

**MINUTES OF MEETING HELD AT NEW COURT ON 3<sup>rd</sup> SEPTEMBER 2008**

**Present:**      **Chair:**      Sir Richard Tilt

**Members:**    Mr K Akuffo  
                                    Mr L Allamby  
                                    Mr S Bartley  
                                    Mrs BG Campbell  
                                    Dr A Erskine  
                                    Ms A Garnham  
                                    Mr L Naumann  
                                    Professor A Ogus  
                                    Ms P Smail  
                                    Professor R Walker

**Officials:**      Mr Paul Mackrell                    (Items 3 & 6)  
                                    Mr Lyndon Walters                (Item 3)  
                                    Ms Lynne Isaacson                (Item 4)  
                                    Mr Dave Jones                    (Item 4)  
                                    Mr Mike Keegan                    (Item 5)  
                                    Mr Derek French                    (Item 5)  
                                    Mr Andrew Thomas                (Item 5)  
                                    Mr Nick Butler                    (Item 5)  
                                    Mr David Sobczak                (Item 6)

**SSAG:**            Ms Cathy Cunningham-Elliott    (Item 7)  
                                    Mr Alan Franco                    (Item 7)

**Secretariat:**    Ms G Saunders  
                                    Mrs E Harnett  
                                    Mr J Allen

**Observers:**    Nicola Moss, Shelley Newton (both DWP), Colm McLaughlin and Marie Turner (DSD – NI)

**Apologies:**    Mr R Exell, Professor E Kempson; Professor Janet Walker

*[Reserved Item].*

**1. Minutes of the meeting on 6<sup>th</sup> August 2008 and matters arising.**

Minutes of the meeting on 6th August 2008 were agreed. Members were advised of minor revisions to The Housing Benefit and Council Tax Benefit (Overpayment) Regulations 2008 – as requested at that meeting. (Paper 31A/08)

**2. Chair's Report.**

2.1. The report on the lone parent proposals was despatched on 13 August and has been circulated to members. Northern Ireland Ministers are reported to be looking at childcare issues and considering options. **Mr McLaughlin** advised that the Permanent Secretary for DSD Northern Ireland is aware of the Committee's recommendations.

2.2. There has been no more news on the backdating report but the regulations will need to be laid soon if the October start date is to be met. There is still some press interest in the outcome, and a lot of lobby activity.

2.3. A reply on seasonal work has been received from Stephen Timms and circulated to members. No further issues were raised by members.

2.4. A letter has been sent to the Minister of State about the Better Off in Work Credit and better-off calculations generally. The letter on telephony has been sent to officials.

2.5. The Permanent Secretary responded to the Committee's letter about the Capability Review. A one-to-one meeting has been set up for 22 October, to be followed by a meeting with the Secretary of State on 29 October.

2.6. Dr Anna Bee will be returning to, and Dr Nicola Moss starting with, the Secretariat in time to attend the meeting on 1 October.

2.7. Work has commenced on the 6 months rule trial review. The **Secretary** indicated that it is unlikely that there will be a large response from officials. Members were asked for their thoughts by 19 September. The Secretary will update the Committee in October.

2.8. It is proposed that a joint meeting with the Work and Pensions Committee should be set up early in 2009.

2.9. Members were asked to ensure that future reports on visits concentrate on drawing out issues to pursue – if any - with an 'action/follow up' section. **Members** asked the Secretariat to organise visits to HMRC sites soon.

2.10. The draft response on the Green Paper should be ready for the October meeting.

2.11. The Secretary has started the SSAC annual report. This needs to be completed, and if possible published before the stakeholder meeting. Members were invited to make submissions and comments.

2.12 The Secretariat will circulate a response to the HM Treasury / HMRC paper on 'improving delivery and choice' for a quick turnaround. The Charter draft will follow. Both need to be cleared in the next couple of weeks.

### **3. The Social Security (Miscellaneous Amendments) (No. ) Regulations 2008 – Paper 37/08**

3.1 **Mr Paul Mackrell** and **Mr Lyndon Walters** from DWP – Decision Making and Appeals presented the item.

3.2 **Mr Mackrell** explained that the proposals before the Committee were mainly minor permissive amendments, in most cases simply offering clarification of the existing law, and invited questions or comment from Members.

