committee has an "out-of-town" meeting in June at which routine business is not normally taken). Officials (generally led by a G7, but sometimes someone more senior may be appropriate – consult the Secretariat for advice) are expected to attend meetings to present and discuss proposals with Members.

PAPERS AND PRESENTATIONS FOR THE COMMITTEE

Proposals for primary legislation and associated regulations

1.35 When a DWP Bill containing social security measures is published the Bill Team will arrange for a copy of the Bill, Explanatory Memorandum, Delegated Powers Memorandum and Regulatory Impact Assessment to be sent to the Committee, under cover of a letter to the Committee Secretary. The Committee may seek an opportunity for a discussion with officials early in the Bill's progress to better understand how the relevant social security regulation-making powers are planned to be used and provide their informal input to officials (it is most unlikely that advice would be offered to SoS at this point) in the light of what they have heard. Whenever possible, officials should plan to schedule this discussion for one of the Committee's regular monthly meetings. The

Secretariat will bear in mind that once the Bill is published and it begins its passage through Parliament, opportunities to meet the relevant officials may be scarce and the Secretariat will need to arrange mutually convenient dates.

1.36 The Committee Secretariat will then monitor the progress of the Bill and alert the Committee to any significant changes to the main clauses and/or regulation making powers. It is unlikely that the Secretariat will request any further briefings for the Committee from officials in this period. However, if the Committee requests further information – for example, at the end of each of the main stages of the Bill's progress - that the Secretariat is unable to provide, further information may be sought from officials to be worked into briefings for the Members.

1.37 Following enactment, officials should send the Committee copies of the consequent subordinate social security legislation, under cover of a letter to the Committee Secretary introducing the main provisions, and setting out its intended effects in the same way as for routine proposals (see paragraphs 140-142). An example of the presentation of '6 months rule' proposals is at Appendix 1 to this part of the Guide. When requested to do so, officials will attend a Committee meeting to discuss the detailed technical and policy background to the new provisions. Papers for the meeting should set out briefly how the new provisions will operate in practice, bearing in mind that the Committee will be most interested in getting to grips with both the structure of the new secondary legislation and the impact of the new arrangements on benefit claimants and that there may be a considerable volume of draft regulations, not all of which will be of equal significance in this respect.

1.38 The Secretariat will consult officials about the more significant aspects of the new regulations, in particular those which are likely to be of interest to the Committee as and when they are subject to proposals for amendment which will be put to the Committee for scrutiny in the normal way when the six months 'quarantine period' has expired. Any advice on the new subordinate legislation that the Committee may subsequently wish to offer Ministers on an informal basis will first be discussed with officials.

1.39 Please note that these 'strengthened' scrutiny arrangements are to be operated on a trial basis, and will be reviewed, probably mid-2008.

Routine proposals for amending regulations - the Explanatory Memorandum

1.40 Section 170(4) of the Social Security Administration Act 1992 requires the Department to provide SSAC with '*such information as the Committee may reasonably require for the proper discharge of its functions*'. The EM will form the basis for discussions with the Committee at a meeting, and the decision on 'formal referral'. It will also constitute the Consultation Document if and when the Committee seeks the views of interested individuals and organisations, in the event of formal reference of the proposals for the preparation of a report to SoS. It may also be used as evidence in the event of any legal challenge to the regulations. The Committee's proceedings are fully minuted, and, from 1 March 2007, minutes of the discussion of draft regulations are published on the Committee's website once they have been approved by the Committee (in practice around a month in arrears). Discussion of the EM will be minuted in some detail.

1.41 Therefore, the EM must cover:

- the reasons why the regulations are being proposed;
- how the proposed amending regulations differ from the current provisions, having regard to the way that provision is being interpreted in practice;
- the policy and operational background; any costs/savings and/or any cost/benefit considerations ;
- details of any research, monitoring or evaluation previously carried out in relation to the measure;
- any proposals for monitoring and evaluating the impact of the measures to be introduced; and
- an outline of any plans for any associated marketing/information strategy
- a copy of the draft regulations; (these may not always be available – in which case the Committee will not generally give its decision – see paragraph 1.51 – until they are provided) ; and
- a copy of the regulations that are being amended.

1.42 In addition the EM must also specifically address the impact of the proposed measures on customers and detail any impact assessments that have been carried out covering the following areas:

- equality & diversity (in terms of race, disability, gender and age)
- complexity (in the benefits system and its operation)
- business (in terms of small firms and competition)
- child poverty (in terms of the Department's strategy and targets)
- rural (promoting sustainable communities in rural areas)

If other impacts have been considered as being relevant to the proposed measures, these should also be detailed.

Equality & diversity impacts

1.43 As a public body, the Committee has number of duties in respect of equality and diversity, and in carrying out its statutory functions it must be satisfied that the proposals for legislation coming to it for scrutiny have been subject to the appropriate impact assessment procedures. Equality and diversity impact assessments are an integral part of the Department's development of new policies and programmes, and of its planning for modifications to existing provisions. Detailed guidance for officials - including an Equality Impact assessment Toolkit – is available on the Intranet.

1.44 As a minimum, the EM must offer evidence that a screening exercise of your proposed exercise has been carried out in respect of potential race, disability, gender and age impacts, and summarise its conclusions. A statement of the reasons for not proceeding to a full assessment should be included where appropriate. Where the screening exercise has identified the need for full impact assessments in respect of any of these areas, details of these assessments - including any consultation exercises that have been conducted - and their conclusions must also be provided. SSAC may seek advice and/or clarification from the Department's Diversity and Equality team if it is not satisfied that the appropriate procedures have been followed.

Complexity impacts

1.45 Since 2006, the Committee has been offering advice to the Department on complexity in the benefits system. The EM must also include a specific assessment and statement of the impact of the proposed measures upon the complexity of the benefits system and its operation, referring to the Department's April 2006 guidance *Simplification: A Guide to Best Practice*.. Further information on this aspect of the EM can be obtained from the DWP Simplification Unit's Intranet website and from officials at the Unit – email: simplification-unit@dwp.gsi.gov.uk.

1.46 The EM should include, where appropriate:

Simplification Statement

- Whether the change will add to or reduce complexity of the benefits system;
- If it adds to complexity, has the guidance in the *Simplification: A Guide to Best Practice* been followed?

Impact on legislation

- whether the proposed regulations consolidate or 'spring clean' existing legislation, or whether they introduce new provisions;
- whether they involve cross-references and interactions with other regulations, or whether they stand alone.

Impact on operations

- whether the proposals require an extension of existing procedures to a wider group (or conversely, restriction to a narrower group) or whether new provisions are needed;
- whether, if using existing procedures, the proposal increases or decreases the administrative steps staff need to follow;
- whether the new procedures are supported by available IT;
- whether the rationale and the operation of the proposed new provisions can be easily explained to customers
- whether staff will be required to gather additional or less information/evidence;
- whether staff will require new guidance and/or training;

- whether the proposed measures will entail staff following set procedures or exercising subjective judgments;
- whether the proposals will require DWP agencies, OGDs and/or external organisations to be involved in the business process and/or pass information between them.

Impact on customers

- whether the rationale and the operation of the proposed new provisions can be easily understood by customers;
- whether customers will be required to answer more questions, provide more information/evidence or undertake extra activities;
- whether the proposed new provisions treat customers in a consistent way, both in terms of each other and how they have previously been treated
- whether the proposed provisions will result in customers having a choice of possible actions they can or should take.

Impact on communications

- whether the proposed provisions will require dedicated information channels and products and/or extensive changes to existing information products; and, if so,
- whether these will be easy to access and comprehend, for staff and customers and their advisers.

Business, child poverty and rural impacts

1.47 In addition, the Committee will expect the EM to include a statement of any potential impact of the proposed measures on small business; details of the testing of the proposals against the Department’s policy simulation model measuring the potential impact on child poverty, and its outcome; and evidence that the proposal has been evaluated against the Rural Proofing Policy Maker’s Checklist, and a statement of its outcome. Guidance on these procedures can be found in the Department’s *A User Guide to Specific Impact Assessments*.

Assuring the integrity of the EM

1.48 It is essential that the contents of the EM are accurate and complete, and presented in an accessible manner. ***Avoid using descriptors for proposals such as ‘neutral’ ‘technical’ ‘beneficial’ or ‘restoring the policy intention’.*** The Committee will expect the impact of measures on individual customers to be explained in an impartial way, drawing out any disadvantages as well as the advantages of the proposal. In cases of uncertainty (e.g. where evidence is sparse or ambiguous) the EM should not contain assertions which cannot be backed up. Do not seek to gloss over negative or inconclusive research or evaluation findings. Failure to provide full and accurate information may open up the risk of a ‘Howker-type¹’ legal challenge to the legislation at some point in the future.

