

**MINUTES OF MEETING HELD AT NEW COURT ON 12<sup>th</sup> NOVEMBER 2008**

**Present:** Chair: Sir Richard Tilt

Members: Kwame Akuffo  
Angus Erskine  
Laurie Naumann  
Patricia Smail  
Janet Walker  
Brigid Campbell

Guests and Officials: Sue Carey (Item 3)  
Beverley Walsh (Item 3)  
Pam Bradshaw (Item 3)  
Gary Rodgers (Item 3)  
Sylvia Thompson-Call (Item 3)  
Helen Gadd (Item 4)  
Harry Cunniffe (Item 4)  
Lee Kirkham (Item 4)  
Caroline Wilson (Item 4)  
Cliff Newman (Item 4)  
Rt. Hon Stephen Timms (FST) (Item 5)  
Cerys Morgan (HMT) (Item 5)  
Kathryn McKerrow (HMT) (Item 5)  
Tracy Gale (HMRC) (Item 5)  
David Skinner (HMRC) (Item 5)

Observers: Anne Donkin  
Yasmin Ghazali  
Darren Fellows  
Philip Cooper

Secretariat: Ms G Saunders  
Dr A Bee  
Dr N Moss  
Mrs E Harnett  
Mr J Allen (Until 11:40)

**Apologies:** Les Allamby, Richard Exell, Elaine Kempson; Robert Walker;  
Alison Garnham, Simon Bartley.

## **(A) Private Session.**

A1. The **Chair** nominated Professor Janet Walker to be deputy chair in succession to Professor Anthony Ogus who retired at the last meeting. **Members** agreed the appointment.

## **Main Meeting**

The chair welcomed Anne Donkin, Yasmin Ghazali, Darren Fellows and Philip Cooper as observers to the meeting.

### **1. Minutes and Action List**

1.1 **Members** agreed the minutes of the October 2008 meeting.

*[After the meeting, the action list was updated at item 8.6 (5.10), to note that Ms Humphry agreed to investigate whether a list of pilots (both current and proposed) could be provided for the Committee.]*

### **2. Chair's Report**

2.1 The **Chair** drew members' attention to the recent article in the Observer on the Lone Parent report. It was noted that this has prompted further media interest.

2.2 Members were told that the **Secretary** has written to officials with Members concerns about the recent revision to the standard Jobcentre Plus invitation letters. The DWP has now contacted other stakeholders and asked for comments on the new drafts. Members concerns about the management of foot fall in Jobcentre Plus offices may be raised with Mel Groves at the next meeting.

2.3 Members were told about the delays in clearing the draft Memorandum of Understanding and that HMRC have now sent their amended draft. The **Secretary** advised that the Memorandum is almost agreed, and that clearance will be expedited.

2.4 A **Member** reported on the recent visit to HMRC at Merry Hill. Concern was raised about the use of 'bleeped' recorded calls rather than listening to live conversations. The sample was realistic and included a call where some possibly incorrect advice was given out. The local management noted that this will be used for remedial training. Very positive feedback was given about the work done on family breakdowns and in building long term relationships with customers. It was noted that where a caller has to call back with further information, they are given the number of a priority line. The **Member** reported that the complaints handler has apparently had few complaints to deal with. Other **Members** noted that it is difficult to register a complaint if you cannot get through on the phone. The **Secretariat** advised that the deferred visit to HMRC in Bathgate is scheduled for 29<sup>th</sup> January and offered a series of dates for a visit to Caspar. **Members** are to let the Secretariat know when they can attend.

2.5 **Members** reported on the consultation event on the Green Paper. Concern was expressed about the electronic question and answer system, with some scepticism among participants at this and other events that the system was being used to screen-out questions. There was feedback that questions which were unanswered on the day would be answered as part of wider consultation. The **Secretary** agreed to raise the concerns with Roger Pugh.

2.6 A **Member** reported back on the Tax Credits Consultation Group and how a sub group will be set up to deal with operational and technical issues. She reported that producing better guidance had produced improvements in forms. The **Secretary** advised that the Secretariat will be represented at the new JCP / HMRC joint customer representative meeting today.

2.7 **Members** commented on their review of the 'Back to Work' leaflet, expressing concerns about the completeness and accuracy of the information; in particular with thresholds such as ages and hours worked. **Members** noted the impact of wrong information on employers and at tribunals. The **Secretary** advised that the leaflet appeared to have been produced on a fast track without all the Department's customary controls. It reached SSAC and external stakeholders (who have made similar comments) after it had been signed off by ministers. **Members** asked to see the revised version before it is issued.