3.3 A **Member** said that currently customers notify their intention to claim Jobseekers Allowance (JSA) by telephone, and that a statement is sent to them for checking and signature. The **Member** asked if the process proposed in Regulation 2(3) – (6) is intended for those customers whose circumstances had not changed since they last claimed. **Mr Mackrell** confirmed that this was the case. The **Member** commented that Para 14 of the EM referred to credits and Para 15 referred to contributions and asked for clarification. **Mr Walters** said that the terms were interchangeable and that both paragraphs referred to contributions and credits. **Mr Walters** confirmed that Para 20 and 21 of the EM referred to Severe Disability Premium.

3.4 A **Member** referred to Para 3 of the EM and asked whether someone who had deferred claiming their pension and was bereaved, would have to make a new claim. **Mr Mackrell** said that they would. The reason why it is possible to make an award of a bereavement payment without a claim being made as envisaged by the legislation is that the Department has the necessary live information necessary to determine it. It is the award of State Pension, which gives the Department this information. If a person defers claiming their pension it follows that the Department does not have the up-to-date information it needs and cannot therefore make the award. The **Member** commented that it might be worth noting this point in guidance so that those who defer claiming their pension know that a claim for a bereavement payment will be required.

3.5 The **Member** asked how in the Decision Making and Appeals process it would be decided in credit and contribution cases, whether to supersede or revise. **Mr Walters** said that if the contribution record were amended, such that it would have affected a benefit decision from the date it was made, then the decision would be revised. If the effect (of the change of record) were from a later date then any benefit in payment at that time would be superseded from the date the contribution record changed.

3.6 **A Member** said that paragraph 12 of the EM referred to paying certain benefits at 13 week intervals, and asked when in practice these payments were made. **Mr Mackrell** said that customers are asked if they would like payment to be made at 13-week intervals. The **Member** asked if this option was available to all customers. **Mr Mackrell** said that it was. The **Secretary** added that because in some cases the amount payable was so small many customers preferred to receive the payment in a block.

3.7 **Members** pointed out a number of minor drafting errors in the Keeling Schedule.

3.8 The **Chair** thanked Officials and the Committee decided that it did not require the proposed regulations to be formally referred.

#### **4. Housing Benefit (Gypsies and Travellers) Regulations 2008 (Paper 38/08)**

4.1 **Lynne Isaacson and Dave Jones** advised the Committee that these regulations are intended to remove anomalies in Housing Benefit for those who live on Traveller sites. Representative groups drew attention to the anomalies and have been asking for change. These are widely welcomed (and overdue) changes that will ensure that site and caravan charges are treated consistently. These changes bring the arrangements into line with 'bricks and mortar' provisions, and are intended to support Gypsy / Traveller policies more generally.

4.2 **Members** asked if there were any other anomalies. **Mrs Isaacson** advised that DWP are not aware of any issues within housing benefit.

4.3 **Members** asked if the title means that the proposed regulations were all encompassing or only aimed at Gypsies and Travellers. **Mrs Isaacson** advised that the definitions are based on DCLG legislation and consultation exercises. The intention is to capture the wider travelling communities and not just ethnic groups.

4.4 **Members** asked about the numbers of travelling families in receipt of benefit and the levels of take-up because families regularly move. **Mrs Isaacson** explained that the DWP does not keep separate records of the numbers of Gypsies and Travellers receiving Housing Benefit but DWP commissioned research indicates take up is disproportionately high so it is not thought that moving is an issue. Increasingly many customers do not move on when they have access to a proper site. Pitches can be 'double' so that one caravan typically stays on site whilst other members of the family move around.

4.5 **Members** asked about the adverse impact of 'fair' or higher local authority rents on travellers who are not in receipt of Housing Benefit. **Mrs Isaacson** noted that the effect would be limited given the very high level of benefit take-up on sites. **Members** asked that the equality impact assessment should include an addendum to address the impact on those who are not in receipt of full Housing Benefit.

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

**5. Jobseeker's Regime / Flexible New Deal – High Level Briefing (Paper 36/08)**

5.1 **Mr Derek French**, Project Manager; **Mr Mike Keegan**, Jobcentre Plus – Welfare Reform Programme; **Mr Andrew Thomas**, DWP Jobseekers Division and **Mr Nick Butler**, Strategic Design Team, presented the item.

