
Annex A

Report on the Housing Benefit and Council Tax Benefit (General) Amendment (No. x) Regulations 2000

Introduction

- 1 We give below our report on these amending regulations, which would, from April 2001, reduce the period for which Housing Benefit (HB) and Council Tax Benefit (CTB) may be backdated from 52 weeks to three months and would replace existing “good cause” provisions with a prescribed list within regulations.
- 2 The draft regulations were referred to us on 5 July 2000. On 7 July, we published a press release inviting comments on the effects of the proposals to reach us by 18 August. As the proposals would mirror the changes introduced to the other income-related benefits in 1997 we asked for evidence of whether experience in the implementation of the 1997 provisions would provide lessons relevant to the proposals. We were able to take into account representations from the 83 organisations and individuals who responded.
- 3 We invited the Department of Social Security to comment on the points made in the representations.

Acknowledgements

- 4 We are grateful to those who took the time and trouble to write to us, and to officials of the Department of Social Security for their assistance in resolving our queries, and in the preparation of this report.

Northern Ireland

- 5 Separate, but similar, regulations are proposed for Northern Ireland.

The Department's proposals

- 6 The scope and purpose of the proposed amending regulations were set out in an explanatory memorandum provided for us by the Department of Social Security. The changes would mirror those made to the other income-related benefits during 1997 by reducing the period for which either new or renewal claims for HB/CTB could be backdated from 52 weeks to three months. Three months, rather than 13 weeks has been selected as it would align with the Income Support regulations. The proposals would also mirror the 1997 changes by replacing the broad definition of good cause as justification for backdating claims with a set of prescriptive circumstances set out within regulations. Changes of circumstances would not come within the scope of these regulations, which only refer to new or renewal claims.
- 7 The proposals would take effect from April 2001 and would be linked to an increase in the subsidy payable to local authorities as reimbursement of benefit expenditure on backdated awards. The increase would be from 50% to full subsidy for rent allowances, Scottish rent-rebates, non Housing Revenue Account (HRA) rent rebates and CTB. Subsidy policy on HRA rent rebates (ie. for "council tenants") in England and Wales, is the responsibility of the Department for the Environment, Transport and the Regions and the National Assembly for Wales who are aware of the backdating proposals.
- 8 The changes have been put forward because, from April 2001, the Government proposes to make changes to the HB/CTB appeals system, whereby, instead of local authorities dealing with disputes through Review Boards consisting of elected council members, a right of appeal to the Appeals Service would be introduced. The Government believes that it would be appropriate to align the HB/CTB backdating provisions with those of other benefits at the same time.
- 9 The memorandum also states the Government's beliefs that the changes would:
- instil in claimants a sense of rights and responsibilities by encouraging them to claim on time;
 - mean that the backdating rules would be fairer as the current good cause provisions are open to differences in interpretation, thus entitlement could effectively depend on which local authority deals with the claim; and
 - mean that the system would be easier for claimants to understand as the circumstances for backdating would be laid down in legislation, thus making the scheme less open to dispute.

The Government also contends that the changes would play a part in modernising and integrating HB/CTB with other income related benefits and are intended to fit in with the move to a single appeals route and the spirit of ONE.

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- 10 The Department has been unable to provide details of the likely number of claims that would be affected. However, it has assumed that the programme costs would be broadly cost-neutral, because of the interaction between the more tightly drawn backdating provisions, shorter time period and the increase in subsidy levels. Set-up costs, mainly for local authority software changes, are estimated to be around £1.3m.

