

1. Minutes and Action List

1.1 The minutes for the January 2009 and February 2009 meetings were approved after minor corrections.

1.2 **The Chair** asked for a report on regulations cleared by post in 2009. The Secretariat summarised as below.

No.	Title of paper
08/09	The Employment and Support Allowance (Up-rating Modification) (Transitional) Regulations 2008 <i>Cleared 9/2.</i>
11/09	The Social Security (Miscellaneous Amendments) Regulations (Northern Ireland) 2009 <i>Cleared 17/2.</i>
12/09	The Social Security (National Insurance Number Information: Exemption) Regulations (Northern Ireland) 2009 <i>Cleared 27/2.</i>
13/09	The Housing Benefit and Council Tax Benefit (Child benefit disregard and child care charges) Regulations 2009 <i>Reply by 4/3.</i>
14/09	The Social Security (Miscellaneous Amendments) Regulations 2009 <i>Cleared 2/3.</i>
15/09	The Tax Credits (Miscellaneous Amendments) Regulations 2009 <i>Cleared 2/3.</i>
17/09	Health in Pregnancy Grant - Decisions and Appeals Regulations. <i>Reply by 9/3</i>

Expected items.

	Voluntary NICs Regulations and fact sheets. <i>These must be laid by 16/3. They are expected to be sent to the committee by the middle of next week.</i>
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1.3 **Members** asked about paper 13/09. They asked the secretariat to find out how those who will benefit from the changes will know that they are now entitled. They also asked for information about automatic recalculations for those for whom Child Benefit is currently taken into account and how the changes will be publicised so that recipients know why their benefit has changed.

1.4. The **Committee** decided that it did not require the Housing Benefit and Council Tax Benefit (Child Benefit disregard and child care charges) Regulations 2009 to be formally referred.

1.5 **Members** discussed the proposed regulations on voluntary National Insurance contributions. A **Member** explained how the changes proposed by the Chancellor are likely to be beneficial.

1.6 The **Secretary** advised that when regulations are sent out for postal clearance, members can still ask that they should be brought to the next meeting.

1.7 **Members** discussed whether it is appropriate to assume that absence of a reply means assent to the regulations. A number of **Members** noted that they do not send replies when they agree with comments made or questions already asked by other members. The **Secretary** advised on some of the practical issues involved here and explained how postal clearances are generally only used when the regulations do not appear to be contentious. A number of **Members** agreed to acknowledge postal papers whenever possible, so as to ensure that a 'quorum' had been established in accordance with the Rules of Procedure. The **Chair** advised that the secretariat should record who had replied and that at least three responses are required for an active decision.

1.8 **Members** noted the increase in regulations being cleared urgently by post. They asked that a running list be kept of these and a record of those cleared since the last meeting should be sent out with the papers for the next meeting.

2. Chair's Report

2.1 **The Chair** advised members that Rt. Hon Tony McNulty MP (Minister of State for Employment and Welfare Reform, and Minister for London) has sent his apologies because he is not able to attend the meeting (agenda item 5).

2.2 LHA regulations have been added to the agenda at item 4.

2.3 The **Chair's** report had been circulated before the meeting. Detailed discussion took place after item 3.

2.4 The 'urgency' procedures have been used to make regulations to make provision for supporting the resettlement of vulnerable UK passport holders from Zimbabwe. The regulations will be sent to the committee as soon as possible.

2.5. Members have been sent a copy of the Secretary of State's draft response to the Flexible New Deal report. The DWP has announced that it was putting a hold on the tendering process, following reports that potential providers were concerned about the impact of the recession on their planning assumptions. A **Member** reported that Parliament had been lobbied and the Government has agreed to increase the management fee from 20% to 40%. He noted arguments about the effectiveness of contracting out the provision of work-focused services.

2.6. The Government's response to the Social Fund consultation that took place before Christmas has been published and copied to members. There has been concern about any future role of Credit Unions in the delivery of Social Loans and their current capacity to take on this role. There will be consultation in the summer about the role of Community Care Grants. **The Chair** noted his special interest in these matters in his role as the Social Fund Commissioner, and informed members that he had drawn the Department's

attention to the omission in the bill of an independent review of new loans and Community Care Grants supplied in the form of white goods.

2.7. The letter on 'parity' in Northern Ireland, in response to the recent correspondence from John O'Neill, has been sent.