2.8 The **Chair and Secretary** advised members about progress on the Flexible New Deal consultation. **Members** asked that officials attend the December meeting before the report is finalised.

2.9 **Members** discussed the stakeholders' event on 13<sup>th</sup> November. They agreed on the importance of listening to delegates and noting their priorities. **Members** agreed that the Chair's address should note the Committee's concern about housing cost changes and the use of the urgency procedures. It was agreed that Professor Janet Walker will chair a work programme sub group in December to review the outcomes, and put together an updated programme.

2.10 **Members** discussed the postal clearance of the Health in Pregnancy Grant Regulations (Paper 54/08) and noted the response by HMRC to members' written questions. **Members** asked the Secretariat to contact HMRC with their concerns. These include the use of the 31 day limit when a form is incomplete. **Members** expressed concern about additional complexity and how this grant might have been more effective if it were linked to an existing targeted benefit. They asked whether HMRC has experience of paying similar benefits so as to ensure that this grant is rolled out successfully.

### **3. The Social Security (Miscellaneous Amendments) (No.X) Regulations 2008**

3.1 **Ms Bev Walsh, Ms Pam Bradshaw, Ms Sue Carey, Ms Sylvia Thompson – Call and Mr Gary Rodgers** presented the item.

3.2 A **Member** raised a number of queries on the proposals prior to the meeting, to which Officials had responded – the response is reproduced below.

3.3 **Ms Walsh** explained that the package contained proposals to make miscellaneous amendments to regulations relating to Income Related Benefits. **Ms Walsh** said that the amendments mainly clarified the policy intent or removed a range of redundant provisions. **Ms Walsh** explained that the amendments were grouped under four main headings and that she would go through each one in turn. **Ms Walsh** said that the first group were general ‘tidying up’ proposals and invited comment from the Committee.

3.4 The **Chair** asked if the NHS travelling expenses, detailed in Para 1.21 of the EM would apply to Northern Ireland. **Ms Bradshaw** explained that Northern Ireland will make their own regulations.

3.5 A **Member** referred to Para 1.28 of the EM and asked if the position in Scotland would change. **Ms Bradshaw** said that the change was applicable to England and Wales only.

3.6 A **Member** commented that the term ‘Local Health Boards’ (used in Wales) as referenced in Para 1.29 would not exist in another 12 months. **Ms Walsh** said that officials would seek lawyers’ advice on future proofing this amendment.

3.7 The **Chair** asked why it was necessary to add ‘in Scotland’ before ‘any croft land’ in a proposed change to CTB Schedule 5 Para 1. A **Member** commented that it might relate to tenure. **Ms Bradshaw** said that the insertion would achieve alignment of the relevant regulations, but that officials would reconsider and remove the addition if unnecessary.

3.8 A **Member** asked why in the benefit simplification statement was a reference made to children. **Ms Bradshaw** acknowledged that State Pension Credit (SPC) can apply to a claimant and any partner. However, while payments of war pension can be made in respect of dependant children, where a “child” is unable to support itself because they are disabled, a war pension payment can be made indefinitely. So someone who is, for example 50 years old could still be receiving a "disabled child payment".

3.9 **Ms Walsh** explained that the second section dealt with the removal of redundant provisions and invited comment or questions.

3.10 A **Member** referred to Para 2.3 and said the use of the term ‘recorded as a refugee’ should read ‘granted refugee status’. **Ms Bradshaw** said that she would look into the wording.

*Officials have returned the following; Having checked with the relevant team, “recorded as a refugee” is the correct terminology. When referring to someone who has been “granted refugee status”, this is normally in the context of the form of leave, which has been granted.*

3.11 The **Committee** had no questions on the next section dealing with disregard of arrears/concessionary payments. **Ms Walsh** said the final section dealt with war pensions.

3.12 A **Member** asked for clarification on the use of the term, 'retired pay or pension'. **Ms Bradshaw** explained that "retired pay" was payable to officers and "pension" to those in other ranks.

3.13 A **Member** asked if there should be a reference to civil partners in the second bullet point of Para 4.2. **Ms Bradshaw** said that it was included in bullet point three and that it covers both. The **Member** asked what the acronyms GIP and SGIP stood for. **Ms Walsh** replied Guaranteed Income Payment and Survivors Guaranteed Income Payment, respectively.

The **Committee** agreed that it did not require the proposed regulations to be formally referred.

