

**MINUTES OF MEETING HELD AT NEW COURT ON 7<sup>TH</sup> JANUARY 2009**

**Present:** Chair: Sir Richard Tilt

Members: Mr K Akuffo  
Mr L Allamby  
Mr S Bartley  
Mrs B Campbell  
Dr A Erskine  
Mr R Exell  
Ms A Garnham  
Professor E Kempson  
Ms P Smail  
Professor J Walker  
Professor R Walker

Guests and Officials: Christine Watkins (item 3)  
Penny Higgins (item 4)  
Louise Goulding (item 4)  
Beverley Walsh (item 5)  
Pam Bradshaw (item 5)  
Brendan French (item 5)  
Tim Roscamp (item 6)  
Nina Young (item 6)  
Steve Ellerd-Elliott (item 6)  
Lynne Isaacson (item 6)  
John Kyriacou (item 6)  
Denise Mackowiak (item 7)  
Garry Gibson (item 7)  
Mary Baines (item 7)  
Ron Baker (item 7)  
Trevor Sanders (item 7)  
Anthea Watson (item 7)  
Dashiell Caldwell (item 7)  
Nick Owen (item 8)  
Greg Watkins (item 8)  
Ian Alvey (item 8)  
Paul Gregg (item 9)

Secretariat: Ms G Saunders Dr A Bee  
Dr N Moss Mrs E Harnett  
Mrs H Gray Mr J Allen

Apologies: Maureen Reith.

Observers: Lizzy Brown, Julia Whyte, Daniel Butler,  
Dashiell Caldwell.

The **Chair** welcomed Heather Gray to the Secretariat.

***Reserved item.***

The **Chair** welcomed Lizzy Brown, Julia Whyte and Daniel Butler as observers to the meeting.

**1. Minutes and Action List**

1.1 **Members** agreed the minutes of the December 2008 meeting, correcting sections 2.11 and 6.18. At 2.5, **Members** asked the Secretariat to find out what is happening about the Community Sentences Pilot and if it is still being used. At 2.9, the **Secretariat** advised that a signed final version of the Memorandum of Understanding had been sent to HMRC for signature by them and HM Treasury. At 4.11, **Members** asked that Northern Ireland be pursued about the fuel poverty paper. At 6.14, **Members** asked about the outcome of Mel Groves' meeting of DWP, BERR and Ministers. (*Nothing has been heard*).

**2. Chair's Report**

2.1 The Chair thanked those who put together the new draft work programme. The chair of the Work-Programme Sub-group, Janet Walker, noted that the primary purpose of the work is to inform Members and support their wider role rather than focusing on producing papers for publication. The group will meet more regularly than in the past year to ensure that the work programme remains relevant and to monitor the progress of the projects. Members then systematically considered the projects set out in the proposed work programme.

2.2 The **Chair** advised that the project on Rights and Responsibilities is ongoing (see para 2.7 below for a summary of the fuller discussion of the project). Members agreed that the projects on vulnerable customers and the role of Personal Advisers were priorities and that work should progress on these projects as set out in the work-programme. It was also agreed that the 2007 paper on telephony should be up-dated with a short note to be published on the SSAC website. The **Secretary** advised that information is likely to come out of the Jobcentre Plus strategic plan, including the possibility of using spare commercial capacity to handle telephone calls. The **Secretary** advised that Val Gibson, who has been the SSAC contact for telephony issues, had been awarded a CBE in the New Year Honours.

2.3 Members discussed the proposed project on public service and disregards. A **Member** asked that the committee consider the experience and contribution from those with disabilities who undertake public appointments or serve on committees. Where members can receive fees, the interaction of those fees with benefits may result in complications for disabled members. This complexity can be a disincentive for people to take up active membership of committees. A **Member** asked that this be considered in the draft of the review on rules on disregards. **Les Allamby** and **Brigid Campbell**

will jointly lead on this project and agreed to produce a scoping paper for presentation to the Work Programme Sub-Committee in January (scoping paper received). A **Member** suggested contacting Neil Crowther of the Equality and Rights Commission.

2.4 The **Chair** asked about an analysis of past reports and the tracing of outcomes. The **Secretary** advised that this could be scoped as a small project but needs to be prioritised amongst other resources, mainstream work and formal referrals. **Members** asked that the Secretariat consider a system for the analysis and take the A8 regulations from 2003 as a starting point. It should capture information such as where changes have arisen from SSAC intervention; where SSAC gave warnings about potential outcomes from regulations that subsequently occurred and to track items outstanding at the end of meetings. The **Secretary** noted that this could be considered by early August. Members considered the suggestions for topics from stakeholders at the November seminar and agreed that some such as vulnerable customers would be explored in papers produced in 2009, while others, such as benefit take-up and the impact of recession on policies, could be explored through the SSAC visits programme and reconsidered at future sub-group meetings.