2.8. It is hoped to have the new SSAC website up and running early in April. This will coincide with the re-launch of the various DWP websites.

2.9. A **Member** noted that the report on the visit to Bathgate will be circulated once a few corrections have been made. Another **Member** reported on his attendance at the most recent Welfare to Work conference. He advised members of the need for a more active dialogue with stakeholders and contractors who are already in the system.

2.10 In the context of encouraging employment, a **Member** noted that the JSA system does not seem to cope well with irregular earnings, such as occasional casual work. **Members** also discussed the impact on benefits of fees paid to those who hold public appointments, such as on health authorities, and expressed concern that good data on does not seem to exist. As an example, someone with fees over five thousand pounds a year would find themselves above the permitted earnings limit if they were on ESA but would not be barred from receiving JSA. In the context of potential impacts on public service activities, a **Member** expressed concern about the worsening gender diversity on health trusts and thought that there seem to be fewer disabled members. Another member advised suitable sources of examples.

2.10. There have been no comments from DWP sponsors on the draft Work Programme paper. This has now been finalised and circulated to members.

2.11 The programme for the visit to Northern Ireland is being finalised. A start has been made to the June (Cardiff) programme. The Secretariat is no longer allowed to book five star hotels for these events. Alternatives are being sought for the two Hilton bookings.

Reserved items.

The Social Security (Housing Costs Special Arrangements) (Amendment) Regulation 2009 – Paper 16/09

3.1 **Ms Nina Young, Mr Tim Roscamp** and **Mr John Kyriacou** from Housing Benefit Strategy Division presented the item. **Mr Roscamp** thanked the Committee for considering the proposals prior to commencement of the formal referral agreed at the January meeting in relation to The Social Security (Housing Costs Special Arrangements)(Amendment and Modification) Regulations 2008 – paper 05/09 – (SI 2008/3195).

3.2 **Mr Roscamp** explained that the proposals amend unintentional anomalies created in SI 2008/3195. **Mr Roscamp** said that the amending regulations:

- incorporate minor amendments to make the legislation gender neutral, to ensure consistency with current drafting practice;
- ensure that a claimant already in receipt of a relevant benefit which includes housing costs under the old rules continues with support calculated on this basis when moving to another relevant benefit where there is no gap in entitlement, rather than getting assistance under the new rules;
- ensure that a claimant who is continuously entitled to the same benefit, which includes support for housing costs under the old rules, continues to be dealt with under those rules; and
- ensure that a claimant who is in continuous receipt of Jobseeker's Allowance cannot access a new 104 week period of payment of housing costs.

3.3 **Mr Roscamp** explained that a further amendment would be made. This would prevent the situation whereby a person who had been in receipt of Pension Credit but then switched to claiming JSA (where the rules relating to any claim for help with housing costs would remain the same) then received the £200,000 capital limit if they subsequently moved back to Pension Credit.

3.4 The **Chair** asked for clarification on the policy intent behind these changes. **Ms Young** said that the Regulations brought before the committee in January were a package of temporary measures designed to give help to a particular group of people and that these amendments restore that original policy intention.

3.5 A **Member** said there was widespread concern about the way in which the linking rules found in the un-amended IS, JSA and ESA regulations would work under the new rules. The **Member** said that for each of the relevant means-tested benefits there were provisions to require claimants who did not actually qualify for benefit to be treated as if they were receiving them, for the purposes of starting the qualifying period running, as long as they either qualified for the contributory benefit or credits, and the only reason for not qualifying was excess capital or income. Many welfare advisers asserted that internal guidance was that only claimants actually in receipt of the means-tested benefit as at 5 January 2009 would be able to take advantage of the new 13 week rules, and that others would still be subject to the old 39 week rule. **Mr Roscamp** said that he expected this issue to come out in the consultation and that it would be considered carefully.

3.6 A **Member** asked why a person who claimed Incapacity Benefit (IB) would wait 39 weeks for help with housing costs and someone who claimed Employment Support Allowance (ESA) would wait 13 weeks. **Mr Roscamp** said that the Regulations had originally been focused on people making claims to benefit on or after 5 January 2009 when it would not have been possible to claim IB. It was not therefore considered as part of the original policy intent. As a result of a late decision to include customers already in waiting periods in the regulations IB was not included.