**Response from officials on - The Social Security (Miscellaneous Amendments) (No. X) Regulations 2008**

**1. EM p7 Para 1.27-1.29 and Regs p3 2.7giii**

*Reference to Local Health Boards*

*Our 22 LHBs are about to be re-configured with the NHS Trusts/abolished, and the roles are altering.*

*Will the proposed wording be accurate after these changes (still being worked out)? i.e. will the new 7 organisations act as 'Local Health Boards' for these purposes. In addition, some of the LHB responsibilities are going to a new 'National Board'. Will the 'National Board' also be for regulation purposes a 'Local Health Board'?*

*i.e. Is this change appropriately future proofed?*

**Answer:**

*The National Board will not have any functions for which we will need to make provision in the context of the Regulations.*

*Reference to the establishment of LHBs is accurate as currently drafted and will continue to be so following the planned re-configuration of LHBs. However, to future-proof the Regulations, we could consider removing the reference to establishment of LHBs under the 1977 Act provisions, as the glossing provisions of the 2006 Consequential Provisions Act will treat all bodies established under the 1977 Act as having been established by section 11 of the NHS (Wales) Act 2006 until the new bodies are established early next year using section 11 of the 2006 Act. We will consider whether this is necessary.*

**2. EM p6 1.21**

*For Wales and Scotland the regs alter regs 5, 6 and 12 - whereas England it is 5, 6 and 11. Is this correct?*

**Answer:**

*This disregard applies where a person is entitled to remission of, or payment of, relevant expenses either in full or in part, or to a repayment in respect of those expenses. In England, the relevant provisions are in regulations 5, 6 and 12; in Wales, in regulations 5, 6 and 11; and in Scotland, in regulations 3, 5 and 11.*

### **3. EM p8 1.36**

*Is Wales already covered elsewhere by reference to 'training allowances'?*

**Answer:**

*Para 1.36 deals with payments of education maintenance allowance and corresponding payments. This amendment only applies to the Scottish provisions. The Welsh and English provisions, which are not being amended, fall under the Education Acts of 1996 and 2002.*

### **4. EM p8 1.41**

*Alteration of 'the National Assembly for Wales' to 'the Welsh Ministers'. Can someone explain the reason for this? Will it apply through out all new regs? Does it relate to the introduction of Legislative Competency orders? Is this change now 'future proofed' to cope with future LCOs?*

**Answer:**

*This change was brought about by the Government of Wales Act 2006, which for the first time in Wales created a formal separation between the legislature - the National Assembly for Wales - and the executive - the Welsh Assembly Government. The "old" National Assembly for Wales did not make this distinction and the title encompassed everyone from ministers to officials. Legislative Competence Orders (LCOs) are just another name for Orders in Council and were introduced by the 2006 Act as a means of giving the National Assembly additional powers.*

*As all our powers are reserved to Westminster we won't, or shouldn't, be directly involved in any of the LCOs - except to ensure that they don't encroach upon our reservations. So the only direct link between the name change and the LCOs as far as we're concerned is that they both resulted from the 2006 Act and came into effect at the same time in May 2007 when the first Assembly election took place after the Act was passed. The Assembly's former functions, including those of making subordinate legislation, were, in the main, transferred to "Welsh Ministers" upon separation. As a result of the 2006 Act the relationship between the National Assembly for Wales and the Welsh Assembly Government became much more like the relationship between the UK Government and Westminster; Parliament passes the laws but it is the responsibility of the Government to carry them out. The name change "Welsh*

*Ministers" will apply to all our new legislation when and if we need to refer to them.*

*There is no direct relationship between our legislation and LCOs.*

#### **5. EM p 9 1.49 Children Act payments**

*Is Wales covered by 'England and Wales' legislation hence no change required?*

**Answer:**

*Yes. The Adoption and Children Act 2002, which is mentioned in the same disregard provision, applies in England and Wales.*

#### **4. The Social Security (Contribution Credits for Parents and Carers) Regulations 2009, and The Social Security (State Pension and National Insurance Credits) Regulations 2009 Paper 52/08.**

4.1 **Harry Cunniffe** introduced his colleagues, **Helen Gadd, Lee Kirkham, Cliff Newman and Caroline Wilson** and outlined the proposals for the new carer's credit and amendment of pensions and credits regulations. He explained how these two sets of regulations are to complete the changes arising from the Pensions Act 2007 for pensions from 2010. They include outstanding changes to the Graduated Pensions scheme and auto credits arising from the Pensions Act 1995. Appeal rights in respect of the new carer's credit are still missing but will be introduced. In December the team will be coming to SSAC with the working age side of the package covering changes required as a consequence of State Pension age equalisation arising from the 1995 act.