2.5 A **Member** noted that there are currently no proposed projects that consider either pensions or the involvement of DWP in skills development. The **Chair** noted that these topics had not come up at the stakeholder seminar but could be considered at future sub-group meetings. The **Secretary** said that there may be some skills regulations at the February meeting that interface with DWP policy and the skills agenda. She also advised that the SSAC website will be updated to better present the large amount of information it now contains.

2.6 At the end of the discussion about the work programme it was agreed that the Work Programme Sub-group would draw up a timetable for the various pieces of work the Committee had agreed and that a revised document and timetable for delivering the work would be circulated ahead of the March meeting for signing off.

2.7 The **Secretariat** advised members of progress on the Rights and Responsibilities paper and how the authors are keen that this should remain an independent piece of work. **Members** expressed concern about gaps in the coverage of the report; how the concept of rights and responsibilities seems to be moving from the traditional concept of welfare rights; the need to address this hidden change; and how an increased emphasis on responsibilities and sanctions reflects a devaluation in rights. A **Member** drew attention to Kate Green's presentation at an earlier stakeholder seminar and to recent email contributions by members. A **Member** noted how the increased emphasis on individualisation could conflict where officials are seen to be strong and claimants in a weak position. The **Secretariat** advised that much more material has been written and there is a lot of background material which has been left out because of the word limits for the report. **Members** concurred that the word limit should be relaxed. The **Secretary** advised that much of the background material will be of use to members in their wider role of formulating advice to ministers. **Members** asked that the

report includes a good executive summary and a list of key issues. The **Chair** advised that the report will be in the form of an independent paper. The Secretariat will then produce proposals for the Committee to adopt and write to the Secretary of State.

2.8 The **Chair** asked members for their responses to the recently circulated papers on the Northern Ireland parity principle. A **Member** advised that he has produced a paper and agreed to circulate it. (*Circulated*). The **Chair** asked members to respond in the next few days.

2.9 A **Member** advised that that he had attended a DWP PSF event on Social Fund reform. Members noted that interest will not be charged on loans.

2.10 The **Chair** drew attention to DWP research on Lone Parents entering employment. The Secretariat is to produce a summary for members. (*Circulated*)

### **3. The Social Security (Miscellaneous Amendments) Regulations 2009 (Paper 02/09)**

3.1 The item was presented by **Mrs Christine Watkins** from Housing Benefit Strategy Division. **Mrs Watkins** explained that the package contained proposals to make miscellaneous amendments to regulations relating to Housing Benefit (HB) and Council Tax Benefit (CTB), to take account of the introduction of Employment and Support Allowance (ESA). She added that the proposals did not contain any changes to the general policy of how HB/CTB should interact with ESA. **Mrs Watkins** invited comment or questions from the Committee.

3.2 A **Member** referred to Para 21 of the EM and asked for clarification on the effect these amendments would have on the case of a lone parent (LP) who had been claiming Income Support (IS) since 1998 who moved from standard Housing Benefit (HB) to claiming income related ESA. The **Member** said it appeared that if the LP moved from standard HB/CTB to claiming ESA and then returning to standard HB/CTB they would lose the premium. **Mrs Watkins** confirmed that this would be the case. The **Member** asked for an explanation of the rationale behind this change and commented that it could appear to be a work disincentive.

3.3 **Mrs Watkins** explained that the LP Family Premium was abolished for new claims from April 1998 but customers receiving the premium on that date were given transitional protection, which lasted for as long as the qualifying conditions were satisfied. The main qualifying conditions in HB/CTB were that the LP had either been continuously receiving an income-related benefit or continuously not receiving one. Therefore, moving onto or off an income-related benefit would mean that the qualifying conditions were no longer satisfied and the premium would cease. If income-related ESA were not added to the list of income-related benefits, there could be a situation where a customer moving onto and then off JSA would lose the premium but a customer moving onto and off ESA would not – this would be inequitable.

3.4 A **Member** agreed that this would be the case but commented that it could be a disincentive to finding work.

3.5 The **Committee** agreed that it did not require the proposed regulations to be formally referred, but that it would write to officials asking for an explanation of the overall policy for removing the LP Family Premium.

*(Since the meeting Officials have produced an explanation on the rationale behind the removal of the LP Family Premium, which has been circulated to members)*

#### 4. The Housing Benefit Amendment Regulations (2009). (Paper 03/09)

4.1 **Ms Penny Higgins** (Housing Benefit Strategy Division) and **Ms Louise Goulding** (Housing Research and Analysis Division) introduced the proposed measures in relation to the Housing Benefit Amendments.