3.7 A **Member** asked if the number of people who benefited from the new rules, but who now have to move back, was known. **Ms Young** said that figures were not available but that there was no evidence to suggest that it was widespread. The **Member** commented that there would be possible consequences for the people who had to move back. The **Chair** commented that those affected would not need to repay any monies. **Mr Roscamp** confirmed that that was the case.

3.8 A **Member** asked what would happen in the case of a family in receipt of help with housing costs who split up and one party made a new claim for help. The **Member** asked whether the claim would be linked to the original claim date, or whether there would be a new claim date. **Ms Young** said that the impact on couples was looked at when the Impact Assessment was carried out. She did not recall that anyone would be disadvantaged, as existing rules to protect the new claimant would continue to apply, but that she would get back to the committee on that point. The **Member** commented that it could create a perverse incentive.

3.9 A **Member** referred to Para 20 (Child Poverty) in the EM and asked if the term 'package' applied to both sets of regulations and commented that he felt that this was not strictly accurate. **Ms Young** said that she understood the point the Member was making, but that officials considered the amendments to be part of the original regulations. The **Chair** said that for the purposes of clarity, as this was a new EM, this point should be clarified in a revised EM.

3.10 A **Member** welcomed the tabled EM as it cleared up a number of drafting errors. The **Member** said that these regulations are being presented as a temporary measure and asked officials if any consideration had been given to how these regulations would be rescinded. **Mr Roscamp** said that when the announcement about these regulations was made it was agreed that they would be reviewed when the housing market recovers. However, the Parliamentary Under Secretary (PuS) – Kitty Ussher - told the Merits Committee that they would be reviewed in two years. **Ms Young** added that the PuS had also told the Merits Committee that after the two years the process would revert to the original regulations. A **Member** questioned the period of two years, saying that lenders might want something more concrete. The **Member** added that if lenders were uncertain what was going to happen they might decide to take repossession action long before the end of the two-year period. The **Chair** asked if the two-year period started in January 2009. **Ms Young** explained that no formal decision had been made on when the measures in these Regulations might be revoked, or what might happen at the end of the two-year period and Ministers would be considering this further. A **Member** asked if the two-year period related to the scheme or to individuals, because this would mean differing end dates. **Ms Young** commented that this would depend on how any transition is managed. The **Chair** commented that all of these issues are likely to feature in the committee's report.

3.11 A **Member** asked if officials had a feel for how lenders had reacted to these changes. **Ms Young** said that it was unfortunate that the analyst was unable to attend the meeting, as he would be able to provide further

information, but she felt sure they could provide the committee with the information following the meeting. The **Member** commented that lenders would undoubtedly not like the uncertainty surrounding when the two-year period started and ended. The **Member** continued that this uncertainty could be undermining lender confidence in lending to people who may possibly become unemployed in the future. **Ms Young** mentioned that the Treasury had created a Lending Panel, and that there was extensive dialogue with lenders. **Mr Roscamp** said that lenders welcomed the increase in the capital limit from £100,000 to £200,000, the freeze in the interest rate on which SMI is calculated and the reduction in the waiting period but not the time limiting.

3.12 A **Member** said that it was originally estimated that the number of people that could be affected by these changes would be relatively small; however, due to the current economic climate the number affected could potentially be far greater and asked if officials had done any work on the numbers involved. **Ms Young** said that detailed information was not available. A **Member** asked if officials had considered looking at the data from previous recessions, as this would give some indication of possible impacts. **Mr Roscamp** said that analysts were currently working with Jobcentre Plus colleagues on the data that can be collected. The **Chair** asked when the data was likely to be available. **Ms Young** responded that by April, it would be clearer as to what data could be collated. A **Member** commented that it was not unusual for analysts not to have detailed information, but that they should have access to proxy information. **Ms Young** said that she would find out what information could be supplied.

3.13 The **Chair** referred to the penultimate bullet point in Para 2 of the EM and said that, as he understood it, the Standard Interest Rate was to be frozen for six months. The **Chair** asked if that was correct and if so from what date. **Ms Young** said that the Chair's understanding was correct and **Mr Roscamp** confirmed that it was from the 24th November 2008.

3.14 The **Chair** asked that officials produce a revised EM and that they clarify the following points:

- someone claiming Pension Credit switching to JSA and then reverting (Para 3.3);
- what happens to the claim date in the case of a family split (Para 3.8);
- clarity on when the two-year period begins and ends (Para 3.10); and
- information on the number of people remaining on JSA after two years (Para 3.12).