¹ A summary of the Court of Appeal judgement in the Howker can be found in the SSAC’s 16th report (this is on the SSAC website)

1.49 The EM should be cleared at Team Leader (or above) level, and approved by Ministers prior to submission to the Committee. It should be accompanied by a short covering letter to the Secretary, introducing the proposals, and copies of the regulation that are to be amended. Please contact the Secretariat for advice on the preparation of papers for the Committee. The Secretariat will also provide copies of example EMs.

1.50 It is also essential that officials attending the meeting to present and discuss the proposals are fully briefed and able to cover all aspects of the issues under consideration, including any proposed evaluation and/or research or other evidence offered in support of the proposals. There is no expectation that senior officials will routinely attend meetings. However, in the case of complex and/or controversial proposals, the inclusion of the senior official (ie. G6/G5) may be called for. It may also be appropriate to field analyst/researchers where any proposed evaluation and/or research, or evaluation of existing evidence is likely to be discussed in detail. Fielding someone who can handle issues arising from discussion, and take decisions on the spot, may help expedite the decision on 'formal referral'. Please contact the Secretariat for advice on who should attend the meeting.

THE COMMITTEE'S DECISION

Proposals to be made without 'formal referral'

1.51 At the meeting the Committee will usually decide whether it wishes to have the proposals 'formally referred' for a report to the SoS. Paragraphs 1.54 et seq describe what this means in practice. The decision may be conveyed orally to officials attending the meeting, with formal written consent following, usually on the same day as the meeting. However, the Committee may ask officials to withdraw from the Committee meeting room to discuss the proposals further before taking its decision. Regulations must not be made until the written consent by mail/hardcopy to proceed without formal referral is received.

1.52 Sometimes the Committee will defer taking a decision. This may be because additional information has been requested; or some clarification has been sought that could not be supplied on the day - for example, with regard to the policy intention, or the drafting of the regulations. In such cases, the decision on formal referral may be put off until the information has been supplied. However, the Secretariat will make every effort to expedite the Committee's decision once the information is received.

1.53 Whilst agreeing that proposals need not be formally referred, the Committee might consider it appropriate to write to Ministers about a particular issue or concern they may have. Officials will be advised at the meeting, or shortly thereafter, where this course of action is to follow.

Formal reference

1.54 The Secretariat will generally be able to give an indication of the likelihood of formal referral well in advance of the meeting, so that the necessary preparation can be made. However, this assessment should not be relied upon as the decision is the

Committee's alone, and officials' plans must take account of the possibility of formal referral.

1.55 While there are no hard and fast rules, the Committee are more likely to ask for formal reference of proposals for regulations which:

- (i) make possibly contentious changes to established policy and/or practice; and/or
- (ii) adversely affect entitlement to benefit for particular groups or individuals and/or
- (iii) are novel and untested or, notably complex.

1.56 The Secretary's advice to officials on the likelihood of formal referral is made by reference to the Committee's past interest in particular issues, concerns raised in the course of Members' visits to local offices and other operational sites, press and lobby activity etc. Opting for formal reference means that the Committee has determined that there are grounds for reporting to the SoS, and it may not always be possible to identify all the factors that will weigh in their decision before proposals are brought to a meeting.

1.57 Formal reference usually involves the Committee consulting outside organisations on the proposed changes before preparing its report - including any recommendations it thinks appropriate - to the SoS (section 174(1) of the Social Security Administration Act 1992). As noted above, this process impacts on time-scales. From formal reference to the Committee, to laying the regulations, may take up to four months.

Consultation

1.58 The Committee's consultation exercise will normally take four working weeks (exceptionally, it may be extended to 6 weeks, particularly if it takes place across holiday periods i.e. during April, July, August or December). The Secretariat will agree the content of the consultation documents (essentially the EM that was presented to the Committee) with officials. A press notice announcing the exercise is issued by the Secretariat, and the consultation documents are then e-mailed or posted to interested parties, published on the SSAC website, and on the Rightsnet website, within two to three days of the Committee's decision. Each response is copied to officials in the relevant team as it is received.

The Committee's Report

1.59 At the end of the consultation period, the Secretariat will produce a draft report for the Committee on the proposals. The team of officials will be invited to comment on the factual accuracy of the draft, and may be invited to attend the meeting of the Committee at which it will be discussed. It is suggested that representation at this meeting should include at least a Team Leader. Following the meeting, the final report will be sent to the relevant Director. The Committee may recommend that the proposals should:

- proceed, or
- not proceed; or
- proceed but with some refinements

1.60 It is not unusual for some - or all - of the recommendations to refine proposals to be accepted and acted upon. Historically, this has been the case for around 45% of individual recommendations. However, on more than one occasion Ministers have accepted that proposals should not proceed following an adverse report from the Committee. In these cases the Secretary of State has published the Committee's report, but not in the form of a Command Paper. Instead, he has placed copies of the report in the libraries of both Houses of Parliament, and/or published the report as a discussion document, announcing his intentions in a statement to Parliament.

1.61 If the SoS decides to lay the regulations, the Committee's report must be laid before Parliament with them. In addition, the SoS of State is required to provide a statement to Parliament showing how far the Government has complied with any recommendations made in the report, and why any have been rejected (section 174(2) of the Social Security Administration Act 1992). The statement must be reflected in the Preamble to the Statutory Instrument. Note that, in effect, the report is 'owned' by the SoS and the Committee has no powers to publish it independently.

1.62 In practice, the statement of the SoS's original proposals (the EM), the Committee's report upon them, the Secretary of State's response and the regulations are combined into a Command Paper, published when the regulations are laid. Officials should also make arrangements (via the relevant DWP E-Communications Director) for the Command Paper to be published electronically on the DWP website (a link on the 'publications' section of the SSAC's website enables access). The Secretariat will order hard copies of the report for distribution to respondents to the consultation exercise, and other interested parties and a summary of the paper's contents is included in the Committee's Annual Report. Please contact the Secretariat for examples of Command Papers.

The urgency provisions

1.63 When officials identify that there is a need to make regulations as a matter of urgency, it is especially important that legal advice on the proper course of action is obtained, and that the Secretariat is alerted as soon as the need is identified. The urgency provisions should be used with the greatest care, and the following guidelines applied.

1.64 If a set of draft regulations requiring the Committee's examination must be made urgently, the SoS may make them without first providing a draft of his proposals for the Committee's consideration. However, the regulations must be put to the Committee as soon as practicable after they have been made. The Committee can still decide to ask for formal referral, and then consult and report on the regulations if it wishes after they have been laid (sections 173(1) - (4) of the Social Security Administration Act 1992 refer).

1.65 The Committee should only be bypassed in cases of genuine urgency. For example, a wish to fast-track regulations for reasons of expediency or presentation does not constitute a case for the use of the statutory exemption. Solicitors and Ministers should be consulted in all cases where the use of the provisions is being considered.

1.66 A decision to bypass the Committee may be subject to legal challenge by interested parties. If the Courts decide that the use of the urgency provision was unjustified, they can declare the regulations invalid. Prior reference to the Committee is the standard procedure and frequent use of the urgency powers could leave the Secretary of State vulnerable to legal challenge.

1.67 If subject to a legal challenge on the decision to use the urgency provisions, the Secretary of State would need to show that the decision:

- was made in good faith; and
- had taken account only of relevant considerations; and
- was reasonable in the circumstances of the individual case.

1.68 In considering urgency, case law suggests that it is legitimate to be concerned about:

- the effect on administration of, for example, a recent change in case law or an announcement of an intention to change the law which could result in a large influx of claims from those soon to lose entitlement to benefit;
- seasonal factors (such as winter fuel payments) ;
- whether high administration costs and disruption in the service could be avoided by the speedy making of regulations.

1.69 It could be difficult to show grounds for urgency when the situation to be remedied has existed in its present form long enough for the Secretary of State to have considered options and put proposals in respect of regulations to the Committee in the usual way.

Alternatives to the "urgency" provisions

1.70 The Committee recognises that there are cases where regulations are needed quickly, but 'urgency' cannot apply. The Secretary may be able to advise on ways to minimise delay without the need to by-pass the Committee. For example, it may be possible to clear straightforward and non-controversial matters by email/post in about a week. It is essential that contact is made with the Secretary to discuss the available options before committing to a course of action which would involve the use of such procedures.

Our address 5th Floor
Adelphi
1 - 11 John Adam Street
London
WC2N 6HT

Housing Support Division (Design)

ANNEX 1

Gill Saunders
Secretariat - Social Security Advisory Committee
New Court
48 Carey Street
LONDON
WC2A 2LS

Our phone number 020 7962 8000
Our fax number 020 7962 8873
My phone number 020 7962 8295
Email gail.knowles@dwp.gsi.gov.uk

Website

Dear Gill,

The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007

The Welfare Reform Bill contains powers that will enable the Secretary of State to prescribe those war disablement and war widow's pensions that may be included within the local authority discretionary war pensions schemes.