5.2 **Mr French** explained how successful New Deal has been but that performance has been falling off with many who remain on JSA experiencing multiple barriers in getting back to work. The intention of the Flexible New Deal (FND) is to tailor support, providing more or earlier support to those who might need it.

5.3 **Mr Keegan** explained the stages in the briefing pack and how early or additional support may be available for those who meet the criteria for more intensive support or those in vulnerable groups who volunteer for the assistance. The test sites went live in April 2008 and a key requirement was found to be skills development for staff.

5.4 A **Member** asked whether all customers would receive intense support. **Mr Keegan** replied that both Jobcentre Plus and individuals were successful in finding work at an early stage and that support would be targeted to need.

5.5 The **Chair** asked about early feedback from Back to Work Group sessions and expressed concern about the potential for a large-scale increase in sanctions. **Mr Keegan** replied that feedback has been informal. The numbers of customers at group sessions has not been as many as hoped. The aim is to act on real time feedback, which will be used to inform and change learning and development for staff. Sanctions have not yet been applied. There is an expectation that the take up of the Back to Work Group sessions would increase if presented properly. **Mr French** advised that DWP would be looking to clarify the rights and responsibilities of customers.

5.6 A **Member** questioned the description 'Flexible New Deal', commenting that the detail shows little flexibility, especially over circumstances and location. In expressing concern about implementing the regime at a time of increasing unemployment, the **Member** commented that claimants who will move to FND from IB could potentially be more problematic than traditional JSA customers. **Mr French** replied that the current system has less flexibility; the new system will be tailored to the individual. The need for greater flexibility will be made clear to the bidders, who must support all needs, including health, housing, debt and drugs. The new system is 'flexible' because it is not the same for each person.

5.7 **Members** noted that targeting could have been better and some existing customers such as Lone Parents will not meet all the conditions for support right away and so will not get to stage 4 until after 12 months. **Officials** described how customers could be fast tracked, especially if they would benefit from the

more intensive support stage. Guidance will advise that long-term customers who are judged capable of work should be referred to stage three straightaway.

5.8 A **Member** expressed concern about the language of the paper and how 'medical condition' should refer to 'disability' but supported such intense support and asked for an explanation of fast tracking and how sanctions fit with the regime. **Officials** explained that many customers including those considered vulnerable who have been in receipt of benefit for more than 22 out of the 24 months prior to their current claim and those 18 year olds who have not been in full time education, employment or training continuously for 6 months prior to claiming JSA would receive intensive support. For those considered vulnerable, there will be no compulsion. For others the objective is to help the return to work, and many long term customers will need a lot of support. Sanctions will be a last resort for those who are able to work but who turn down help. Time on benefit is seen as the best measure of who needs help but improved data is a long-term aspiration to support customers.

5.9 **Members** were concerned that any sanctions regime should be flexible and facilitative rather than punitive. **Officials** thought that the threat of sanctions should be enough in most cases. They described how there will be safeguards and data from the test sites will be reviewed.

5.10 A **Member** enquired about additional resources for FND, noting that the hardest to reach would need many additional resources to get them into work and wondered if this would take resources away from other areas. **Mr French** said that FND is linked with other welfare reform changes. Additional funding for some work such as back to work sessions at Jobcentre Plus will come from savings and through early interventions elsewhere. There will be a smaller number of longer term and larger contracts, producing better value for money. Prime providers will subcontract to local and specialist providers. Customers will have a choice of at least two providers in most areas. *[ADD: This point was clarified at the October 2008 meeting].*

5.11 **Members** expressed concern about the negative effects of the economic downturn on any programme and asked for an explanation of a typical customer journey through the programmes. **Officials** described how previous experience showed that there is still work available during a downturn. It is important to identify needs and provide appropriate support. They explained how providers will be paid by outcomes such as placing a person in a job and how long the job lasts.