The introduction of appeal rights

- 11 Along with the overwhelming majority of our respondents, the Committee welcomes the proposal to introduce a right of appeal to a tribunal. HB Review Boards have long been regarded as an anomaly within the benefits system; adjudication on all other benefits is by a tribunal chaired by a legally qualified person. The Review Board system has also meant that no case law has been developed in respect of HB/CTB, other than decisions following judicial reviews. Appeal Service tribunals have experience in applying legal tests and precedents set by Commissioners and the Courts. Therefore, we believe that the standard of HB/CTB decision-making will be improved and case law on legal provisions will develop within the HB/CTB context.
- 12 Transfer to the Appeals Service will also ensure that claimants are treated fairly in line with the European Convention on Human Rights. However, it has not been made clear to us why this undeniably positive step should be linked to a restriction in time limits for backdating and to the introduction of more stringent tests for eligibility for a backdated award.

Alignment of backdating arrangements

- 13 The Government's first stated reason for alignment, apart from the introduction of appeal rights, is to *instil in claimants a sense of rights and responsibility by encouraging them to claim on time*. This implies that claimants deliberately delay making their claim or renewing their entitlement. We are at a loss as to why they should want to do so, as there can be no financial advantage in delaying a claim for benefits whose sole purpose is to meet an identifiable, continuous and inescapable need. The Department's memorandum does not give any indication of how many do take this course of deliberate inaction nor indeed how many people are successful in having their eligibility backdated. We believe that failure to claim arises for a variety of reasons which are to do with the overall complexity of the scheme, ie its rules and claims processes, and the general standards of its administration. Our respondents have confirmed that the reasons could be many, compound and due, not to indolence, but to the unique nature of HB/CTB.

Reasons for delayed HB/CTB claims

The complexity of the current arrangements

- 14 HB/CTB rules are complicated; a point recognised by the Government in its recent Housing Green Paper wherein it states *“The benefit rules are complex. Claimants don’t understand them and often don’t know what benefit rules apply to them and what support they might be entitled to”*.⁴ The complexity of the systems also means that Benefits Agency staff, local authority staff and advice agencies find it very difficult to advise on eligibility. The quality of advice is also variable. As a result claimants may be misinformed or not informed at all and will fail to make a claim when they should because they believe they have no entitlement. This could particularly be the case for those in low paid full time work. It is common for people not to realise that HB/CTB are in-work as well as out-of-work benefits.

The claims process

- 15 The claims process is also complex, particularly for those in privately rented accommodation when the information required on the type of accommodation occupied is very detailed. Moreover, if a private sector tenant also concurrently claims Income Support or income-based Jobseeker’s Allowance, he will be supplied with national, standard HB/CTB claim forms. However, it is normal for the local authority to also ask for one of their locally produced forms to be completed in order to gain the information about the accommodation, required for the rent officer referral.
- 16 The complexity becomes greater for people with particular personal problems, for example, inexperience with the system, old age (the majority of HB/CTB claimants are pensioners), mental health problems, a lack of language or literacy skills, chaotic lifestyles, drug or alcohol addiction or chronic sickness or disability. A person with any one or indeed a combination of the above would have severe difficulties with negotiating the claims process, or with understanding the decision notices or requests for further information sent to them.

⁴ *Quality and Choice: A Decent Home For All*. DETR and DSS, April 2000, paragraph 11.4.

The requirement to renew claims

- 17 Another unique aspect of HB/CTB is that, unlike Income Support and income-based Jobseeker's Allowance, which are awarded indefinitely, subject to relevant changes of circumstance, HB/CTB claims must be renewed at most every 60 weeks, although it can be more frequently especially following the introduction of the Verification Framework process. The council is required to send a renewal claim form 13 weeks before the period of award (benefit period) is due to expire. The renewal form must be returned within four weeks of the end of the benefit period. If all the information has not been completed, the claim is treated as defective and the council will ask the claimant for the missing details. If the claimant fails to do this within four weeks of being asked, they will have no direct benefit help towards their rent and Council Tax from that date until such time a new claim form is received.
- 18 This renewal process would seem to contain significant safeguards for the claimant. However, because it does not form a part of the other income-related benefits' process, claimants are unused to it and fail to complete the forms, assuming there has been an error or because, as in the examples of personal difficulties quoted in paragraph 16 above, fail to understand what is required of them. They only become aware that there is a problem when they receive notification of rent/Council Tax arrears. It is generally at this point that they make a claim for a backdated award.