3.15 The **Chair** said that these proposals and the Regulations presented to the committee at the January 09 meeting would be taken on formal referral.

4. LHA - Discussion of draft report

4.1 **Members** reviewed the draft report on Local Housing Allowance. Changes were identified and made. The **Chair** asked members to send any

further changes to the secretariat by Thursday. The secretariat are to circulate the revised version by the weekend.

5. **Cancelled** – see 2.1.

6. **Presentation on the Welfare Reform Bill**

6.1 **Mr Andrew Latto** (Deputy Director, Welfare Reform Bill) and **Mr Stuart Edwards** (Bill team member) spoke about the Welfare Reform Bill and answered questions from Members. **Mr Latto** told Members that the bill covers about half the measures which were introduced in the White Paper. The other measures do not require primary legislation.

6.2 **Mr Latto** explained that the Welfare Reform Bill effectively includes four separate bills. The core of the bill comes from the view of more control for disabled people. However, the emphasis is on welfare.

6.3 The Welfare to Work part of the bill is aimed at the “Progression to Work” category of customers. It includes a range of primary provisions to allow implementation for various groups, as required.

6.4 The Child Maintenance part is to tie-up some of the aspects remaining from the Child Maintenance Bill.

6.5 Joint Birth Registration came from another White Paper. It allows both parents in England and Wales to have a say in the education and religion of their children. The Minister for these provisions has changed from James Purnell to Ed Balls.

6.6 Clause 1 of the Bill introduces a scheme for customers who have been claiming JSA for more than two years. This reiterates what is currently covered by JSA regulations. This must be used with a view to improving employability.

6.7 **A Member** asked what is meant by “work for your benefits” and whether this was work or work experience. Another **Member** asked why the term is in inverted commas. **Mr Latto** explained that policy is that “work for your benefits” means work experience. The term came from the white paper. It was not intended to have legal effect because it was to have been in the heading and not the body of the regulations.

6.8 **A Member** noted that this seemed to be very similar to Flexible New Deal and asked why customers affected by these changes could not be paid a supplement for taking part. **Mr Latto** asked that the question be referred to Emily Ackroyd, the policy lead for this part of the Bill.

6.9 One **Member** drew attention to the term “Work Related Activity” and another asked if customers would be required to participate in group work. **Mr Latto** explained that this could include anything short of work, such as work

experience and training. This is subject to safeguards, such as the availability of suitable childcare.

6.10 **A Member** asked about those with mental health conditions; the boundaries between “medical intervention” and counselling and would this relate to psychiatric interventions. **Mr Latto** explained that Jobcentre staff should provide encouragement, but this could lead to counselling with the consent of the claimant. Another **Member** pointed out that MIND is lobbying on this aspect of the Bill.

6.11 **Mr Latto** explained the “Progression to work” aspect of the Bill (Clauses 2-6). These clauses enable the move to a single benefit for people of working age. The issue is that carers will remain entitled to IS. Lone parents with children aged 3-6 years will be required to undertake work related activities but not job searches. The detail will be in the regulations. Drafts of these are not yet available, but **Mr Latto** said that a “road map” document is available to provide further background information to these proposals. It will be sent to the Secretariat for distribution.

6.12 **A Member** asked if figures could be provided for lone parent customers with children in the 3-6 years range, identifying at what stage they were they at on the “ready for work” scale. **Mr Latto** explained that this information was being gathered, but it was an area that should be highlighted to policy colleagues.

6.13 **Members** expressed concern about the change in policy since the last Welfare Reform Bill. Then, Parliament was told that a power to direct recipients of the Employment and Support Allowance to seek work would not be sought. Replying to **Members**, **Mr Latto** explained that the powers in the current Bill stop short of a jobsearch requirement, but do add to the current requirement to conduct “work-related activity” a power to require “a [specified] work-related activity”.

6.14 **A Member** asked why Clause 7 (“abolition of Income Support”) could not be withdrawn, or at least re-named to avoid confusion; because the regulations involve taking powers to do something at an uncertain date in the future. **Mr Latto** said that outright removal would be an impediment to the move towards a single working-age benefit.

6.15 **Members** asked for a brief to be produced on Clause 7 because many on Income Support, such as carers and Lone Parents with children under 3 years, would need to be accounted for before the benefit is withdraw, or have no safety net within the welfare state. **Mr Latto** advised that those other than carers would have to claim JSA but would not be subject to the jobseeking conditions. The situation for carers would form part of the forthcoming review being conducted jointly with the Department of Health.