As part of the Department's working practices with SSAC, it has been agreed that it will "informally" consult with SSAC on the regulations that it does not otherwise have a statutory duty to consult on ie: regulations being produced within six months of the coming into force of enabling primary legislation.

As the regulations that will prescribe the relevant war disablement and war widow's pensions will come into force at the same time as the enabling powers I thought it would be helpful if I wrote to the Committee at this stage to explain the purpose of the change and the relevant regulations.

As members of the Committee will be aware, when assessing entitlement to income support, income-based jobseeker's allowance, pension credit, housing benefit and council tax benefit there is a mandatory disregard of £10 of any war disablement or war widows pension (or corresponding pension) paid to a widow, widower or surviving civil partner.

And, in addition, when assessing entitlement to housing benefit and council tax benefit, local authorities have the discretion to disregard some or all of any war disablement or war widow's pension remaining after the mandatory disregard has been applied. Some of the pensions to be included in the scheme are listed in the primary legislation. Others are included in the scheme by way of regulation.

As it currently applies, there is no limit set on the amount a local authority can spend under its war pension discretionary scheme for those pensions included within it by way of the primary legislation. This enables local authorities to set their own limits that are subject to their own budgetary constraints. There is, however, a spending limit if the pensions are included by way of prescription through secondary legislation. This ensures that they do not exceed the department's spending limits.

Over the years, however, more war pensions have been added to the local schemes by way of the regulations, rather than by adding them to the definition in the primary legislation, and are thus subject to the department's spending limit. The pensions included in this way are those paid to war widowers and certain war widows.

It is also not a simple matter for local authorities or customers to identify which pensions can be included within the schemes as the pensions that may be included are prescribed both in the Social Security Administration Act 1992 and in various regulations within the principal regulations for Housing Benefit and Council Tax Benefit.

Therefore we are in the process of amending the primary legislation, by way of the Welfare Reform Bill, to enable the Secretary of State to prescribe those pensions that may be included within the local schemes; and to ensure that such schemes are not subject to a departmental spending limit.

Paragraphs 3, 4, 10 and 14 of Schedule 5 to the Welfare Reform Bill contain the necessary amendments. The relevant amendments are to be found in paragraphs 3 and 4 of Schedule 5. They provide for amendments to be made to ss134(8)(a) (for Housing Benefit) and 139(6)(a) (Council Tax Benefit) of the Social Security Administration Act 1992 by inserting the word "prescribed" in the relevant places. Paragraphs 3 and 4 also make other consequential amendments as do paragraphs 10 and 14. Paragraphs 3 and 4, in particular, insert a new definition of a war widows pension to include corresponding pensions payable to a war widower or surviving civil partner. Please see Annex A for the proposed new wording of s134(8)(a) and annex B for the relevant extract from Schedule 5 to the Bill.

Normally regulations that may be made under the delegated powers of a Bill are not made until after the Act has been in force for a period of time. However, in the case of the war pension discretionary schemes, the regulations must come into force at the same time as the enabling powers and that will be two months after Royal Assent is granted.

As a result, and unusually, we are consulting with the Committee (on our agreed "informal" basis) and also with the Local Authority Associations under the provisions of section 176(1) of the Social Security Administration Act 1992 before the Bill has completed its progress through Parliament and received Royal Assent. In so doing we recognise that the relevant paragraphs of Schedule 5 within the Bill are still subject to amendment. I must make it clear, therefore, that this consultation is being done in the hope that the relevant powers will receive the agreement of Parliament and subsequently Royal Assent. We are not presuming that this will be the case. However we do need to consult on the basis that consent will be given to ensure that the necessary powers are in place to enable local authorities to disregard war pensions in claims for Housing benefit and Council Tax Benefit should they wish to do so from the time the relevant paragraphs of the Bill come into force. Of course, we will let you know if any amendments are made to the relevant paragraphs of the Bill before it completes its passage through Parliament. I have attached a copy of the current draft Regulations.

You will wish to note that we have confirmed with colleagues at the Ministry of Defence that the pensions included within these draft regulations are all the relevant pensions currently in payment. We will reconfirm with them before the Regulations are finally made.

I hope that this letter fully explains the position but if you or any member of the Committee has any queries please do not hesitate to contact me.

Signed by email

Gail Knowles (Mrs)

Housing Benefit Strategy Division

Section 138(a) of the Social Security Administration Act 1992 showing the proposed amendments:

- inserted words are shown in *italics*;
- words to be deleted in []

s134.....

(8) An authority may modify any part of the Housing Benefit Scheme administered by the authority-

(a) so as to provide for disregarding, in determining a person's income (whether he is an occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole or part of any *prescribed* war disablement or *prescribed* war widows [or surviving civil partner's] pension payable to that person;

.....

(Note: "war widow's pension" will be defined by new sub-paragraph 134(14) to include war widower's and surviving civil partners)

Extract of Schedule 5 to the Welfare Reform Bill

SCHEDULE 5

Section 39

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

.....

Social Security Administration Act 1992 (c. 5)

- 2 The Administration Act is amended as follows.
- 3 In section 134 (arrangements for housing benefit)—
- (a) in subsection (8)(a) before “war” in each place insert “prescribed”;
 - (b) in that subsection omit “or surviving civil partner’s”;
 - (c) after subsection (13) insert—
 - “(14) In this section “war widow’s pension” includes any corresponding pension payable to a widower or surviving civil partner.”
- 4 In section 139 (arrangements for council tax benefit)—
- (a) in subsection (6)(a) before “war” in each place insert “prescribed”;
 - (b) in subsection (11) omit the definition of “war disablement pension”
- and for the definition of “war widow’s pension” substitute—
- ““war widow’s pension” includes any corresponding pension payable to a widower or surviving civil partner.”
-
- 10 In section 191 (interpretation), in the definition of “prescribe” at the end insert “and “prescribed” must be construed accordingly”.
-

Civil Partnership Act 2004 (c. 33)

- 14 In Schedule 24 to the Civil Partnership Act 2004 (amendments relating to social security, child support and tax credits), omit paragraph 65.

2007 No. XXX

SOCIAL SECURITY

The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 134(8)(a) and 139(6)(a) of the Social Security Administration Act 1992²).

In accordance with section 176(1) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

This instrument contains only regulations made by virtue of, or consequential upon, paragraphs 3 and 4 of Schedule 5 to the Welfare Reform Act 2007 and is made before the end of the period of 6 months beginning with the coming into force date of those paragraphs³).

Citation and commencement

1. These Regulations may be cited as The Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007 and shall come into force on [XXX].

War disablement pensions

2. The war disablement pensions that are prescribed for the purpose of sections 134(8)(a) and 139(6)(a) of the Social Security Administration Act 1992, are specified in Part 1 of the Schedule.

²() 1992 c.5; sections 134(8)(a) and 139(6)(a) were amended by the [Welfare Reform Act 2007], Schedule 5, paragraphs 3 and 4.

³() See section 173(5) of the Social Security Administration Act 1992. The requirement to refer Regulations to the Social Security Advisory Committee does not apply where Regulations are contained in a statutory instrument made before the end of the period of six months beginning with the coming into force of the enactment under which the regulations were made or consequential upon a specified enactment and made before the end of the period of 6 months beginning with the coming into force of that enactment.

War widow's pensions

3. The war widow's pensions that are prescribed for the purpose of sections 134(8)(a) and 139(6)(a) of the Social Security Administration Act, are specified in Part 2 of the Schedule.

Amendment of the Housing Benefit Regulations 2006

4. The Housing Benefit Regulations 2006⁽⁴⁾ shall be amended as follows—
- (a) in regulation 2(1) (interpretation), omit the definition of “war widower's pension”; and
 - (b) in regulation 40 (calculation of income other than earnings), omit paragraphs (3), (4) and (4A).

Amendment of the Council Tax Benefit Regulations 2006

5. The Council Tax Benefit Regulations 2006⁽⁵⁾ shall be amended as follows—
- (a) in regulation 2(1) (interpretation), omit the definition of “war widower's pension”; and
 - (b) in regulation 30 (calculation of income other than earnings), omit paragraphs (3), (4) and (4A).

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

6. The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽⁶⁾ shall be amended as follows—
- (a) in regulation 2(1) (interpretation), omit the definition of “war widower's pension”; and
 - (b) in regulation 33 (calculation of income other than earnings), omit paragraphs (10), (13) and (14).

Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

7. The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽⁷⁾ shall be amended as follows—
- (a) in regulation 2(1) (interpretation), omit the definition of “war widower's pension”; and
 - (b) in regulation 23 (calculation of income other than earnings), omit paragraphs (10), (13) and (14).

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

⁴() S.I. 2006/213; Regulation 40(4A) was inserted by S.I. 2006/2813.

⁵() S.I. 2006/215; Regulation 30(4A) was inserted by S.I. 2006/2813.

⁶() S.I. 2006/214; Regulation 33(14) was inserted by S.I. 2006/2813.

⁷() S.I. 2006/216; Regulation 23(14) was inserted by S.I. 2006/2813.