The award is reliant upon the award of another benefit

- 19 A further example of the special nature of HB/CTB leading to requests for backdating is that awards of HB/CTB are often reliant upon eligibility to another benefit. Certain benefits such as Attendance Allowance, Disability Living Allowance and Invalid Care Allowance can qualify a claimant, through entitlement to certain premiums in HB/CTB, to receive either higher levels of HB/CTB or can mean a claimant becomes entitled to HB/CTB once the qualifying benefit is awarded. However, it can take some time for claims to be decided, especially if they are only awarded following an appeal. The award of the other benefit may give rise to a claim for a backdated award of HB/CTB. Until recently, this situation arose in the other means-tested benefits. We understand that the Social Security (Claims and Payments) Regulations 1997 have been amended to prevent this from occurring by allowing the date of the failed claim to be treated as the same date as the start of the period in respect of which entitlement to the main benefit begins.

When Income Support ceases

- 20 Another area of complexity and a cause of requests for backdated claims is when HB/CTB, awarded on the basis of entitlement to Income Support, ceases because another benefit has been awarded. One example is when a move to the higher short-term rate of Incapacity Benefit (awarded after 28 weeks of incapacity) lifts the claimant's income above the Income Support threshold. At this point, HB/CTB must also be cancelled. It may be some time before the claimant realises that his HB/CTB have stopped because the increased Incapacity Benefit is automatically awarded and the payments continue to be made by the Benefits Agency.

When entitlement to another benefit is re-created

- 21 Further problems can arise when the claimant becomes automatically entitled to the long-term rate of Incapacity Benefit (normally after one year of incapacity). This rate can re-create entitlement to Income Support because it brings entitlement to the disability premium. In these cases a further claim will need to be made. This complex interaction of benefits is extremely confusing to claimants.

The retrospective cancellation of another benefit

- 22 HB/CTB can also be reliant upon the award of Income Support and/or income-based Jobseeker's Allowance. It can be that these benefits, through no fault of the claimant, are retrospectively cancelled, for example if an official error was made. Whenever Income Support or income-based Jobseeker's Allowance entitlement ceases HB/CTB must be cancelled from the same date, even though the claimant may continue to be entitled to HB/CTB on low income grounds. The local authority must invite the renewal claim based on grounds of low income. However, there will be a need to make a backdated claim for the period between the effective date of the Income Support/income-based Jobseeker's Allowance cancellation and the receipt of the new HB/CTB claim.

Temporary absence from home

- 23 Temporary absence from home also creates difficulties. Persons entering hospital have their Income Support reduced after 6 weeks under the hospital in-patient rules. If they have only a small amount of Income Support, because for example they have an occupational pension, their entitlement will end along with that of their HB/CTB. The Council should send a renewal form but the claimant will not be at home to receive or complete it. Also they may be too ill to do so and may have no one to deal with it for them. It is often the case that the form is only completed once the claimant has returned home, which may mean a claim for backdating. Similar problems can occur if the benefit period ends during the time in hospital.

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- 24 Persons who go abroad for more than four weeks but less than 13 weeks lose their entitlement to Income Support but retain their rights to HB/CTB. They may also need to make a backdated claim because they have not been at home to deal with the claim processes. Similarly, there could be a need for a backdated claim for those in bail hostels, prison and in secure accommodation.