4.2 Currently for Housing Benefit (HB) purposes, accommodation rates for up to five bedrooms are published in advance, whereas rates for more than five bed accommodation have to be requested when a relevant claim arises. At present the Rent Officers' have problems gathering sufficient data to set these rates. It is proposed that from the 6 April rates for accommodation for HB purposes, in the private sector, will be capped at the five bedroom rate.

4.3 A **Member** asked in regard to Paragraph 7 of the Explanatory Memorandum which states "enables customers to rent accommodation in around 50 percent of the properties" what would happen if this accommodation is not available to customers, what is their alternative choice. **Ms Higgins** clarified that around half of accommodation in any area rented by tenants not on Housing Benefit should be affordable at the LHA rate.

4.4 A **Member** referred to paragraph 29 in the Equality Impact Assessment. He questioned the purpose of undertaking the assessment at all if the outcome in relation to minorities is then ignored. **Ms Higgins** replied that the figures had not been disregarded. However, it had been noted that this change would affect very few customers and a number of factors that could alleviate the impact had been identified. The **Chair** asked what the 5 bed accommodation rate might be in Ealing. **Ms Higgins** stated that this was in the region of £1,000 per week, though the exact figures were not to hand.

4.5 A **Member** asked if it would be better if a proportionate rate was introduced rather than a cap being placed on the rates claimable. For example, if the rate for a four bed is known to be 20 per cent lower than a five bed accommodation, can this percentage be added to give a figure for a six bed accommodation. **Ms Higgins** stated that due to regional variations this would not be possible, but added that such technical solutions to the problem had been considered by the DWP.

4.6 A **Member** asked if this proposal might be a national solution to a London problem. **Ms Higgins** stated that the problem of collecting data on rents for properties with 6 or more bedrooms was a national problem and this was why these changes were being proposed.

4.7 A **Member** noted that paragraphs 14 and 15 to the EM suggested two different solutions to the problem described. One driven by media attention, and the other by policy considerations. **Ms Higgins** stated that the need for the proposals was heightened by media attention but a review of the system had already been underway when highlighted by the media.

4.8 A **Member** pointed to the proposed measures having the potential to perpetuate problems as there was little or no social housing available. Another **Member** asked what happens to customers who cannot afford the median rent in an area with no rental property within the range. If information was available then customers could make an informed choice. **Ms Higgins** advised that customers could continue to make an informed choice as these rates would continue to be published.

4.9 A **Member** asked about the impact of assuming that non-dependents could use rooms other than bedrooms. **Ms Higgins** advised that this had been considered and it may be more likely that properties with more than five bedrooms would have more than one additional living area.

4.10 A **Member** asked whether the Equality Impact Assessment took account only of disability and race. Were there any other considerations? Additionally a **Member** asked if customers were made homeless would the Local Authority rehouse or accommodate them. **Ms Higgins and Ms Goulding** stated that five bedroom accommodation should not breach the statutory overcrowding criteria for most families and that the LA had the use of a discretionary fund should the need arise.

4.11 The **Secretary** asked whether the discretionary fund can be used in these cases. **Ms Higgins** replied that this fund could be used in these circumstances, although it may be more likely to be used by local authorities as a short term solution.

4.12 A **Member** asked whether account had been taken of the impact of the proposals on the wider government agenda e.g. persuading undergraduates to live at home. Another **Member** suggested that if families were split up then this would create other social problems and a demand for housing. Older non-dependants may have to be looked after at public expense, and larger properties may cost the same as a number of smaller properties. **Ms Higgins** stated that most large households in Great Britain lived in accommodation with five or fewer bedrooms and that the Local Authorities have the use of a discretionary fund should the need arise.

4.13 A **Member** asked if any other accommodation definitions had been considered rather than just the number of bedrooms. **Ms Higgins** stated that

other definitions had been used in older systems, such as the Local Reference Rates, but proved problematic.

4.14 A **Member** asked for the Equality and Human Rights commission to comment on the proposed changes.

4.15 The **Chairman** asked for supplementary information to be provided regarding the other options which had been considered and disregarded, prior to the Committee taking the proposals for changes to the regulations on formal referral.

4.16 The Committee decided that the proposals for these regulations are to be formally referred.

## **5. The Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (Paper 04/09)**

5.1 **Mr Brendan French, Ms Beverley Walsh and Ms Pam Bradshaw** attended the meeting to discuss the regulations. **Mr French** noted that 17 minor changes were proposed in the regulations. Before taking questions **Mr French** highlighted two small errors in the Explanatory Memorandum: paragraph 40 should make reference to paragraph 38, not paragraph 36; paragraph 78 should note that an additional category will be inserted, not that the definition will be amended. A revised copy of the Explanatory Memorandum will be sent to the Secretariat.