War disablement and war widow's pensions

PART 1

War disablement Pensions

1. The war disablement pensions prescribed are—

- (a) any retirement pay, pension or allowance granted in respect of disablement under powers conferred by or under—
 - (i) the Air Force (Constitution) Act 1917⁽⁸⁾;
 - (ii) the Personal Injuries (Emergency Provisions) Act 1939⁽⁹⁾;
 - (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939⁽¹⁰⁾;
 - (iv) the Polish Resettlement Act 1947⁽¹¹⁾;
 - (v) Part VII or section 151 of the Reserve Forces Act 1980⁽¹²⁾;
- (b) the following pay, pension or allowances, but only the part attributable to disablement or disability—
 - (i) a wounds pension granted to a member of the armed forces of the Crown;
 - (ii) retired pay of a disabled officer granted on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
 - (iii) A disablement or disability pension granted to a member of the armed forces of the Crown, other than a commissioned officer, on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
 - (iv) A disablement pension granted to a person who has been employed in the nursing services of any of the armed forces of the Crown on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown; and
- (c) a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005⁽¹³⁾.

PART 2

War widow's pensions

2. The war widow's pensions prescribed are—

⁸() 1917 c.51 (7 & 8 Geo 5).

⁹() 1939 c. 82 (2 & 3 Geo 6).

¹⁰() 1939 c. 38 (2 & 3 Geo). Sections 3, 4 and 5 were amended by the Pensions (mercantile Marine) Act 1942, section 2, 6 and Schedule.

¹¹() 1947 c. 19 (10 & 11 Geo 6). Section 1 was amended by the Civil Partnership Act 2004, section 257 and Schedule 26, paragraph 17.

¹²() 1980 (c.9). Amendments and repeals have been made to Part VII by the Armed Forces Act 2006, Section 358, S78(2), Schedule 14 from a date to be appointed.

¹³()S.I. 2005/439.

- (a) pensions or allowances granted in respect of death due to service or war injury and payable to widows, widowers or surviving civil partners by virtue of—
 - (i) the Air Force (Constitution) Act 1917;
 - (ii) the Personal Injuries (Emergency Provisions) Act 1939;
 - (iii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;
 - (iv) the Polish Resettlement Act 1947;
 - (v) Part VII or section 151 of the Reserve Forces Act 1980;
- (b) the whole or any part of a pension payable to a widow, widower or surviving civil partner—
 - (i) under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006⁽¹⁴⁾ insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865; or
 - (ii) only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977; and under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the Armed Forces of the Crown.

EXPLANATORY NOTE

(This note is not part of the Order)

Regulation 2 and Part 1 of the Schedule prescribes the war disablement pensions for the purpose of section 134(8)(a) and section 139(6)(a) of the Social Security Administration Act 1992 (c.5). Those sections give local authorities a power to modify the housing benefit and council tax benefit schemes to disregard some or all of any prescribed war disablement pension or war widow's pension. Regulation 3 and Part 2 of the Schedule prescribes the war widow's pensions for the purpose of section 134(8)(a) or section 139(6)(a).

Regulations 5 to 7 make consequential amendments to the Housing Benefit Regulations 2006, the Council Tax Benefit Regulations 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

¹⁴(S.I. 2006/606.

NB: THIS SECTION WILL NOT BE UPDATED UNTIL A NEW SLA HAS BEEN CONCLUDED COVERING THE INFORMATION STRATEGY ROLE

PART 2

THE SCRUTINY OF THE DEPARTMENT'S PUBLIC INFORMATION STRATEGY

This part of the guide gives detailed guidance on the selection, preparation and submission of public information products for SSAC scrutiny. It has been significantly condensed since it was last revised in 2005. It is anticipated that the Committee will conduct a review of its public information functions in the summer of 2006, and users of the guidance should contact the Secretariat for the most up to date information on handling proposed product scrutinies.

BACKGROUND

The Committee's role

2.1 In the aftermath of the National Audit Office report in 2000 on the Department's failure to inform the public of changes to the rules on SERPS inheritance, an additional external assurance over the Department's public communications system was required. Accordingly, in April 2000, the SoS asked the Committee to scrutinise the Department's public information strategy. From May 2000, in addition to advising generally on strategic issues, the Committee took on:

- scrutinising the content of individual information products;
- monitoring the Department's internal assurance processes for information products; and
- checking on staff awareness of information products.

The Committee carries out this work as part of its 'general' advisory function (see Part One of the Guide). It provides SoS with an annual overview of its findings, summarised in its Annual Report.

What this work entails

2.2 The Committee's work entails considering and advising on whether the Department's information products are of suitably high quality, and the processes by which they are produced and used suitably robust. In addition, the Committee

considers and advises on whether the Department's public information strategies and products serve and meet the needs of both its customers and the population at large

2.3 The Committee also monitors the Department's various internal assurance processes for public information, and has regular contact with the NAO as it continues its examination of the Department's products and procedures. Members investigate staff awareness of information products and customer access to – and comprehension of – information materials in the course of their visits to local and national operational sites. However, the bulk of the Committee's day-to-day work is around the first strand of its role - scrutinising the content of individual information products.

2.4. This guidance concentrates on this latter area - where the Committee's role has the greatest impact on the Department's day-to-day business. It was originally intended to be used as an introduction to, and in conjunction, with the Service Level Agreement (SLA) that was drawn up between the Department and the SSAC in 2001 (see paragraphs 2.7 et seq). The scrutiny arrangements continue to evolve and it is recognised that this guidance may not be comprehensive or applicable to all circumstances. Please contact the Secretariat if you have any questions or comments.

2.5 Although this guidance sets out the principles for scrutinising all types of information products, the handling arrangements described apply primarily to written information products. Please contact the Secretariat if you wish the Committee to scrutinise material in other formats (e.g. film scripts or Internet material).

How the Committee checks on information products

2.6 The Committee's work involves the scrutiny of a selection of individual information products and materials, with a view to deciding whether the contents are clear enough for a *reasonable person* to understand, and whether there are any inaccuracies or significant omissions. Committee members approach this task from both the point of view of a SSAC 'specialist' (with better-than-average knowledge of benefits and services) and a 'consumer' (as the person picking up a product for the first time). For the most part, the Committee focuses on potentially 'high risk' products (see paragraph 2.17 et seq) – those that contain information that may inform critical or significant decisions on the part of the information user – but members also take a close interest in the full range of public communications activity.

THE SCRUTINY ROLE AND THE SERVICE LEVEL AGREEMENT (SLA)

2.7 The SLA governing the process by which this work is carried out is reproduced at Annex A. It was signed in March 2001, at a time when a major reorganisation of the Department was still in progress. The agreement is very detailed, and four years on, it should be read more as a statement of principle than a step-by-step guide.

Responsibility within the Department

2.8 Within the Department, responsibility for managing SSAC's scrutiny of information products and assurance processes rests with the Business Manager (generally the G5 Divisional Manager who 'signs off' finished products for the Department) responsible for the relevant business area. This is consistent with public

undertakings about accountability for information products made by both the Secretary of State and the Permanent Secretary following the National Audit Office report on Inherited SERPS.

2.9 However, changes are underway in the Department following the 2006 NAO report and these may have to be reflected in further amendments to this guide.

COMPLIANCE WITH THE SLA

What is meant by "information products and materials"

2.10 The scope of SSAC's information scrutiny role has been broadly set. It encompasses all the products and materials disseminated by Government that cover Social Security provision. This includes products dealing with Social Security matters, but prepared in collaboration with, or issued by other Government Departments and agencies (including devolved administrations). The role encompasses information products in which only a minority of space is dedicated to information on Social Security. It takes in matters not otherwise within the Committee's statutory remit (e.g. Child Support, Industrial Injuries, and Social Security provisions introduced within six months of the enactment of primary powers).

2.11 For the purposes of the scrutiny, the two main categories are:

- all the dedicated customer information products, in all formats (leaflets, mailshots, letters, web pages, videos etc) covering social security benefits and customer services and related topics; and
- all the other information material that may be used in the provision of information/advice on social security to customers. This includes claim forms, training material, helpline scripts, staff training videos and other guidance and instructions (including question and answer briefing) to staff on benefits and services matters.

2.12. Please note that, for the purposes of the SLA, *all* such materials are referred to as "information products".

Selecting material

2.13 Potentially, this puts a huge quantity of information products in the frame. However, the criteria for the selection and nomination of products and materials for Committee scrutiny have been set so that mainly 'high risk' examples should come to the Committee (see paragraphs 2.16 et seq).

2.14 It is likely that the majority of items selected for scrutiny will come from the first category of material specified in paragraph 2.11. However it is important to recognise when other material - for example, in the form of guidance to be used by local office staff when dealing with customer enquiries - may meet the criteria for selection. If you are unsure about whether items for which you are responsible come within the scope of the Committee's scrutiny role, ask the Secretariat for guidance.