Payment to third parties

- 25 Another aspect of the claims process particular to HB/CTB and giving rise to claims for backdating is that the majority of payments are made directly to third parties in arrears. No local authority tenants receive their benefit directly in cash. Instead, the entitlement is credited against their council rent liability, usually by one department to another within the same local authority. Tenants in the private sector may have their rent paid to them by cheque or to their landlord. Some 70% of tenants in the private and Registered Social Landlord sectors have their rent paid directly to their landlord or property agent. In May 1998, 1,290,000 HB recipients had their rent paid in this way. Council Tax Benefit is always credited against the Council Tax account. At February 2000 there were 4.9m CTB recipients.
- 26 A significant number of people whose benefit is sent directly to a third party could make a late claim through no fault of their own because not receiving a cash payment personally can lead to a delay before claimants are made aware that either benefit has ceased or has not been awarded and that action is needed. This is a particular problem with social landlords who do not run continuous rent assessments on their properties, when it could routinely be, especially where the tenant does not receive maximum benefit, some considerable time before the landlord tells their tenants that they are in arrears.

Administration of the HB/CTB scheme

- 27 The statutory duty to fund and administer the HB and CTB schemes rests with local authorities and this can give rise to particular difficulties. The problems that local authorities have had with the administration of the two benefits are serious, widespread and have been well documented. In its Sixth Report of Session 1999-2000, published in July 2000, the Social Security Select Committee set out the problems caused to both claimants and to authorities by the complexity of the regulations. It also reiterated the Audit Commission findings in 1999 that 44% of authorities in England and Wales were providing a poor service. However, it did not identify the absence of responsibility by claimants as a problem. The Government has itself accepted in its Housing Green Paper that the performance of local authorities is inconsistent and that improvements are needed⁵.

⁵ *Quality and Choice: A Decent Home For All*. DETR and DSS, April 2000, Chapter 11.

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- 28 Evidence submitted by our respondents supports these findings. We have been provided with many examples of poor performance. For example, authorities or their agents may take a long time to process claims because of large backlogs of claims, even when all the required information has been provided (we have been given one example of claims regularly taking six months and another example of a local authority having 87,000 outstanding claims). Whilst failure to act on a fully substantiated claim would not create a need for backdating, it can cause confusion or claimant inactivity as we illustrate below.
- 29 Completed claim forms may be not received or lost or claims wrongly closed. Renewal claim forms may not be sent out or not received by the claimant. We have been advised of a situation where sufficient complaints have been made by claimants about the administrative disorganisation and poor service levels that the Local Government Ombudsman called a meeting of the Chief Executives of the councils concerned to discuss systemic problems with late or non-payment of HB.
- 30 However, we do not accept that difficulties faced by local authorities and their contractors are entirely of their own making. The complexity of the system they must administer does not aid speed or accuracy. This is especially the case for private tenant cases where a variety of rules can apply, for example, depending on whether people have been in tenancies before or after January 1996 or they are young single claimants. Councils also have to deal with frequent and complex changes to the rules, for example the recent supported housing provisions and the Verification Framework.
- 31 Problems may also arise because of the interface with the Benefits Agency. We have been advised that Benefits Agency staff may fail to notify the local authority that benefit has been awarded or cancelled or the notifications may be lost in transit between office locations. This is likely to be a problem when local authority and Benefits Agency boundaries do not coincide. It is very common for Benefits Agency areas to overlap with more than one local authority area and vice versa. With the volume of computer produced notifications generated, it is inevitable that information will go astray.

The adequacy of three months backdating

Problems created by unsatisfactory administration

- 32 The administrative difficulties faced by local authorities and the delays these create can almost all be accommodated within the 52 week rule. Whilst we would strongly wish to see improvements in local authority performance, we have no reason to believe that these will be forthcoming in the foreseeable future. Where claims or substantiating evidence are lost and the claimant is not aware that there is problem because, for example, he has not been advised that the rent is in arrears or because he is aware that the local authority can take a long time to process claims, 52 weeks is sufficient time for the claimant and local authority to resolve the issue. However, under the terms of the proposals, if the local authority ordinarily takes more than three months to process claims and the claimant waits longer than that before making enquiries, only to find out at that point that his claim has not been received or has been lost, he will lose benefit for any part of the period exceeding three months. This would be through no fault of his own.