5.12 A **Member** asked about sanctions for those not attending group sessions, what lead to the improved voluntary take up of sessions in Edinburgh and about incentives when moving onto training allowance. **Mr Keegan** explained that advisors had started to telephone customers the day before meetings. The group sessions are being evaluated but initial feedback is very positive. Training allowance is to cover additional costs of attending training when not eligible for JSA because the customer is not actively seeking work. Providers will be expected to contribute to these costs from their fees.

5.13. A **Member** asked that customers who fail to attend sessions could be telephoned and asked why and to show good cause before any sanctions are

applied. **Members** asked to see research about the sessions to determine if sanctions are justified. **Officials** agreed to look at these.

5.14 A **Member** asked how New Deal for Lone Parents (NDLP) and Disability Support customers fit into the regime, commenting that all customers should be able to opt for the support of FND. The **Member** expressed concern as to how customers could make an informed choice between suppliers. **Officials** described how NDLP and DSA customers would continue to receive specialist support but most will be able to opt for FND support. Many customers will not want to choose suppliers but will be allocated to a supplier. This will be used to balance workloads between suppliers. Jobcentre Plus collects soft information about suppliers and uses a basket of measures to measure performance and support informed choices. The Department will monitor outcomes for those who are randomly allocated to suppliers compared with those who chose to see if there are systematic differences in performance.

The **Chair** thanked **Officials** for their time and the presentation.

**6. The Social Security (Claims And Payments) Amendment (No.2) Regulations 2008 And The Social Security (Transitional Payments) Regulations 2008 (Paper 39/08)**

**6.1 Mr David Sobczak, Mr Paul Mackrell and Ms Karen Sykes** presented the item.

**6.2 Mr Sobczak** explained that the proposals contained changes to the way in which certain working age benefits would be paid. The changes will mean that most working age benefits will be paid a fortnight in arrears and on a pay day determined by the claimants National Insurance number (NINO). **Mr Sobczak** said that currently 50 per cent of all claimants of working age benefits were paid fortnightly in arrears. The changes will be introduced over a two-year period, starting from the 6<sup>th</sup> April 2009. **Mr Sobczak** explained that the option to make weekly payments would be retained for the most vulnerable. The **Chair** asked for an example of those who could be considered vulnerable. **Mr Sobczak** clarified this and explained that there were no hard and fast rules in this instance and the need for a weekly payment would be discussed and agreed by the adviser with the customer, but it would be expected to be a temporary situation and subject to regular review.

**6.3 Mr Mackrell** said that the purpose of the Claims and Payments Amendment Regulations were to introduce a new payment regime that would apply to new claims for working age benefits from April 2009, whilst the Transitional Payments Regulations made provision for converting the existing stock of beneficiaries to the new regime. **Mr Mackrell** said that this meant that in the short term two payment systems would be running in parallel, but that eventually all claimants would be subject to the same regime.

**6.4 The Chair** asked if making payments a month in arrears had been considered. **Mr Sobczak** said that Ministers had considered four weekly payments but after advice had decided against it.

**6.5 Mr Sobczak** with the use of a handout explained how the change would affect a customer changing from a Thursday to a Tuesday pay week-ending day who had opted for the 75 per cent advance. The **Chair** asked what would happen in the case of someone who had reached the limit for a Crisis Loan. **Mr Sobczak** said that he would discuss this with subject experts and get back to the Committee. A **Member** commented that it would be very important that staff were fully briefed on where to guide customers for external financial help, if the Department could not help because someone had reached the Crisis Loan limit. **Mr Sobczak** noted the comment.

**6.6 A Member** asked if the fact that people could claim the advance up to the day before the new pay week-ending day was because of technical or computer constraints. **Mr Sobczak** said that it was a technical issue, but added that he hoped customers would not wait until then before applying for the advance. The **Member** asked if customers had borrowed from family or friends to cover the change could they then claim a Crisis Loan. **Mr Sobczak** said that a customer could apply for a Crisis Loan at anytime.

**6.7 A Member** asked why the amount of the advance was set at 75 per cent rather than 100 per cent, as it will be a loan. **Mr Sobczak** explained this was decided in the early policy development and had links to the levels of Crisis Loans currently paid and recognised that some customers may have other income such as Child Benefit, Tax Credits, maintenance etc. Given the time constraints it would prove very difficult to get the technical changes required to the computer systems to change this now to 100 per cent.