5.2 A **Member** noted that the Second Chance Learning change [to extend entitlement to IS/HB to vulnerable young people who remain in relevant education beyond the age of 20 up until the age of 21] was very positive and welcomed. However, he questioned why the regulations require a young person to be under 19 years at the start of the course.

5.3 **Ms Walsh** highlighted that as long as a young person was *registered* on a course under the age of 19, they could have turned 19 by the time they started the course. The aim of the regulation is to ensure that young people are making decisions about their education before they turn 19.

5.4 The **Member** reported difficulty in understanding the rationale for the lower age limit. He felt that this might disadvantage young people with summer birthdays, for example if they were waiting for GCSE results in August and therefore had not made decisions about continuing in education before they turned 19.

5.5 **Ms Walsh** reported that the change to age 21 was an improvement for those who had made decisions about their education and that the regulations did not make changes to the lower age limit, which remains at 19 years.

5.6 The **Member** suggested that officials could think about changing the under 19s rule, as it could lead to some anomalies in treatment. **Ms Walsh** agreed that they could consider this issue.

5.7 A **Member** queried the definition of ‘temporary’ with regard to the exemption for ‘persons temporarily looking after another person’ and asked how this decision is made in practice. **Mr French** noted that this is a difficult area. **Ms Walsh** reported that Decision Makers usually use the 52 week rule [an arrangement of under 52 weeks would be viewed as temporary and over 52 weeks would not]. The **Member** queried whether this information was in Jobcentre Plus guidance and **Ms Walsh** confirmed that it was.

5.8 A **Member** noted that the disregard for the Higher Education Bursary for Care Leavers was a very positive measure and asked if it would also be available in Wales. **Mr French** confirmed that it would be available in England only, as the bursary is only paid by Local Authorities in England. The **Member** reported that Local Authorities in Wales also have a duty to support care leavers and asked if officials could find out if it would be possible to implement the disregard in Wales. **Ms Walsh** reported that they would clarify this issue. Another **Member** reported that if payments are made voluntarily then they would already be disregarded.

5.9 A **Member** raised the issue of WTC run-on. The introduction of the run-on had been welcomed and the **Member** was surprised that the Explanatory Memorandum implied that not many people were benefiting from the run-on. **Ms Walsh** confirmed that only about 5% of customers come on to benefit with a WTC run-on. A **Member** asked if the **Chair** could request figures on the uptake of WTC run-on, so that the Committee could further publicise this issue. This information would need to be requested from HMRC. The **Secretariat** will take this issue forward with HMRC.

5.10 The **Chair** thanked officials for their presentation and noted a number of action points: to send a revised Explanatory Memorandum to the Secretariat; to consider the lower age limit for second chance learning; and to investigate HE care leaver disregards in Wales. The **Committee** agreed that it did not require the proposed regulations to be formally referred.

## **6. The Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 – paper 05/09**

6.1 **Ms Nina Young, Mr Tim Roscamp** and **Ms Lynne Isaacson** from Housing Benefit Strategy Division and **Mr Steve Ellerd-Elliot**, from Housing, Research and Analysis Division presented the item. **Mr John Kyriacou**, Housing Benefit Strategy Division observed the item. **Mr Roscamp** explained that due to a number of minor amendments, including a drafting error in regulation 7 which specifies “12 weeks” instead of “13 weeks” and the erroneous inclusion of State Pension Credit in parts of the Equality Impact Assessment, the Committee would be issued with a revised EM and Q & A brief, after the meeting.

6.2. **Mr Roscamp** said that the regulations were laid on the 15 December 2008 and came into effect on the 5 January 2009. **Mr Roscamp** said that the regulations introduced an increase in the capital limit up to which mortgage interest can be met from £100,000 to £200,000, reduced the waiting period to 13 weeks and introduced a two-year limit on the payment of Support for Mortgage Interest (SMI) for customers claiming Jobseeker's Allowance.

6.3 A **Member** asked if a customer were currently in a waiting period, whether the trigger point for the two-year limit started on the 5 January or earlier. **Mr Roscamp** said the trigger would start from 5 January where entitlement to housing costs commenced from that date. The **Chair** asked what would happen at the end of the two-year period. **Mr Roscamp** said that help with housing costs would cease. The **Chair** asked if that situation was permanent. **Mr Roscamp** said that customers would become eligible for help with housing costs after they served the waiting period in a new non-linking claim. **Mr Roscamp** explained that the linking period for customers who move from benefit into work was 52 weeks, so someone who worked for 51 weeks, then made a claim would not be entitled, but that someone who worked 53 weeks and then claimed would have an entitlement.