6.16 **Mr Latto** explained that the provisions relating to drug dependency within JSA and ESA will be piloted in identifying and aiding in the recovery of addicts to opiates and crack cocaine. The conditionality of the payment of

benefit will be compliance to the programmes suggested for rehabilitation. Customers will receive a treatment allowance during this period.

6.17 **A Member** asked if all customers would be required to undergo drug testing. **Mr Latto** replied that it was within the powers to ask all claimants about their drug use, but the policy intention is to do this only where it appeared that drug use was an impediment to finding and taking work. Another **Member** asked if this scheme would eventually be widened to alcohol misuse. **Mr Latto** replied that the commitment is to pilot with respect to opiates and crack cocaine, alcohol would be considered in the light of evidence. The scale of the need for rehabilitation services is an even greater issue with alcohol than with opiates and crack cocaine.

6.18 **Mr Latto** explained that the conditions for contributory benefits will change. **A Member** asked if this was designed to save money. **Mr Latto** answered that it did reduce benefit expenditure, but the policy rationale was linked to the transition to a single benefit. Another **Member** asked if there were any figures to support this move. **Mr Latto** stated that figures were included within the Impact Assessment.

6.19 **Mr Latto** explained the Government's intention to remove the Adult Dependency Increase from Maternity Allowance and Carers Allowance. **A Member** noted that this was a move to means-tested benefits.

6.20 Clauses 13-17 allow changes to the Social Fund system. **Mr Latto** advised that there is no intention to charge interest on Social Fund loans. Clauses 13 to 15 would allow Credit Unions to deliver some Social Fund functions. However, this will be subject to a full consultation over the summer of 2009. Clauses 16 and 17 provided for Jobcentre Plus to purchase white goods and services on behalf of customers. They should be able to procure these at discounted rates, so providing more money to spend on Social Fund Loans. **The Chair** informed the officials of his current role as the Social Fund Commissioner and raised the question on Community Care Grants (CCG) and whether the CCG budget would be affected by these changes. **Mr Latto** replied that the money would remain within the CCG budget. **The Chair** also asked if it was intentional that there were no independent review appeal rights included within clause 16 and 17 regarding white goods. **Mr Latto** said he noted the point. Cause 18 allows greater use of payments on account to relieve pressure on the Social Fund. **The Committee** welcomed this news.

6.21 **Mr Latto** explained changes to penalties incurred by those convicted of benefit fraud. Changes to the system would mean that a benefit sanction could be imposed after one offence; the old system was that this would not happen until two offences had been committed. **A Member** asked if this would be applied to customers who had chosen to accept a caution, and whether the impact on benefits would be explained to customers if this was now the case. **Mr Latto** stated that the implications would be explained to the customer, i.e. that they would incur a sanction if they accepted a caution. He noted that the regulations on these matters would follow the existing "two-strikes" template.

6.22 Regulations will provide the Department with the power to sanction customers who have committed violence against staff. **The Committee** welcomed initiatives to deal with violence but expressed concern on the use of sanctions. **Mr Latto** also explained that criminal law would also continue to apply in these cases.

6.23 **Mr Latto** explained the intention to pilot data sharing to establish *prima facie* entitlement to Pension Credit (clause 21).

6.24 Clause 22 provides for pilot schemes involving social security to last for up to 36 months.

6.25 **Mr Latto** concluded his presentation with a reflection on the interaction between the Bill and the Gregg report. **A Member** stated that the Gregg report was as much to do with customers being empowered. Another **Member** stated that the Bill only gave greater regulations and powers to the Government; there was no incentive to customers within this to change their behaviours. **Mr Latto** noted that it was unfortunate that legislation provides the sticks, whereas money provides the carrots – the Bill itself is therefore only part of the story.

6.26 **The Chair** thanked **Mr Latto** for his presentation. The chair also advised that he would write to the SoS with the Committee's views.

7. Other Business

7.1 After the business on the agenda, members discussed ongoing issues.

8. Action Points for SSAC and Action Taken

AP & Para.	
7.1 1.8	Secretariat to keep a record of regulations cleared by post. List of regulations cleared since last meeting to be produced for next meeting. <i>Done.</i>
7.2 2.9	Report on visit to Bathgate will be circulated. <i>Done.</i>
7.3 4.1	Local Housing Allowance report to be circulated. <i>Done</i>