**6.8 A Member** commented that the graph on the handout, illustrated how the advance would be recovered, but no details of other deductions e.g., payments to third parties were shown. The **Member** asked if there was any option for extending the repayment period. **Mr Sobczak** said that as the amount due to be recovered each week were relatively small; there were no options for extending the repayment period.

**6.9 A Member** asked what the effect of recovering mortgage relief at source would have. **Mr Sobczak** said that the system was unable to carry out a deduction in a part week, and that a notice would be sent to all third party creditors to notify them of the change. The **Member** asked if that meant a customer could go into arrears with their mortgage lender, **Mr Sobczak** acknowledged there would some slight disruption to the repayment because no deduction could be made for a part week, but stated that this would only happen once for customers in this position and was unavoidable. **The Member** commented that JSA customers had a choice in when the change occurred, but asked if the Department were aware of times in the year that could be problematic, Christmas for example. **Mr Sobczak** said that no automated conversions would take place during the period October to March, due to uprating activity. A **Member** commented that although no automated conversions may occur in this period, conversions could take place in November, and that this meant customers could be re-paying the advance back over the Christmas period.

**6.10 The Member** asked what would happen to people who were claiming Incapacity Benefit and reached retirement age. The **Member** commented that

currently their Incapacity Benefit would cease on their birthday, but that they would not receive their pension until the Monday following their birthday, which for some meant a loss of up to six days money. Mr Sobczak said that the Department were working towards paying Pensions fortnightly from 2010, and that his project were working closely with colleagues from the Pension Disability and Carers Service to ensure that payments dovetailed to make the transition from working age to pension age as smooth as possible for customers.

6.11 A **Member** asked for clarification of a technical aspect raised by Para 4.3 and Para 4.4 of the EM. The **Member** said that the paragraphs refer to a two-year period of conversion that is not mentioned in the proposed regulations. **Mr Sobczak** explained that guidance would advise staff not to convert any JSA customer until at least 2010, as 90 per cent of this client group would have signed off with a 12-month period. The **Member** said that he had thought that the systems of payments prescribed by 'Claims & Payments' Regulations were mandatory, and asked if officials would be relying on discretionary provisions. **Mr Sobczak** said that this provision was currently contained in Regulations.

6.12 A **Member** asked for the process, from weekly advance to weekly arrears with a one off payment and then to fortnightly in arrears to be explained. **Mr Sobczak** said he did not have the detail and would provide at a later date.

*Since the meeting, Officials provided the following: 'People paid in this group are those claiming Widows Benefits and other limited cases. These customers will be converted from weekly advance to weekly arrears from April to June 2009 and from weekly to fortnightly from July 2009 to March 2011. The selection will be by National Insurance number and for some people the changes will happen fairly quickly but others it will take up to two years. However, the conversion from weekly advance to weekly arrears is fairly seamless as a double payment is made for the same award period and does not disrupt the money people receive.'*

6.13 After a private discussion officials were informed that the Committee had decided that the proposals for changes to the regulations are to be formally referred.

## **7. Issues in relation to Employment and Support Allowance - Social Security Advisers Group (Paper 35/08)**

7.1 **Alan Franco**, Head of Welfare Rights - Tameside Metropolitan Borough Council and **Cathy Cunningham-Elliott**, Benefits Co-ordinator Essex County Council attended as representatives of the Local Government Association Social Security Advisers Group (SSAG). Their presentation to the Committee focused on their concerns over Employment and Support Allowance (ESA), which is due to come into force at the end of October.

7.2 **Mr Franco** advised that the SSAG has consulted widely amongst local authorities (LAs). Representatives from LAs expressed their main concerns about ESA included differential passporting due to differing levels of benefit between Contributory and Income Based ESA; permitted work and earnings disregards, with differing systems of amount of disregards between ESA and

IB/IS; existing Income Support claimants, the disparity created by differing disregards and young people aged under 25 and ESA.

7.3 **Mr Franco** spoke about the impact and effect on Local Authority services. They noted that numbers are not available, but may not fully reflect the true number of people affected given the potential impact on the dependants of claimants. New claimants of ESA may fall into arrears of rent and Council Tax increasing potential for homelessness with increase on administrative staff in related departments. Those unable to access other forms of support, such as Free School Meals, school transport and other education related support may result in pupils of affected families unable to eat healthily at school or unable to afford any transport costs. In addition, older pupils may feel they are unable to continue with their education beyond 16. This may have implications for duties of local authorities particularly if young people are disabled or have been in the care of the local authority.