2.15 Please note that the Committee cannot consider products in languages other than English. For the purposes of this work, the Committee will, assume that translation (including re-translation after consideration of any SSAC comments) is accurate.

Criteria for referral

2.16 It is essential that the Department makes the most effective use of the Committee's limited capacity to carry out work outside its cycle of monthly meetings. Accordingly, the selection criteria for referral embody a "risk assessment/management" approach to identify items for nomination.

2.17 SSAC referral is likely to be appropriate for the following items:

- those which people might use to inform critical decisions with long term consequences (for example, planning for income in retirement); or
- publicity material for new benefit products and new ways of doing business (for example, pilot or pathfinder projects), or where new conditions of entitlement are introduced, and/or new customer behaviour is required; or
- publicity material covering significant benefit or customer service changes; or
- information presented in a new format (for example, information designed for the Internet). It is envisaged that the scrutiny of information products referred to SSAC simply because of their format will primarily focus on whether information is provided in an accessible manner.

This list is not exhaustive. It reflects the fact that SSAC's information scrutiny role originated from problems with the information that the Department put out on changes to the Inherited SERPS rules. However, it continues to evolve to reflect the development of the benefits system and changes to the way services are delivered.

2.18 Often the Department will produce many different information products around a particular benefit, service or life event. The Department may also develop a range of new and revised products following major benefit changes. There may be instances in which Branch Managers (or alternatively SSAC Members) feel that the whole range of products fit the criteria for SSAC scrutiny. It is preferable, in such instances, to avoid asking the Committee to conduct a series of individual scrutiny exercises. The Secretariat suggest that this may be done in one of two ways:

- referring all related products in a single bundle together with a covering note explaining the whole strategy. It is accepted that business processes may prevent full co-ordination; or

- referring sample products for scrutiny. Any comments would be considered in the light of similar text on other products covering the same area.

It is up to Branch Managers (and SSAC Members) to decide which approach is appropriate. Relevant factors may include the degree of overlap between the different individual products (thereby reducing the risks inherent in referring a 'sample product') and the extent to which the production process affects the ability to co-ordinate referrals. It is essential, in such instances, to keep a written record of decisions why particular products in a series are, and are not, referred. The Secretariat will be happy to discuss how to proceed in such instances.

2.19 There is no statutory requirement to refer any information products for SSAC scrutiny. It is for Branch Managers (and SSAC Members when they themselves select products for scrutiny) to determine whether individual products fit these criteria. There may be instances (see paragraph 2.25) when 'high risk' products are identified but are not then put to the Committee at draft stage. In these cases, Branch Heads are accountable for decisions *not* to refer. Note that the Committee may ask to see such items post-publication, and may put forward views for consideration at the next review/revision.

2.20 Contact the Secretariat if you unsure about whether an item should be nominated for scrutiny.

Identification and notification of items for scrutiny

2.21 There are two routes by which products may come through for scrutiny:

- from Branch Heads within the Department, whose accountability for all aspects of the information products in their areas of the business includes ensuring that appropriate products for which they are responsible are referred to SSAC; and
- from SSAC (including the Secretariat), who may also select products for scrutiny.

2.22 The Secretariat's quarterly Business Trawls (see paragraph 1.28 et seq) will seek details of information products under development or coming up for revision that will be referred to the Committee (especially those that are likely to be referred in the forthcoming three months).

Production schedules

2.23. SSAC scrutiny will inevitably impact on production schedules. Early identification and notice of items coming forward will help minimise disruption to the Department's business and enable the Secretariat to utilise Committee time effectively.

2.24 Production schedules may sometimes be so tight that it is not feasible to incorporate sufficient time in the development process for the Committee to conduct an effective scrutiny of products that have been identified (either by Branch Managers or by SSAC Members) as satisfying the criteria for SSAC scrutiny. In such instances:

- consideration should be given to inviting SSAC scrutiny post-publication, with a view to incorporating comments in any subsequent revisions; and
- Branch Managers should advise the Secretariat in writing that timetable constraints mean that it is not feasible for SSAC to consider a particular product during the development stage, and offering post-publication scrutiny, if appropriate. Note that the extent to which the Committee observes that “high risk” information products are published without their scrutiny is one factor that would impact on the assurances they can provide to Ministers about the Department’s customer information strategy.

Alerting Ministers to SSAC scrutiny issues

2.25 Ministers should be alerted early on to the possibility of the involvement of the Committee. This is particularly important when production deadlines mean that it is unlikely that the Committee will have an opportunity to consider a ‘high risk’ product that would normally warrant their scrutiny. Early involvement of Ministers may support decisions not to refer apparently high-risk products, especially where Ministers subsequently ask whether the Committee was consulted. It will also maintain the quality-assurance process audit trail.

Timing

2.26 The Secretariat suggests that material should be referred to SSAC at or near final proof stage, and after any legal and Plain English issues have been considered. However, it is recognised that the “production line” for information material is sometimes quite convoluted, and that timing and fixing the SSAC scrutiny slot will often present difficulties - there may never be an ideal moment.

2.27 Earlier referral is possible, but bear in mind that the earlier the referral in the production process, the greater the risk that any effective contribution the Committee might make will be negated by changes and additions at a later stage in the production process. In such circumstances (especially if the changes introduce material which SSAC has not considered) SSAC may not be able to provide assurances about the final version.

How to put items to the Committee.

2.28 Wherever possible, selected information products for SSAC referral should be put to the Secretariat electronically. This will help speed along the scrutiny process. Contact the Secretariat if you have a product that warrants SSAC scrutiny but cannot be transmitted electronically or on A4 paper.

2.29 A Memorandum should accompany all material that is referred for SSAC scrutiny. This will be forwarded to Members to set the context for their work. It should include details of:

- who the product is aimed at

- what the product is designed to achieve (i.e. what message does it seek to get across and what are recipients expected to do once they have received it)
- whether it is part of a series or a wider advertising campaign (include details)
- how it would be accessed and distributed
- the stage in the production process at which it is being referred for SSAC consideration
- a contact point and the agreed deadline for response

This list is not necessarily exhaustive. Contact the Secretariat for more guidance on the preparation of memoranda.

Time required

2.30 Building sufficient time for scrutiny into production schedules is very important. Note that:

- SSAC and the Department have agreed that, other than in exceptional circumstances, Branch Managers should allow a minimum of *three weeks* for SSAC scrutiny (more time is required for complex or bulky items). It is necessary to enable Committee Members at least two weeks to scrutinise products. A further week is required for the Secretariat to handle papers and to collate comments.
- production schedules also need to allow for the provision of written and, where appropriate, verbal feedback on SSAC's comments. Other than in exceptional circumstances, this should be provided before an information product is finalised. It is essential to maintain a written record of all instances in which such a meeting is required but production schedules mean that it cannot be conducted before the product is finalised. Again it is essential to maintain a full audit trail.

The Department has estimated that the process may add up to six weeks to production schedules.

2.31 It may be possible, if early warning is given, to arrange for SSAC to provide comments on less bulky (e.g. letters and leaflets a few pages long, and some higher-risk products, such as those alerting customers to significant changes to the conditions of benefit receipt), to shorter deadlines. Contact the Secretariat as soon as possible if a shorter deadline is to be negotiated. In such instances the Secretariat will take steps to speed up the process (possibly providing its own comments to inform and prompt Members). Also contact the Secretariat to discuss handling of any bulky or complex items.

Format of SSAC Comments

2.32 Unless an alternative format is specifically requested, SSAC comments are provided in tabular form. A copy of the current pro forma is attached at Annex B to the SLA. It is recognised that Members' comments may sometimes be quite subjective. In conducting the 'reasonable person' test they may focus not just on whether the Department is communicating in as clear and unambiguous way as possible, but also on whether, as customers themselves, they could 'use' the product.

2.33 For the purposes of feedback, the Secretariat generally subdivides comments into:

- **substantive comments:** observations on any part of the text which Members think may be inaccurate, incomplete or potentially misleading; and (this may sometimes involve asking for clarification of particular policy, legal or operational issues); and
- **drafting and presentation comments:** these may include comments on layout and design, as well as looking at use of language, grammar and punctuation.

Contact the Secretariat if comments on other specific aspects of the material are being sought and/or a different format is required.

Feedback on SSAC's Comments

2.34 Branch Managers are responsible for deciding which of SSAC's comments to accept, and which to reject. The Committee cannot *require* the Department to change an information product in a particular way prior to issue. However, Branch Heads must be prepared to provide feedback to the Committee, explaining the reasons why any individual comments have been rejected. This feedback should be provided in two formats:

- (i) In all cases, the pro forma should be completed to include:
 - whether SSAC's comment has been accepted;
 - action taken if the comment has been accepted; and
 - reasons why any comments have been rejected.
- (ii) Where the Committee requests, verbal feedback should be provided in a meeting with SSAC Members (usually the Chairman). These meetings provide opportunities for:
 - the Committee to explain its concerns in greater detail, and Branch Managers to reconsider comments previously rejected; and

- Branch Managers to explain why particular comments had been rejected.