4.2 A **Member** drew attention to the Equality Impact Assessment at Annex B to the paper and how there is insufficient data for some groups. It was noted that the existence of an impact assessment assumes that equality has been tested. The **Member** asked if alternative sources of intelligence could be used to make an educated guess at the impact for various groups.

4.3 **Mr Newman and Mr Cunniffe** acknowledged the lack of good data, especially in respect of ethnicity and how much measuring 'disability' depends on the definition used. They explained how the collection of data is mandatory but there were questions about how effectively it has been done across the DWP. They explained how difficult it can be to obtain answers to ethnicity questions from claimants, especially over the telephone and from employees by their employers.

4.4. **Members** expressed concern about the potential for migrants to suffer a built in disadvantage because they have a relatively shorter working life in the UK. **Mr Cunniffe** drew attention to pages 41 and 42 of their paper. He noted that although data exists for the current ethnicity breakdown of the population; one cannot assume that it is valid for 1961 to 1974 when many members of

ethnic minorities might not have been in the UK. **Mr Newman** offered to supply the committee with copies of the ethnicity data used.

4.5 **Members** noted the lack of good data, commenting that there needs to be a new drive to improve the collection of data on ethnicity when contacting customers. They noted how accurate information is vital if impact assessments are to be valid and asked if thought could be given to finding a way to build in knowledge as it is gained.

4.6 **Mr Cunniffe and Mr Newman** told **Members** about work on pension reforms for 2010, how work is being done to look at those who are not on track for a full state pension and the impact of migration. They advised that they had reviewed the responses to the consultation that preceded the 2007 Pensions Act to identify issues on ethnicity and disability and reviewed other research to identify gaps, for example, the Pensions Policy Institute has recently reported on this issue. No significant new issues have been identified. A key reason for this is that the 2007 Act has been geared to support those who have been disadvantaged in the labour market and research evidence shows that many disabled people and people from minority ethnic communities fell into this group. However, the Department does not always know why individuals have been disadvantaged. **Mr Newman** explained it might be possible to use survey data in future to provide robust longitudinal data to better link people's working life histories to pension outcomes, but there are confidentiality issues over trying to link survey data to named individuals.

4.7 A **Member** asked about the breaks of up to 12 weeks which will be allowed for those receiving Carer's Credit, noting that this seems to be very flexible whilst the 20 hours rule appears to be inflexible. **Mr Kirkham** explained how multiple breaks of up to 12 weeks each might be possible but are not likely. They have looked at patterns of caring and noted that typically the person caring would have lots of short periods such as when the person they care for goes into hospital. The carer may need to be available when the person in receipt of care is away and when returning home. It is unreasonable to expect the carer to find a short term job and important that they should be able to build up a full qualifying year for their pension. **Mr Kirkham** said that the carer lobby has expressed concern about how to measure the 20 hours per week and the potential need for regular confirmation. He advised that it would be the responsibility of carers to notify changes and their declarations would generally be accepted. Guidance would reflect this and reviews might only be once every 18 months or so.

4.8 **Members** asked that this flexibility should be widely publicised. They asked for similar publicity about the very long list of appropriate health or social care professionals who can certify applications. **Members** expressed concern about the use of a long and potentially prescriptive list noting that the draft legislation covers 'appropriate health care professionals' but does not include other potential social care certifiers such as parish priests. They asked about the use of discretion and need for a right of appeal if the Secretary of State does not consider someone to be an appropriate person to certify. **Members** were concerned that the alternative might be the use of judicial review.

4.9 **Mr Kirkham** explained that the draft list came from the Department of Health but that others might need to be added. The existing long list in guidance arose because Carers UK are concerned by the need to protect those who are least engaged with statutory care and benefit regimes. Conventional health care professionals might not know the individuals and so might not be able to certify; hence the need to allow alternatives such as workers at drop in centres. He advised that all decisions, awards, refusals and dates will be appealable. The appeals regulations will have to be introduced by order.

4.10 **Mr Kirkham** advised and **Members** agreed that the draft regulations should be amended to refer to 'appropriate health or social care professionals'.

4.11 A **Member** asked about State Second Pension (S2P) accruals for people entitled to ESA before the regulations come into force. **Mr Cunniffe** referred to the explanatory note on page 92 of the EM which explained that an equivalent amendment had been made in relation to the current S2P provisions. A **Member** queried why the note stated that these provisions gave S2P accruals from April 2009 when ESA had been introduced in October 2008. **Mr Newman** and **Mr Cunniffe** advised that the period October 2008 to March 2009 was not covered by these regulations because under the current provisions only complete tax years of entitlement to Incapacity Benefit or Employment Support Allowance generate an accrual of S2P.