The retrospective award of another benefit

- 33 Where Attendance Allowance, Disability Living Allowance or Invalid Care Allowance are retrospectively awarded and they bring entitlement to HB/CTB or an increase in them, 52 weeks are normally sufficient to allow full redress. However, the Department has advised us that the targets for determining these three benefits are either almost three months or exceed it. The targets are as follows:

	New claims	Renewal Claims	Reconsiderations	Supersessions
Attendance Allowance	95% in 63 working days	95% in 66 working days	95% in 87 working days	95% in 87 working days
Disability Living Allowance	95% in 73 working days	95% in 84 working days	95% in 99 working days	95% in 99 working days

The clearance of new claims target for Invalid Care Allowance is 95% in 72 working days, for maintenance of existing claims 95% in 64 working days and appeals 93% in 90 working days.

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- 34 All, save two (new Attendance Allowance claims and maintenance of Invalid Care Allowance claims) exceed the proposed backdating period, some greatly exceed it. Whilst we accept that many claims will be cleared well within the set targets, there can be no assurance that this will be universal. Therefore, there would be potential for a significant number of people, through no fault of their own, to be adversely affected by a reduction to a maximum of three months. This potentially serious effect could be removed if the provision to allow the second claim to be treated as made on the date of the first (disallowed) claim, introduced for the other social security benefits via amendment to the Social Security Claims and Payments Regulations 1997 (paragraph 19), were also introduced for HB/CTB.

The retrospective cancellation of another benefit

- 35 Difficulties with a reduced period may also arise when Income Support or income-based Jobseeker's Allowance are retrospectively cancelled. It will not normally be that the cancellation is effective more than 52 weeks prior to the decision, however it will be far more common for it be effective more than three months before. People in hospital for periods exceeding three months may also incur large amounts of arrears if the situation we describe in paragraph 23 should arise.

The effects of a reduced period

- 36 The loss of benefit has a particular and unique impact in respect of HB/CTB. In contrast to Income Support and income-based Jobseeker's Allowance, HB/CTB are paid to meet particular and known liabilities. If Income Support or Jobseeker's Allowance is not paid, budgeting adjustments may be made. However, if HB/CTB are not paid, the debt remains until it is cleared. The amounts could be substantial as the Housing Benefit sums paid are considerable: the average payment is £46.70 per week⁶. If the claimant would have been entitled to 52 weeks but only receives three months, the shortfall would exceed £1800, which would need to be cleared from the claimant's own resources. Such a sum would take years to refund, and during this time the claimant would be living below a minimum income level.

⁶ Housing Benefit and Council Tax Benefit Quarterly Summary Statistics November 1999, DSS.

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- 37 If rent is not paid the tenant would be faced with possible eviction. In England and Wales, where there is an assured shorthold tenancy, the landlord has a right to an outright order for possession if a tenant has eight weeks/two months of rent arrears. In Scotland, where there is an assured tenancy, the landlord has a right to an outright order for possession if a tenant has three months of rent arrears both on the date on which the notice of proceedings was served and at the date of the court hearing. The Court has no power to refuse or suspend such an order, irrespective of the circumstances which gave rise to the rent arrears or the needs of the tenant. Even if the effect of the rule change does not result in eviction, a limit of three months would mean that tenants on low income would have to pay the arrears from their benefits. By definition they have only the most limited means. If the claimants were evicted, they would be likely to have difficulty obtaining other accommodation because to be re-housed they must establish that they are not intentionally homeless and that they are a priority need.
- 38 There is evidence that rent arrears are increasingly becoming the reason for possession action by social housing providers - local authority and registered social landlords. The number of possession orders granted increased by 70 per cent in the five years to 1999⁷.
- 39 A limit of three months would also impact upon the third parties to whom the debt is due. Social landlords would be likely to face cash flow problems, an increase in rent debts and, hence, in costs associated with debt recovery. It is also likely to result in a further disincentive for private sector landlords to let to HB/CTB claimants. Local authorities would face increased rent/Council Tax debt, and would need to increase their expenditure on debt recovery and on re-housing or social services activities.