6.4. A **Member** commented that for a high proportion of people claiming either Sickness Benefit (SB) or Employment Support Allowance (ESA) and those for whom seasonal work is a reality, the 52-week linking period could be problematic and possibly disincentivise people from entering short-term contracts.

6.5. A **Member** thanked officials for the useful data contained in the EM. The **Member** asked if the number of people claiming JSA for longer than two years whose mortgages exceeds £200,000 was known. **Mr Ellerd-Elliott** replied that although the number of customers claiming JSA for more than two years was known, no information was available on whether these customers had mortgages and if these mortgages exceeded £200,000. A **Member** commented that it would appear to have been sensible to have given people the option to have the increased capital limit of £200,000 and time limiting or £100,000 and no time limiting, and asked if this had been considered. **Mr Roscamp** said that the changes were being introduced to deal with the current circumstances and for this reason, it was not considered appropriate to give people the option at this time. The **Member** commented that the circumstances could possibly remain the same and that the Committee will need to bear that in mind.

6.6 A **Member** said that, regardless of the proportion of customers who might be affected, this change was important, as it represented a completely new development in Social Security policy in this country. Time-limited entitlements could eventually be extended to the whole of the benefit/welfare system and not just to JSA, and he was very concerned that this should not happen. **Ms Young** responded that the Government was keen that as part of the Rights and Responsibilities agenda that people should be clear about taking responsibility for their mortgage payments. **Ms Young** said that with the increased investment in help and support available to JSA customers to undertake job related activities and move into work, there was a reasonable

expectation that customers should not still be unemployed at the end of two years. The **Chair** commented that knowledge of how the labour market will be performing in two years time is not known. A **Member** added that the answer to the problem of people hitting the two-year barrier would be to think again. **Ms Young** said that the number of people with a mortgage, in the three percent that remain on JSA longer than two years is not known and that with the help available the Government believes that no one should be on JSA at the end of two years. **The Member** commented that there is no research evidence available to support the assertion that people will not be on benefit at the end of two years.

6.7 A **Member** made a number of comments, including querying how the figure of £200,000 had been decided upon and what research had been carried out to support this figure. The **Member** also asked for a definition of the term, 'when the housing market changes', as this suggested an improvement, when in fact it could go down. The **Member** commented that it did not appear sensible to use average prices across the country, as these were woefully inadequate particularly in London. **Mr Ellerd-Elliott** said that £200,000 was selected based on both protection for customers with median priced property and a 95 per cent loan to value ratio; and also recognising that property prices will be higher in London than the national average. **Mr Ellerd-Elliott** said that the Department were in discussions with the Department of Communities and Local Government to agree a definition of the housing market recovery that would be used across the package of mortgage rescue policies.

6.8 A **Member** asked why use housing market changes and not labour market changes. **Ms Young** said the SMI changes were part of a wider package of help for homeowners, which is why the focus would be on looking at housing market changes. The **Member** commented that economic recovery was not driven by the housing market but by labour market changes. **Mr Ellerd-Elliott** added that the recovery of the housing market would be expected to follow recovery in the labour market so this definition would help ensure support is provided for the appropriate time.

6.9 A **Member** said that while accepting that the figure within the three per cent of people in receipt of JSA at the end of two years who currently have mortgages might be very small, this could change within the next two years. The number affected could be increased by the number of lone parents (LP) moving from Income Support (IS) and people claiming ESA moving onto JSA. The **Member** asked what would happen in the case of a LP with a mortgage, who because of the LP changes moved onto JSA and because of difficulties with childcare was unable to return to work. **Mr Ellerd-Elliott** said that a full evaluation will be conducted before the two year period expires where scenarios as outlined will be explored and it is only after the full evaluation that a judgement will be made. A **Member** commented that research shows that it is LPs that are divorced or widowed with a mortgage that remain on benefits longer than single LPs.

6.10 A **Member** commented that many of the areas of concern that the Committee has highlighted stem from the two-year limit and that it might have

been more sensible to make the regulations temporary. **Ms Young** replied the regulations were temporary, and would be reconsidered. A **Member** said that if the number likely to be affected is considered quite small and the regulations are of a temporary nature, it is even more difficult to understand the rationale behind their introduction. **Ms Young** said that all aspects of the regulations would be reviewed in light of housing market changes but that it was important that JSA customers were clear about their rights and responsibilities. The **Member** commented that it seemed excessive for so few people, for a limited time and presumably at such a low cost. The **Chair** asked if details of the costs were known. **Mr Ellerd-Elliot** outlined the costs of increasing the capital limit and reducing the waiting period, which are nearly £100 million in the first two years. The expenditure impact of time limiting is expected to be relatively low within the overall cost of the policy reform, resulting in savings of around £5 million per annum by 2012/13.