These meetings would usually take place outside the Committee's normal monthly meetings. They should, if at all possible, take place before information products are printed.

The Committee's Evaluation

2.35 It is necessary for SSAC to evaluate its scrutiny of individual information products. There are three elements to this:

- considering the extent to which SSAC's comments have been included;
- assessing the impact of the Committee's involvement on the product in question; and
- considering the extent of assurances that SSAC could provide about particular information products (both pre and post-scrutiny).

2.36 In order to conduct this evaluation, Branch Managers must provide the Secretariat with a final version of every product which SSAC have scrutinised. This would normally be after the product is published. However, there may be instances in which Branch Managers await feedback from SSAC's evaluation before publication. In such instances evaluation would need to be done whilst the product is at final proof stage.

2.37 The Secretariat will compare the final product with the version on which SSAC commented. It will advise Members of the extent to which the Committee's comments have been incorporated and consider the implications of any comments that were rejected. In particular, especially where SSAC commented before the stage specified in paragraph 2.27 the Secretariat will assess whether the Committee's comments had been negated by subsequent changes and whether new text had been added. Where the Secretariat feels that this has happened it will alert SSAC Members and the relevant Branch Manager.

2.40 This comparison will enable SSAC Members to:

- evaluate the extent to which SSAC involvement has influenced the quality of the Department's information products; and
- consider the extent to which they can provide assurances to Ministers about the overall quality of the particular information products.

2.41 The Secretariat will advise the relevant Branch Manager if the Committee has any serious concerns outstanding at this stage. Any report at this stage will be copied to the Head of the Department's Communications Directorate.

2.42 The aim, in providing this feedback, is to ensure that the Department is aware of any concerns emerging from individual scrutinies that may be reflected in subsequent reports to Ministers on the overall information-scrutiny role. It is not normally expected that either:

- publication would be delayed pending any part of this evaluation process; or
- the evaluation process would provide an opportunity for a further scrutiny exercise.

2.43 However, there may be instances in which Branch Managers feel that one or other may be appropriate. In such circumstances it may, if Branch Managers wish, be possible to provide interim feedback at any stage during the evaluation process. This information might be useful to Branch Managers who would be looking for an indication of the extent of assurances that SSAC could provide about a particular product before it is published (in such instances the product should be referred for evaluation at final proof stage). The Secretariat envisages that this is most likely where SSAC commented on products at an earlier stage in the development process than specified in paragraph 2.27 and significant additional text had been subsequently added.

2.44 The information would be provided to assist Branch Managers in deciding what action to take next. For example, they may feel that further scrutiny would be appropriate in the light of this evaluation (evaluation itself does not constitute further scrutiny). Please contact the Secretariat if this may apply; and it may be possible to expedite the evaluation process.

ANNEX A

THE SERVICE LEVEL AGREEMENT

INTRODUCTION

3.1 At the request of the Secretary of State for Work and Pensions, the Social Security Advisory Committee (SSAC) has, since May 2000, extended its remit to encompass the scrutiny of a number of aspects of the Department's public information strategy. This function is consistent with SSAC's legal duty to advise the Secretary of State on Social Security matters. The Committee will report its findings to the Secretary of State and publish an account of its work in its Annual Stewardship Report. Guidance on the Committee's information scrutiny role is provided in Part 2 of the SSAC Business Guide (available on the DWP Intranet and the SSAC Website).

3.2 There are three strands to the information-scrutiny role:

- vetting the Department's internal assurance processes for information products;
- commenting on the content of individual information products (only a very small percentage of the overall range of products within the information scrutiny are likely to be selected for such scrutiny); and
- investigating staff awareness of these products.

This agreement concerns the second strand of this work. It sets out the procedures to be followed when SSAC scrutinise individual information products and explains where responsibility for each element of the process lies.

3.3 The agreement is signed by the Permanent Secretary of the Department for Work and Pensions and the SSAC Chairman.

RANGE OF INFORMATION-SCRUTINY ROLE

3.4 The range of the Committee's information scrutiny role includes all material disseminated by, or in collaboration with, the Department covering existing Social Security provision. It includes material covering Social Security provision:

- that is actually issued by other Government Departments or the devolved administrations. This includes the scrutiny of material covering Social Security provision contained within products covering a wider range of topics; or
- such as Industrial Injuries and Child Support - that would not normally come within the Committee's statutory remit.

SSAC may also comment on the effectiveness of the Department's marketing strategy.

3.5 The range of the Committee's information-scrutiny role encompasses material issued in a wide range of formats, including:

- all dedicated customer information products, in all formats (including leaflets, mailshots, letters, advertisements, claim forms, notifications, videos, web pages etc) covering Social Security and related topics; and
- all other information material that may be used in the provision of information/advice on Social Security to customers. This includes claim forms, training material, Question and Answer briefing provided to staff on benefit issues, helpline scripts and other guidance (including Housing Benefit/Council Tax Benefit circulars and instructions to staff and guidance to voluntary agencies) on benefits matters.

For the purposes of this agreement, the phrase "information products" encompasses both. SSAC may also comment on the Department's strategy for disseminating information and the impact of marketing campaigns.

3.6 SSAC's information scrutiny role does not include proposals for change set out, for example, in White Papers, Green Papers and proposals for secondary legislation (the Committee's other statutory functions may include commenting on the substance of such proposals).

3.7 All parties shall be responsible for monitoring the operation of these arrangements. In particular:

SSAC and the SSAC Secretariat will:

- formally review the arrangements at least every six months and consider whether the Service Level Agreement should be amended; and
- consider any amendments to the Service Level Agreement suggested by Branch heads at the next available SSAC meeting.

Branch Managers will:

- consider the operation of the arrangements, proposing amendments to the Service Level Agreement as appropriate;
- arrange for any proposed amendments to be considered at the next available SSAC meeting; and
- ensure that SSAC's requests for an amended Service Level Agreement can be considered within a month of their being made.
- Any requests for amendment of the agreement shall be routed to the SSAC Secretariat.

ACCOUNTABILITY FOR MANAGING THE SSAC SCRUTINY PROCESS WITHIN DWP

3.8 Responsibility for ensuring that SSAC scrutiny of information products is conducted satisfactorily rests:

- **For individual products:** with the Branch Manager within the Department responsible for the particular area of business covered by the product. In particular:

some information products cover areas of policy and operations that encompass more than one Branch Manager's area of business. In such instances responsibility for enabling SSAC scrutiny rests with the Branch Manager who has primary responsibility for the overall product. It is that Branch Manager's responsibility to liaise as appropriate with colleagues within the Department to facilitate SSAC scrutiny;

some information products covering Social Security provision are issued by other Government Departments (including the devolved administrations). SSAC's information scrutiny role encompasses the Social Security content of those products. In such instances responsibility for enabling SSAC scrutiny rests with the Branch Manager within the Department who has primary responsibility for the subject area. It is that Branch Manager's responsibility to liaise as appropriate with colleagues within the Department to facilitate SSAC scrutiny;
- discrete "project" teams within the Department may develop a range of information products. In some instances these projects produce material relevant to more than one Branch Manager's area of responsibility). The Secretariat will work with Project Managers to facilitate any scrutiny of products being developed by project teams that may be felt appropriate. However, responsibility for managing the process rests with the Branch Manager who will become accountable for the product once the project has been wound up. It will not rest with Project Managers; and
- the Secretariat may seek to broker arrangements for the Committee to scrutinise individual products with the Department's Communications Directorate. However, accountability within the Department rests with the relevant Branch Manager.
- **For marketing strategies:** with the relevant Team Manager within the Department's Communications Directorate.

For the purposes of this agreement, the phrase "Branch Managers" encompasses both Branch Managers and the Communications Directorate Team Managers.

3.9 This is consistent with the Department's statements about accountability for individual information products following the National Audit Office's report into Inherited SERPS. Responsibility under this agreement includes identifying appropriate products for scrutiny, ensuring that they are properly referred, that SSAC's comments are considered and appropriate feedback provided and that sufficient time is built into the

production process to complete these tasks. Evidence of active consideration of SSAC involvement will form part of the audit trail when the Department's Internal Audit Service conduct process assurance audits.

ACCOUNTABILITY FOR MANAGING SSAC SCRUTINY OF OTHER GOVERNMENT AGENCIES' INFORMATION PRODUCTS

3.10 SSAC's information scrutiny role encompasses information products covering Social Security provision that are issued by other Government agencies (including the Department of Health, the Department for Education and Skills, the Inland Revenue and the devolved administrations). The Secretariat will liaise with outside agencies with a view to enabling SSAC to conduct an effective scrutiny where appropriate. However, accountability for ensuring that SSAC scrutiny of such information products is conducted satisfactorily rests with the Branch Head within the Department responsible for the particular area of business covered by the product. This includes responsibility for ensuring that the relevant department or agency is aware of the SSAC scrutiny role and the potential impact on production schedules.