4.12 The **Chair** asked how many are likely to be affected by changes to auto credits? **Mr Cunniffe** said that there would be few. Auto credits are well used but this need will reduce from 2010 because of the 30 year test. Any savings from phasing out autocredits are negligible.

4.13 **Members** asked if 2 people each spending more than 20 hours a week caring for the same person would qualify for Carer's Credit and would they be covered if they cared on alternating weeks. **Mr Kirkham** said that these circumstances are intentionally covered but that two carer's certificates would be needed.

4.14 **Members** asked about publicity; targeting high risk groups such as asian women who often move from caring for children to caring for others; the possibility of pre-notification using the enquiry self service on Direct Gov and the use of the Benefit Advisor package. **Members** asked about including information in award letters for DLA and AA. **Mr Kirkham** said that the administration of these credits will sit with Carer's Allowance in DWP so one will signpost to the other. Because officials do not know which individuals are involved, tailored messages will be used on DWP disability benefits material, leaflets and websites. Messages will also appear on material for carer's help lines and groups such as Carers UK and Saga. Officials will look at targeting other groups. Direct Gov cannot be used initially but officials will try to use the Benefit Advisor screens to signpost claims. However, this will only go part way because of the need to target those who do not currently receive DLA.

4.15 A **Member** asked about targeting publicity at professionals who will be able to identify and inform carers. **Mr Kirkham** noted that this idea has been seen as positive and well received in consultations.

4.16 The **Committee** decided that it did not require the proposed regulations to be formally referred.

## **5. Financial Secretary to the Treasury: Rt Hon Stephen Timms MP.**

5.1 The **Chair** welcomed **Stephen Timms MP** and officials from HMT and HMRC.

5.2 After a short presentation covering his current responsibilities, **Stephen Timms MP** discussed with the Committee:

- his endorsement of the revised Memorandum of Understanding (MoU) and that he is looking forward to a closer and more open working relationship with SSAC
- he thanked the Committee for their valuable contribution to HMRCs COP26 leaflet and guidance and reported that HMRC look forward to working with SSAC more frequently in the future
- joined-up Government. He particularly welcomed the closer working between DWP and HMRC in the “In and Out of Work pilots” and noted that the current economic climate will make this more valuable still
- the successful transformation of the Pensions Service
- achieving the Child Poverty targets and the issue of how to define poverty. He invited SSAC to input into this debate.

5.3 The **Chair** reported that SSAC hope to get the MoU signed this month. He reported that SSAC was encouraged by the new working arrangements.

5.4 **Officials** also discussed a number of issues, including:

- enhancing the information and guidance available on Tax Credit overpayments
- developing the HMRC publicity campaign
- measuring the effectiveness of joined-up Government.

5.5 The **Chair** thanked the Minister for attending the Committee and looked forward to welcoming him to SSAC again in the future.

## 6. Action Points

<u>AP &amp; Para.</u>	<u>Action Point</u>
6.1	<i>[reserved item]</i>
6.2 (1.1)	<b>Secretariat</b> to make a further request for a list of DWP pilots. <i>[Secretary investigating]</i>
6.3 (2.3)	<b>Secretariat</b> to pursue signing of Memorandum of Understanding. <i>[HMRC &amp; HMT have agreed to an email signing – by 3/12 with formal signatories at a later date. 1 issue remains]</i>
6.4 (2.4)	<b>Members</b> to advise when they can attend Caspar
6.5 (2.5)	<b>Secretariat</b> to raise concerns of members and others about electronic Question and Answer system introduced at recent events. <i>[Awaiting reply].</i>
6.6 (2.7)	<b>Members</b> to see revised 'Back to work' leaflet before issue. <i>[Secretary awaiting sight of new draft]</i>
6.7 (2.8)	DWP officials to attend December meeting for Flexible New Deal.
6.8 (2.9)	<b>Members</b> in work programme sub-group to review outcomes of Stakeholders event in December.
6.9 (2.10)	<b>Secretariat</b> to contact HMRC with concerns about Health in Pregnancy Grant.
6.10 (4.5)	<b>Secretariat</b> to remind DWP of their concerns about the quality of ethnicity data and to ask for a new drive to remind staff to collect this.
6.11 (4.10)	Carers credit regulations to be amended to refer to 'appropriate health or social care professionals'.