6.11 A **Member** referred to table 7.5 in the Equality Impact Assessment (EIA) and said that time limiting will affect older customers who might claim Pension Credit. The **Member** added that it would also affect people in their mid to late fifties with a mortgage who become unemployed; these people could be faced with losing their home.

6.12 A **Member** asked why the payment of 50 per cent of SMI at 8 weeks had been removed for vulnerable customers. **Ms Young** said that it was a benefit simplification move and that vulnerable people did not lose out financially.

6.13 A **Member** commented that the proportion of people unemployed for over two years is very likely to increase beyond 3 per cent as historically this has been the case in previous recessions, and numbers of unemployed increase 'in step'.

6.14 A **Member** asked what would happen at the end of two years, if the economy did not pick up and people who have been claiming for more than two years and remain unemployed, can't pay their mortgage, can't sell and their home is repossessed. The Local Authority (LA) may consider that it has no legal responsibility to re-house them and may treat them as voluntarily homeless as they have not paid their mortgage.

6.15 A **Member** commented that the 52-week linking period appeared very ungenerous and asked how it had been arrived at. **Mr Roscamp** said that the 52-week linking period was already in place. The **Member** referred back to his earlier point about it possibly creating perverse incentives particularly in relation to temporary work and suggested that officials may wish to reconsider the linking period.

6.16 A **Member** commented that she had been following the discussion on Rightsnet about the regulations and that Welfare Rights Workers appeared to be concerned about the increase to £200,000 as they felt it might encourage people to borrow beyond their means and possibly end up unable to repay.

6.17 A **Member** asked for confirmation that no one would have reached the two-year stage before the results of the evaluation were known. **Mr Ellerd-Elliott** said that the Department has committed to carrying out a full evaluation towards the end of 2010. This would be before January 2011 when the first customers could become subject to time limiting. **Ms Young** said that the Department would undertake a full evaluation of the policy. A **Member** made the comment that information on what happened to people at the end of two-years would not be available.

6.18 After a private discussion, Officials were informed that the Committee had decided that the regulations are to be formally referred, and asked Officials to confirm in writing details of the costing assumptions.

## **7. The Social Security (National Insurance Number Information: Exemption) Regulations 2009 (Paper 06/09)**

7.1 **Mr Garry Gibson** from DWP introduced his colleagues, **Ms Denise Mackowiak**, **Ms Mary Baines** and **Mr Ron Baker** from Jobcentre Plus; **Ms Anthea Watson** and **Mr Trevor Sanders** from HMRC. **Mr Dashiell Caldwell** from HM Treasury observed this item.

7.2 **Ms Mackowiak** explained that the regulations would align the issue of National Insurance Numbers with Home Office policies. Only those with a right to live, work or access benefits in the UK would be issued with a National Insurance Number. The current system could give a perceived legitimacy of a right to work or reside in the UK where an individual has no such right. A National Insurance number is needed by most people in the UK because it acts as a unique reference number for Tax, National Insurance and Social Security Contribution records. In the current system, the partner of a legitimate claimant might have no right to reside but is issued with a National Insurance Number as an anti-fraud measure. Checks in the system mean that this is no longer necessary. The changes will not be retrospective and there should be no impact on benefit entitlements and minimal impact on claims. National Insurance Number staff interview partners who apply for a National Insurance Number. The applicant is asked to provide proof of identity and entitlement to be in the UK. If the applicant is not entitled to be in the UK, the application is refused. The Borders Agency and benefit staff are advised of the refusal. There is no management information on the applications which might be impacted, but it is thought that the number will be small. There should be no discriminatory impact on legitimate applicants. Those who have no right to reside in the UK but who are entitled to benefits – such as bereavement benefit on the death of a spouse – will receive a National Insurance Number. The purpose of the regulations is that they will have an impact on those who have no right to reside, claim or work in the UK.

7.3 **Members** asked if there is evidence to justify making a change; is there a problem to be resolved. Does this mean that the DWP is taking on an anti-immigration role. And how many hold a National Insurance Number and are working illegally. **Mr Gibson** replied that the problem is thought to be

small but the package brings policies into line. There is no real impact on benefits. There is an onus on employers to check that a potential employee will not be working illegally. Although possession of a National Insurance Number does not give a right to work or reside in the UK, it gives a perception of legitimacy. This issue needs to be resolved. Anecdotally, between three and six thousand National Insurance Numbers are allocated each year to people who do not have a right to reside. It is not known how many of these are working.

7.4 A **Member** asked about the legitimacy and policy intent of the current law and whether the new measure is essentially an immigration measure. **Mr Gibson** replied that a National Insurance Number is required for most customers. However, other counter-fraud measures mean that it is no longer necessary for this particular group to have one. The changes bring procedures into line with immigration policy.