7.4 The earnings disregard differences between ESA and IB/IS may also cause difficulties for local authorities in respect of charging for services such as home care, residential care and children's services. Current rules relating to permitted work already cause barriers to claimants and impact local authority policies to encourage participation and involvement. The new ESA rules will add further difficulties and could act as a further barrier for some.

7.5 Solutions are offered in the SSAG paper. These include changes to permitted work and earnings disregards and in passported help.

7.6 **Members** drew attention to the Contributory / non-contributory issue in IB versus IS and noted the issue also arises for JSA. It was noted that changes would involve an additional means test. **Mr Franco** commented that SSAG see this as a missed opportunity. Although the customer may not currently receive pension credit, the information is passed to the local authority that may still pay Housing or Council Tax benefits, ideally this should happen for ESA.

7.7 A **Member** asked if there was any reason to differentiate between contributory and non-contributory benefits if a solution could be found to set a level for automatic passporting. **Mr Franco** advised that if the contributory principle were removed, there could be impacts on the local economy were the customer to be no longer eligible for benefits; for example where the partner works.

7.8 A **Member** asked how to deal with the circumstances where the partner may not want to declare their income and noted that a contribution based entitlement is less sensitive. **Mr Franco** advised that improved scripts and clear questioning on partners income might resolve the issue.

7.9 A **Member** asked for an explanation of the issue about housing and council tax benefit for those under 25. **Mr Franco** stated that this has now been overtaken. Support for those under 25 will follow the ESA route and be provided on the same financial basis.

7.10 **Members** advised that SSAC had corresponded with ministers about disregards and permitted work, but has limited resource for detailed research.

They asked if the LGA could look at the financial ramifications and simplifications, which would unlock routes to work. **Mr Franco** agreed to take the proposal back to the LGA. **Ms Cunningham-Elliott** explained how it would help if existing IS claimants could move over to ESA and take advantage of the higher disregards.

The **Chair** thanked Mr Franco and Ms Cunningham-Elliott for their time and for sharing a very interesting paper with the Committee.

## **8. Scoping a Rights & Responsibilities Paper**

8.1 The **Secretary** presented a draft letter and proposal for commissioning a paper on rights and responsibilities. Enquiries had been made about the best way to do the work and a number of suitable expressions of interest had been received. **Professor R Walker** withdrew from the discussion because some of his colleagues are interested in the work.

8.2 **Members** discussed the need to have a brief paper and assessment before the stakeholder event in November. They asked for clear questions to form the basis of discussion groups at the event. Responses and evidence gathered because of the discussions are to be used by the Committee in forming the final paper. The **Chair** noted that this should be part of a longer process of information gathering, which would allow the committee to develop a view.

8.3 **Members** considered the opportunity to learn from progressive countries, in particular various Scandinavian and the Netherlands regimes. The **Secretary** noted the tight timetable but agreed that international evidence would be useful.

8.4 **Members** considered how much evidence there might be and the likely length of the final report. The **Secretary** advised how she has looked at the background. It appears that there may be a huge body of evidence to consider, but the final report would ideally be around 5000 words.

8.5 **Members** asked that there should be some flexibility and enquired about budgetary constraints. The **Secretary** advised that with two posts unfilled, the Secretariat could afford and would need to buy in extra support. It is hoped that the equivalent of a full time analyst will be in post before the stakeholder event and should be able to support the work.

8.6 The **Secretary** advised that remuneration, delivery and dates are still to be agreed. **Members** agreed to the Secretary's proposals and asked for an early update.

## 8. Action Points for SSAC

<b>AP &amp; Para</b>	<b>Action Point</b>
2.8	Secretariat to contact WPC re joint meeting – this will be taken forward after recess.
2.12	The response to HMRC/HMT was despatched without pre-circulation in order to meet the response deadline
6.12	Officials have provided the requested information and it has been included with the minutes
8.6	An update on the project will be provided at the October meeting