3.11 In this context it should be noted that accountability for facilitating SSAC scrutiny of products issued by the devolved administrations normally rests with the Branch Head responsible for the particular area of business. It is only in exceptional cases, where there is no Branch Manager within DWP with lead responsibility for a particular subject area, that responsibility for facilitating SSAC scrutiny of individual products rests with the Branch Manager responsible for liaison with the devolved administrations.

3.12 The relevant Branch Manager should notify the SSAC Secretariat of any instances in which another Government Department or agency issues information products covering Social Security without clearing the text with DWP. This applies regardless of whether the product satisfies the criteria set out in paragraph 3.14. (Branch Managers should also, in such instances, advise whether these criteria are satisfied). This information would be required to inform SSAC's report on the processes by which information products are produced and disseminated.

IDENTIFICATION OF INFORMATION PRODUCTS

3.13 It is envisaged that information products (either in development or extant products, possibly during the revision process) would normally be identified as fitting these criteria and referred for SSAC scrutiny by two routes:

- by Branch Managers (possibly following a Ministerial directive), who are accountable for ensuring that, wherever possible, all appropriate information products within their area of responsibility are referred for SSAC scrutiny; and
- SSAC Members may also themselves select information products for scrutiny. These may be extant products or those which are being developed or revised.

3.14 In practice SSAC will have the resources to scrutinise a very small proportion of all information products. The products that are selected for scrutiny should be those which meet one or more of the following criteria:

- are “high risk” (in particular those which people might use to inform critical decisions with long term consequences). In considering whether products fit this criteria Branch Heads should assess both the likelihood and the risks of misleading or inadequate information being provided and the consequences should it subsequently prove necessary to remove potentially misleading information products from circulation; or
- explain pilot procedures which are developed (and products prepared) as part of preparation for national implementation; or
- cover new products or significant benefit changes (it is accepted that the Department will develop a range of information products covering such changes. It may be appropriate, in such instances, to ask the Committee to consider a sample product in the light of the overall strategy); or
- present information in a new format (e.g. Internet). It is envisaged that the scrutiny of information products referred to SSAC simply because of their format will primarily focus on whether information is accessible.

The associated SSAC Business Guide contains further guidance on referral criteria.

3.15 There is no statutory requirement either to consult SSAC on individual information products or seek the Committee’s agreement that certain products need not be referred (e.g. for reasons of urgency). Branch Managers should be able to defend (to Ministers and the Committee) decisions not to refer particular products for SSAC scrutiny. If products that would have been appropriate for SSAC scrutiny are disseminated without the Committee having the chance to comment, the Committee may be unable to provide the Secretary of State with assurances about the overall quality of information products for which he is responsible.

3.16 SSAC Members also need to be aware of the amount of the Department’s information material, and that which is being introduced for the first time and/or amended. This information is required regardless of whether the criteria set out in paragraph 3.14 are satisfied. It would fulfil two purposes:

- it will enable SSAC Members, using the same risk assessment criteria, to select material for its own scrutiny (including extant material not subject to major revision); and
- it will inform SSAC’s reporting by putting the number of products seen by SSAC in the context of the entire volume of the Department’s information products.

3.17 The respective responsibilities of each area in selecting information products for SSAC scrutiny are:

- **Branch Managers:** are responsible for considering all information products falling within their area of responsibility and:
 - advising the SSAC Secretariat - whether in response to the Secretariat's regular "trawls" (see below), or ad hoc, of:
 - the total amount of information material for which they are responsible (this information may not be requested in all trawls);
 - any instances in which other Government Departments or agencies have issued information products covering Social Security without clearing the relevant text with DWP. Where this happens an assessment is required as to whether the product satisfies the criteria in paragraph 3.14;
 - all new products and products under development for which they have responsibility; and
 - all products in their area of responsibility that are subject to a significant change (e.g. the removal or addition of significant parts of text, possibly in response to litigation or a legislative change).
 - identifying which of those products, in their assessment, are appropriate for SSAC scrutiny, alerting Ministers as appropriate. Where such products are identified Branch Managers shall provide full details of the product (see Annex A) and nominate a contact point.

SSAC Members: are responsible for identifying, from the results of the Secretariat "trawl" (see below) or otherwise, any additional products (i.e. in addition to those nominated by Branch Managers) that they wish to scrutinise.

SSAC Secretariat: are responsible for seeking out (primarily via the trawls) and collating details of all new and revised information products as well as those products that will be subject to SSAC scrutiny. The Secretariat will:

- "trawl" Branch Managers every 3 months, seeking details of all new and revised information products, advising when information about the quantum of information products is required;
- collate responses and make the information available to SSAC Members;
- be available to provide advice to SSAC Members, Branch Managers and their staff about whether particular products should be referred; and
- advise the relevant Branch Manager when SSAC Members have selected an item that they feel should be considered.

TIMESCALE FOR SSAC SCRUTINY

3.18 It is essential, where SSAC scrutiny forms part of the process of developing or revising information products, that production schedules allow sufficient time for SSAC to fully consider the products. Therefore:

Branch Managers will ensure that production schedules permit SSAC (including the Secretariat) sufficient time to conduct their scrutiny, including providing with SSAC Members with appropriate feedback before products are finalised if at all possible. It would normally take a minimum of **three weeks** for SSAC to comment and for the comments to be collated and passed to officials. More time is required in respect of lengthy or complex products. It is likely that SSAC scrutiny, up to the provision of feedback, would take up to six weeks.

Branch Managers will ensure that the Department alerts the Secretariat to instances in which shorter scrutiny may be appropriate and seeks to negotiate an arrangement and handling strategy that is acceptable to all parties. It is recognised that some information products (primarily those falling outside the routine revision process) may be developed to very short timetables that cannot accommodate a six week SSAC scrutiny.

Branch Managers: should also agree both the turnaround time for lengthy documents, and requests for shorter deadlines, with the SSAC Secretariat. It may, in exceptional circumstances, be possible to consider short documents in less time.

SSAC Secretariat: will consider any requests that SSAC scrutinise information products to a shorter timescale. Where less than three weeks is available the Secretariat shall consider what steps may be taken to expedite the scrutiny process.

SSAC Secretariat: may reject any request for the Committee to consider information products where insufficient time is provided and it has not been possible to negotiate a shorter timescale.

SSAC Secretariat: will circulate material to SSAC members as soon as possible after receipt, ensuring that Members normally have at least two weeks to consider and comment on material.

3.19 Branch Managers may conclude, after full consideration and discussion with the Secretariat, that production schedules (or those of other Government Department and the devolved administrations if appropriate) make SSAC scrutiny of information products that fit the criteria set out in paragraph 3.14 unfeasible during their development or revision. Similarly, the Secretariat may feel that the workload faced by Members at a particular time is such that it cannot accept particular items that Branch Managers have identified as “high risk” (although it will take all steps possible to prevent this from occurring). It is essential to maintain a full audit trail of decisions in instances where workload or production schedules mean that “high risk” products are not considered by the Committee, or where scrutiny is deferred. This information may be required in order to explain to Ministers why certain products have not been referred to SSAC:

Branch Managers: shall keep a written record of decisions where individual products identified as “high risk” are not referred because the time required cannot be accommodated within production schedules. This shall be copied to the Secretariat.

SSAC Secretariat: shall keep a written record where Members’ workloads mean that it is not possible for Members to consider products nominated for SSAC scrutiny. This shall be copied to the relevant Branch Manager.

Branch Managers and the Secretariat: shall, where either applies, consider whether it would be feasible for SSAC to scrutinise extant material after it has been published. Any comments provided would be considered for future reprints. Again full written records should be kept and copied to all parties.

REFERRAL OF INFORMATION PRODUCTS

3.20 The form in which SSAC Members consider information products depends on whether they are scrutinising extant material with a view to providing comments for the next reprint, or looking at products that are being developed or extensively revised. Responsibilities, where extant material is being considered are:

SSAC Secretariat: shall advise Branch Managers of the nature of any explanatory paper that may be required (see also Annex A). It may, for example, be appropriate, if SSAC Members are considering an advertising campaign and accompanying leaflets, to have a paper explaining the campaign.

SSAC Secretariat: shall forward copies of relevant information products (photocopied as appropriate) accompanied by explanatory papers as necessary to Members.

Branch Managers: shall ensure that SSAC Secretariat is provided with copies of the relevant product (where SSAC is asked to scrutinise extant material on the Internet it shall be sufficient to provide a website address and page references) and such explanatory information as required.

3.21 Responsibilities, where material is considered as part of the development or revision process are:

Branch Managers: will be responsible for deciding the stage during the production process at which material is referred for SSAC scrutiny. In particular, material should normally be referred to the SSAC Secretariat at the stage where, SSAC comments apart, it would not normally be greatly changed before final proof stage. This would normally be at the same time the product is circulated for final quality control within the Department after referral to the Plain English Campaign (if applicable). Referral and handling arrangements should, in cases of uncertainty, be negotiated with the Secretariat at the earliest opportunity.