7.5 A **Member** observed that there is a bigger issue for those who are entitled to a National Insurance Number and are trying to get one. He asked about processes for those who are subsequently given the right to reside. **Mr Gibson** advised that customers would need to tell the DWP and provide further information. He and **Ms Baines** explained that there are systems in place with leaflets and Home Office letters to advise applicants. The **Secretary** advised that these had been described to the **Committee** several years ago.

7.6 **Members** asked about paragraph 23 of the Equality Impact Assessment, how a view has been taken that the partner might be of either sex, but might there be an indirect effect. And how do we know if there are no statistics. For instance might almost all those impacted be female. **Mr Gibson and Ms Mackowiak** replied that the issue is that the person has no right to reside in the UK and that they would be impacted regardless of gender. There is no data by sex. The impact assessment can be changed to reflect this.

7.7 A **Member** noted that there were two groups who might be impacted; those who initially had a right to stay in the UK and those who never had a right to stay. She asked if policy was now to remove the second group. **Mr Gibson** advised that overstayers were as likely to be ineligible as illegal entrants.

7.8 **Mr Sanders** outlined the tax credits consequences of this change in DWP policy and advised that the Financial Secretary to the Treasury was keen to achieve two things. The first was that couples with children where one parent is an "illegal migrant" should not be disadvantaged and the second was that those here illegally did not benefit from tax credits. To achieve this, there will be changes to Tax Credit and Working Tax credit regulations. These will be notified to the Committee. Jobcentre Plus will continue to carry out evidence of identity interviews and notify the Tax Credit Office accordingly. **Mr Sanders** agreed to send a copy of his notes to the Committee. (*Attached at Annex A*). A **Member** noted that this should not make any difference to existing workloads.

7.9 **The Chair** noted that the impact assessment will be amended to reflect the possible indirect discrimination. (*The revised Impact Assessment has been received*). **The Committee** decided that it did not require the proposed regulations to be formally referred.

## 8. Discussion with JCP Officials about managing footfall and related issues.

8.1 **Mr Nick Owen** (Products and Services Management), **Mr Greg Watkins** (Operational Risk Management) and **Mr Ian Alvey** (Health and Safety) attended the meeting to discuss issues related to footfall within Jobcentres and recent correspondence with the Committee concerning suggested changes to the wording of WFI invite letters. **Mr Owen** began by stating that they had considered that the suggested changes to the letters were subtle and that it was not their intention to disadvantage vulnerable customers. The letters would still make it clear that customers could bring someone in to support them when they attended their WFI. DWP is involving more people in the WFI process. For example, group sessions are being held in Children's Centres. There will shortly be further announcements on increased outreach connected with WFIs.

8.2 **Mr Watkins** added that the purpose of the changes to the wording of the invite letters is to try and shift the emphasis so that they do not actively encourage people to bring someone to support them when it is not necessary. The original wording could have been seen as inviting people, while the new wording should allow people to self-select whether they need to bring someone to support them or whether they can manage on their own. There are complex risk avoidance plans in place in Jobcentre Plus offices that have been agreed with the unions. Part of the risk assessment involves looking at the number of customers coming into the offices. For example, in a packed office it is harder to react when people need help and overcrowding negatively impacts on customer privacy. In summary, the changes to the letters are part of a strategy to reduce unnecessary footfall.

8.3 **The Chair** asked what percentage of customers bring in someone to support them. **Mr Watkins** replied that while they had no robust figures, a rough estimate would be approximately 20-30 percent. **A Member** suggested that, although the letter to partners suggested that they could use childcare, in reality it would be very difficult to arrange ad-hoc, sporadic formal childcare. **Mr Owen** stated that they can help people with childcare and that they like customers to experience formal childcare. **Mr Watkins** added that when customers have children around, they are responsible for those children and so the quality of the interview may suffer as they are unable to concentrate fully. There are many examples of children running around offices. **Mr Owen** added that they can arrange interviews at the customer's home or in a Children's Centre.

8.4 **A Member** referred to the statement 'if you need support' that appears in the letters and suggested that this phrase implied that people should be able to cope on their own. **The Member** suggested that the letter should be clearer about what is being proposed and state that Jobcentres are very busy

places. **Mr Watkins** stated that the current wording could be seen as encouraging people to come along to the Jobcentre. **A Member** added that for confident people the change in wording would make no difference to their behaviour but that more vulnerable people would be less likely to bring someone.