Council Tax issues

- 40 We have discussed above the complexities that may cause late HB/CTB claims. However, there are complexities specific to Council Tax and hence to CTB. First, the amount of Council Tax payable can be difficult to determine because it can be reduced in a number of ways including disability reductions, exemptions and discounts. Therefore, there is a strong likelihood that the amount of the liability is miscalculated. If this were an underestimate the subsequent higher calculation may result in CTB eligibility and a need for backdating.
- 41 Secondly, establishing liability and hence eligibility to CTB is exceptionally complex. Some residents may become liable some time after they take up occupation, for example because they reach age 18, or a couple separate and there is a dispute over the residence of the property and who should have responsibility for the payment of Council Tax, or because another adult in the household becomes unemployed.

⁷ *Eviction epidemic*, Julian Birch in *Roof* Jan/Feb 1999.

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- 42 Liability for Council Tax is annual. The consequences of failure to pay can be grave. In England and Wales, the first stage is a liability order. The second, if the debt remains, is enforcement procedures; this can include the levying of distress, ie bailiffs are called in to obtain possessions to clear the debt. The third stage is magistrate's court action which could result in imprisonment. Neither the authority nor the court have the power to remit the debt on the grounds of poverty although the authority may write it off if as uneconomical to pursue and can reinstate it at a later date if circumstances change.
- 43 In Scotland, the initial stage is usually summary warrant but the council may raise a court action for payment of the debt. The second stage is, as in England and Wales, enforcement procedures. This can include earnings arrestment, arrestment and furthcoming and poinding and sale. Also, as in England and Wales, Scottish Councils do not have the power to remit Council Tax debts on grounds of poverty, but they may decide not to pursue it. We believe that these possible consequences, together with the problems with determining liability and the amount payable, are not serious whilst backdating is allowed for up to 52 weeks but could be if it were limited to three months.
- 44 A reduction to a maximum of three months is likely to have a considerable impact on Council Tax debt. One of our respondents has advised that, according to the most recent available DSS data, in 1995-96 nearly 200,000 backdating claims were paid. Of these 134,453 were in respect of CTB.

Backdating - Conclusion

- 45 Having been advised of the possible causes of the need for backdating and effects that non payment may have, we believe that reducing the period for which backdated awards can be made from a maximum of 52 weeks to three months could create serious difficulties for a significant number of people. Because these difficulties would not be due to claimant irresponsibility but due to the inherent problems of the system, we believe that there is no justification for the reduction of the maximum and we **recommend** that it should not be reduced. We make no secondary recommendations.

Good cause

The 1997 changes

- 46 All the comments received on the implementation of the 1997 reforms have related to the introduction of a prescribed list of reasons for backdating, ie good cause. We have been advised that, contrary to the expectations for the current proposals, the introduction of a list has not significantly reduced the number of appeals against a refusal to backdate claims. It has, however, created problems. We have been advised that the lack of a catch-all category for cases has led tribunals to stretch the interpretation of the regulations to accommodate hard cases.
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- 47 Problems have occurred because people have been misled, not by incorrect information given by the Benefits Agency or Department for Education and Employment staff, but by a lack of information eg. sick claimants have been advised about Incapacity Benefit but not Income Support. Claim packs for Incapacity Benefit do not routinely contain Income Support claim packs. Therefore, if the claim for Incapacity Benefit fails, claims for backdated awards of Income Support, which must be disallowed, frequently follow. Tribunals have interpreted the regulations to mean that not being advised is the same as being led to believe that a claim could not succeed and have, therefore, allowed backdated awards. This must bring the law into disrepute.
- 48 A further problem has been with the process related to the award of Incapacity Benefit and its effects on Income Support. The award of the higher short-term rate of Incapacity Benefit, payable after 28 weeks of incapacity, can mean that Income Support ceases. After 52 weeks, Incapacity Benefit is increased to the long-term rate and entitlement to Income Support may return because a disability premium becomes payable. Understandably, not all claimants are aware of these rules and make backdated claims for Income Support. These claims are correctly refused because the circumstances do not fall within the prescribed list.
- 49 The format of information has also created problems. Advice agencies rarely confirm the advice given to claimants in writing, thus, even if a claimant has been misinformed by them, he will not qualify for a backdated award.
- 50 We have also been advised that there have been difficulties with the interpretation of *"it was not reasonably practicable for the person to obtain assistance from another person to make his claim"*. It is believed that this term is too widely cast because it has led to decisions to refuse backdating where other family members have been present.
- 51 We have received evidence that there has been widespread unfairness to pensioners. The Government's initiatives to help pensioners, the Minimum Income Guarantee (MIG) has been affected because the efforts to identify potential MIG recipients were delayed which meant that some people were not aware of the provisions when they were introduced in April 1999. In response to two written Parliamentary Questions on 6 March 2000, the Minister said there were around 500,000 who may not be claiming their MIG and that the prescribed time limit for claiming Income Support could prevent any claim, even with an extension for special circumstances, from being backdated for more than three months prior to the date of claim. Thus, potentially 500,000 were not able to claim full arrears and may also have been denied maximum HB/CTB.
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The existing HB/CTB provisions