Branch Managers: will, wherever possible, forward draft documents electronically or on A4 paper.

Branch Managers: will accompany each product with a note setting out the background to the product and the stage in the production process at which it is being referred (see Annex A). This enables SSAC members to grasp the context in which the product will be used and to understand the point at which their input will be considered.

3.22 Branch Managers will, in all cases, advise the SSAC Secretariat of the format in which comments should be presented. In particular:

- whether comments should be presented (as far as possible) in tabular form (a copy of a blank table that the Secretariat is currently using is attached at Annex B); and
- whether comments should be divided in any way (e.g. between substantive comments on text and presentation/layout – noting that the distinction between the two is not always clear-cut).

The Secretariat will, unless advised otherwise, normally present comments in this format.

SSAC COMMENTS

3.23 Members shall, in scrutinising individual information products, consider whether they:

- are misleading;
- contain any significant omissions or errors;
- are sufficiently clear to be understood by people without a detailed Social Security knowledge; and
- convey the intended message in an unambiguous way.

Members conduct this “reasonable person” test as they see fit.

3.24 In commenting, Members shall consider both the content of the product and the style and grammar in which it is presented. The aim, in looking at stylistic and grammar issues, is to consider whether the product is sufficiently accessible for its target audience. When commenting on Internet products Members shall primarily focus on the accessibility of the information provided.

3.25 The responsibilities, in passing SSAC Members’ views to Branch Managers are:

SSAC Members: will consider material circulated, provide comments within the specified time and indicate whether they feel a meeting with officials to discuss feedback is appropriate.

SSAC Secretariat: will collate comments received from members and forward them to the Branch Manager, in the tabular fashion as set out in the attached annex, or as otherwise required, to the specified deadline. This shall be copied to the Head of the Department's Communications Directorate.

SSAC Secretariat: will, where requested, provide SSAC Members with copies of collated comments as passed to the Department.

ANALYSING COMMENTS AND FEEDBACK

3.26 Branch Managers are responsible for deciding whether to accept SSAC's comments and for providing feedback as to which have been rejected and why. This includes seeking the necessary legal advice.

3.27 Feedback on SSAC's comments would normally be provided in writing and, where necessary, in a meeting between SSAC members and the Branch Manager. The purpose of these meetings is to investigate SSAC concerns and the reasons why the Department felt unable to accept any of the Committee's comments in detail.

3.28 It is possible that such meetings may result in the re-introduction of some comments that were previously rejected (possibly amended). Therefore they should take place, where necessary, before a product is finalised.

3.29 The final word, if agreement cannot be reached on a particular point, rests with Branch Managers, who are ultimately accountable for the relevant information products. However SSAC may have concerns if Members feel that the outcome is a product that is misleading, confusing or has significant omissions. The Secretariat will report any such concerns to Branch Managers. Such concerns are likely to be reflected in SSAC's feedback, either to Ministers or the Committee's annual report.

3.30 The relevant areas of responsibility, in analysing comments and providing feedback are:

Branch Managers: will be responsible for ensuring that SSAC's comments are fully considered (including taking the necessary legal advice). Where they identify a different section of the Department as being better placed to consider particular comments they shall refer them as appropriate for advice (e.g. it may be appropriate to pass comments on layout to the Department's Communications Directorate). However, responsibility for ensuring that all comments are fully addressed remains with Branch Managers.

Branch Managers: will provide feedback on SSAC's comments. They should, where advised by the Secretariat that it is necessary, offer SSAC Members the opportunity of a meeting, involving other elements of the Department, other Government Departments and the devolved administrations as appropriate, to

provide feedback on comments and explain why comments were accepted or rejected. Such meetings should, unless exceptional circumstances apply, take place before the information product in question is sent for publication.

SSAC Secretariat: will forward a copy of the Department's response to Members.

SSAC Secretariat: will, along with SSAC Members, consider whether a meeting to discuss SSAC feedback is required.

SSAC Secretariat: shall, where such a meeting is necessary, broker arrangements with SSAC Members and the relevant Branch Manager.

SSAC Secretariat: will, after such a meeting is carried out, forward copies of the Department's comments amended to reflect the outcome of the meeting to SSAC Members.

EVALUATION

3.31 It is necessary for SSAC Members to assess both their impact on individual information products and the extent of assurances that can be provided to the Secretary of State in respect of individual products. It is not envisaged that the evaluation process would provide an opportunity for a further scrutiny exercise. However, Branch Managers may feel it appropriate to delay publication until after certain stages of the evaluation process have been completed. They may also feel further SSAC scrutiny appropriate in the light of this evaluation.

3.32 In order to conduct this evaluation it is necessary for:

Branch Managers: to ensure that the SSAC Secretariat are provided with copies of information products once finalised (either as published or in final proof stage).

Branch Managers: to notify the SSAC Secretariat where production is deferred whilst elements of the feedback process are being carried out. This will enable the Secretariat to expedite comments as far as possible.

SSAC Secretariat: to compare finalised products with the version on which Members commented. In particular to consider, and advise Members:

- the extent to which SSAC's comments have been introduced; and
- whether changes have been made that either supersede those agreed with SSAC or text introduced that SSAC have not considered. Where this occurs the Secretariat will provide a report to this effect to the SSAC Members (copied to Branch Managers) *within a week*. This is most likely

where products have been referred for scrutiny at earlier stage than specified in paragraph 3.21.

SSAC Members: shall:

- evaluate the extent to which SSAC involvement has influenced the quality of the Department's information products, and make a qualitative assessment of the impact;
- consider the extent to which they can provide assurances to Ministers about the overall quality of the particular information products; and
- assess the extent to which SSAC involvement assisted the development process.

SSAC Secretariat: shall alert Branch Managers to any serious concerns resulting from the evaluation process. These will be copied to the Head of the Department's Communications Directorate.

SSAC Secretariat: shall, where requested, provide Branch Managers with interim assessments of the probable outcome of the evaluation process. This will be of most use where Branch Managers have deferred publication whilst evaluation is carried out.

It is not envisaged (unless Branch Managers request otherwise) that this would provide SSAC Members to conduct a further scrutiny or lead to further changes being made. However, any subsequent observations will be passed to Branch Managers for their information.

SIGNATURE

This agreement is signed by:

Rachel Lomax
Permanent Secretary
Department for Work and Pensions

Sir Thomas Boyd-Carpenter
Chairman
Social Security Advisory Committee

Annex A

REFERRAL OF INFORMATION PRODUCTS – SUPPLEMENTARY INFORMATION REQUIRED

Information products referred for SSAC scrutiny should be accompanied by information providing full details of the product. This should include:

- brief description of the product, including:
- which benefits are involved;
- how product will be used and accessed – including details of target audience (e.g. is it primarily aimed at voluntary agencies);
- how the product fits in with wider information strategy (including a description of that client group strategy if appropriate);
- any plans to withdraw existing information products that are being replaced;
- indication of size and complexity;
- whether it will be produced in languages other than English; and
- format (leaflets, web pages etc).
- the extent of recent SSAC involvement in the issues surrounding the product (e.g. does the product explain changes brought about by legislation which was referred to the Committee);
- current status. In particular:
 - is it extant material that will be revised in future or a product in the process of being developed/revised (e.g. to reflect benefit changes);
 - stage at which material is referred (in particular what further QA is required) and has it been through the Plain English Campaign.
- for Internet products, the website location and relevant page numbers (it is envisaged that it will not be possible to scrutinise Internet material in draft);
- for new products and those being revised, a latest date for publication and reason for this date;
- reasons for nomination (if nomination from Branch Manager);
- timetable, including required date for SSAC comments; and
- contact point.

This list is not exhaustive and may vary from product to product. The SSAC Secretariat can advise on the nature of information required for individual products.

Annex B

Sample Table for Collating SSAC Comments

No.	Page/Para	Comment	A/R	Reasons
1				
2				
3				
4				
5				
6				

Notes: This is an example of the table that the Secretariat have been using to provide the Committee's comments to the Department and to enable the Department to respond. The various columns have been used as follows:

- Column 1: provides a reference number for each comment (a number of comments are cross-referenced).
- Column 2: indicates where in the product the comments relate to.
- Column 3: contains the Committee's comments.
- Column 4: is used by the Department to show if it has accepted or rejected the particular comment.
- Column 5: provides space for the Department to provide observations on the Committee's individual comments. This would normally include explanations why particular comments have been rejected and the outcome where comments are accepted (i.e. either that text has been amended or the reason why not).

Columns 1 to 3 are completed by the Secretariat. The Department completes columns 4 and 5.

There is no requirement to use this table. Please advise the Secretariat if you would prefer comments to be provided in a different format.