8.5 **A Member** noted that, elsewhere in government, there is a move towards being more inclusive, yet DWP appears to be moving in the opposite direction. They added that formal childcare would probably be full at short notice and that perhaps DWP should consider making its Jobcentres more family friendly. As part of welfare rights principles, people should be able to bring someone with them when they have to attend an interview. **Mr Owen** noted that they were not withdrawing the principle but simply trying to discourage more casual attendance at jobcentres.

8.6 **A Member** asked about how robust the current system is under conditions of an economic recession and increasing footfall in jobcentres. **Mr Owen** added that it is not feasible to open new offices and so the new wording was part of a contingency plan to reduce footfall. **Mr Alvey** noted that they consider business process changes in terms of safe offices. An increase in footfall of 5,000 people might increase to 10,000 with the current wording of the invite letters. DWP analysis of serious assault incidents in jobcentres found that many were caused by unappointed footfall, leading to people milling about in offices. The current refresh of the letter might need to be reconsidered but the original wording was too open.

8.7 **The Chair** noted that the original invite letters were pleasant and welcoming while the proposed changes meant that the new letters would put up barriers for customers. **Mr Watkins** suggested that one way forward would be to reconsider the use to the word 'may' when referring to bringing children into the offices. It was agreed that SSAC Members would make further suggestions on the rewording of the letters.

## **9. Informal meeting with Professor Paul Gregg**

9.1 **The Chair** welcomed **Professor Paul Gregg** and thanked him for coming to meet the Committee.

9.2 **The Committee** had a very interesting and informative discussion with **Professor Gregg**. They discussed a wide range of issues, including: multi-agency support and personal budgets; a single working age benefit; increasing flexibility in the benefit system; sustainability and skills; alternative funding models; and carers.

## 10. Action Points and Action Taken

AP & Para.	
10.1 1.1	<b>Secretariat</b> to find out what is happening to the Community Sentences pilot. – <i>Officials have confirmed that the regulations to terminate the pilot will be brought forward.</i>
10.2 1.1	<b>Secretariat</b> to ask DSD – NI for a copy of the fuel poverty paper. – <i>Email sent. Minutes record that J O'Neill will get a copy if one is available.</i>
10.3 2.3	<b>Work Programme Committee</b> to consider project on Public Service and earnings rules. - <i>Scoping paper received.</i>
10.4 2.6	<b>Work Programme Committee</b> to draw up a timetable for the pieces of work agreed during the meeting and circulate a revised document and timetable for delivering the work ahead of the March meeting
10.5 2.7	<b>Members</b> to respond to papers on Northern Ireland Parity.
10.6 2.9	<b>Secretariat</b> to summarise DWP research on Lone Parents. – <i>Done.</i>

### Annex A. Notes from HMRC to accompany Item 7.

**HM REVENUE & CUSTOMS**

**Benefits & Credits Group  
100 Parliament Street  
London  
SW1A 2BQ**

**Tel:** 020-7147-2272  
**Fax:** 020-7147-2531  
**Our ref:** TS

**Date:** 7 January 2009

### **CHANGE TO ALLOCATION OF NATIONAL INSURANCE NUMBERS (NINOs) – EFFECT ON TAX CREDITS**

#### **Policy issues**

Our changes are as a consequence of the DWP policy change.

When we went to the FST with this issue, he was keen to achieve 2 things. The first was that couples with children where one parent is an “illegal migrant” should not be disadvantaged and the second was that those here illegally did not benefit from tax credits.

To mirror DWP's change in their NINO policy we intend to amend regulation 5 (Manner in which claims to be made) of the Tax Credits (Claims & Notifications) Regulations 2002 to provide an explicit exception to the general requirement to state a NINO in a tax credit claim in respect of those persons subject to immigration control (i.e. persons who require leave to enter or remain in the UK but do not have it) and who have not already had a NINO allocated to them. This relaxation in respect of the provision of a NINO maintains the principle that both members of the couple are claimants and are required to supply information about their personal circumstances and, crucially, their combined annual income.

To achieve the FST's wishes that those here illegally do not benefit from tax credits, we will be amending the Working Tax Credit (Entitlement & Maximum Rate) Regulations 2002 so that the second adult element of Working tax credit (which is worth up to £1,770 in the current tax year 2008-09, on top of the basic element) will not be payable to couples which are not responsible for a child or qualifying young person.

### **Operational issues**

As you have heard from DWP colleagues, JC Plus will continue with evidence of identity interviews for those persons that we know don't have a NINO. For those who are entitled to one, it would be business as usual. For those who are not, Jobcentre Plus colleagues would refer the case back to the Tax Credit Office with advice to the effect that having conducted the evidence of identity interview, although the person is whom he says he is, he is not entitled to a NINO because of his illegal immigration status. The Tax Credit Office would then process the claim using a "pseudo-number".