- 52 The good cause rule has been a part of the benefit system for many years. The most often cited description of the rule comes from a case decided in 1949 (CS/371/49). It said:

“Good cause means some fact which having regard to all of the circumstances (including the claimant’s state of health and the information he had received and that he might have obtained) would probably have caused a reasonable person of this age and experience to act (or fail to act) as the claimant did.”

- 53 Thus, claims can only be backdated if the individual has a reasonable excuse for the delay. Extenuating circumstances may be taken into account, but the claimant still has to show that they acted reasonably in all the circumstances. Currently, tenants can have their HB/CTB backdated if they can show continuous good cause for not claiming earlier.

The proposals

- 54 We accept that the Government’s statement in the memorandum that current HB/CTB good cause provisions can be open to different interpretations between local authorities. However, we believe they are important in allowing flexibility to ensure that tenants in need, but whose circumstances are not prescribed within regulations, should have the opportunity for HB/CTB payments to be backdated. The development of case law as a result of the proposed changes in the appeals system should do much to eliminate any gross anomalies in the interpretation of good cause. We are concerned, given the nature of the information supplied on the problems with the 1997 changes, that changing the good cause rule to one of a prescribed list of circumstances that does not contain a “catch all” provision, would, given the fact that HB/CTB are awarded to meet a specific, continuous need, be too narrow and inflexible. The proposed list would not allow authorities to acknowledge the wide range of reasons for the need for backdating to arise and to consider people’s individual circumstances. Thus, entitlement would be unfairly restricted because, as we have discussed earlier, the reasons may have been no fault of the claimant.
- 55 Whilst we agree that the prescribed circumstances would be easier for claimants to understand, we believe they would not, as stated in the memorandum, be fairer and there is a risk that they too would be open to differences in interpretation. For example, what is meant by “ill” or “disabled”, a disabled person could be perfectly capable of attending the relevant office. And under what circumstances should “*it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim*” apply?

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- 56 We are particularly concerned that the introduction of the term “another person” into the prescribed list will lead local authorities to introduce discretion when making decisions about “another person” and that there will be a wide scope for refusing requests for backdating and hence unfairness. Claimants must show not only why they did not claim on time but also why they did not seek help or why another person could not help them. We also fear that local authorities would apply blanket rules about the existence of other people who should have helped the claimant, and would apply the law prescriptively by ignoring the fact that a test of reasonableness would remain.
- 57 We are also concerned about the possible effects if claimants do not receive information about HB/CTB from Departmental or local authority officials.

Specific comments on the draft regulations

- 58 Some of our respondents have raised issues specific to the drafting of the proposed regulations. Current regulation 72(15) of the Housing Benefit (General) Regulations requires good cause to be continuous through the whole period for which backdating is claimed. The proposed regulations do not appear to contain this requirement because the draft regulation 3(b) states that the existing regulation 72(15) shall be omitted. A similar provision has also been included for CTB. It therefore would appear that the proposals would allow a person to claim up to three months without good cause existing during the whole period. Surely this cannot be the intention.
- 59 Concern has also been expressed about the wording of draft regulation 72D(3)(e), which requires written advice from advice agencies. The inclusion of “landlord” could lead to unscrupulous landlords stating that they had advised their tenant not to claim in order to gain benefit in respect of rent that was not payable. We think that the regulation should be amended to show that it covers registered social landlords only.

Good cause - Conclusion

- 60 From the evidence supplied to us it is clear that the prescriptive list of reasons for allowing a late claim introduced in 1997 has caused difficulties for claimants and has introduced doubts about the integrity of the law. The introduction of a similar list for HB/CTB must extend these effects.
- 61 We have welcomed the intention to introduce a right of appeal to an Appeals Service tribunal but we do not believe that the introduction of a prescriptive list is necessary to bring HB/CTB into the integrated appeals system. That system already encompasses benefits with widely different rules. Different benefits have different backdating rules, different contribution requirements, different earnings limits and different capital limits. The appeals system is able to accommodate these variations, therefore, it seems disingenuous to say these changes are needed to fit HB/CTB into the social security appeals system.
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- 62 Under the existing system, claimants must show continuous good cause. Those claimants whose only reason for a late claim is deliberate delay, cannot currently receive a backdated award. The proposals would not affect them, but would affect those who failed to claim for a reason related to the nature of HB/CTB.
- 63 We, therefore, **recommend** that the proposal to replace the existing good cause provisions with a prescribed list within regulations should not be introduced. Instead, the Government should examine ways of reducing the need for backdating that are created specifically by the HB/CTB claims system. For example, the requirement to renew claims could be removed, particularly for pensioners in local authority property and in receipt of Income Support. Their only change of circumstances is likely to be an annual increase in their rent and Council Tax; a change of which the local authority will be fully aware.
- 64 The requirement to end the benefit period when Income Support or Jobseeker's Allowance ends could be removed and the cessation treated as a change of circumstances. This would resolve the problems for those temporarily absent from home and those whose Income Support or income-based Jobseeker's Allowance is retrospectively cancelled.
- 65 Appeal Tribunals and staff administering the benefits could be given guidance as currently exists on how to make a decision.
- 66 If the Government decides to reject this main recommendation, for the reasons we have set out we **recommend** the following:
- a) that the proposed regulations 72(D)(3) and 62D(3) be amended as follows:
 - i) "it was not reasonably practicable for the claimant to obtain assistance from another person" should be removed from (a), (b) and (c);
 - ii) in (a), difficulty with communicating should include mental health problems, and drug and/or alcohol addiction problems;
 - iii) in (d), the provision should be extended to include the situation where information provided by the officers listed did not include that pertaining to potential entitlement to another benefit;
 - iv) in (e), the requirement for information given by other advice agencies to be in writing should be amended to include oral information. And "landlord" should be amended to "social landlord".
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- b) Further categories should be added to regulation 72(D)(3) and 62D(3) as follows:
 - i) A notification that the benefit period is due to end and/or the invitation to renew the claim was not sent or received and the claimant submits a new claim as soon as reasonably practicable after this.
 - ii) A completed claim form was returned but was not processed by the local authority because the claim and/or substantiating evidence were lost or because the claim was closed in error.
 - iii) Where it was reasonable given the claimant's circumstances for the claimant to have failed to claim earlier.
 - c) To ensure that HB/CTB claimants have similar rights to those of other means tested benefits, a failed HB/CTB claim, which would have succeeded had a "qualifying benefit" been awarded at the time of the HB/CTB claim, should be treated as made on the date of its original claim.
 - d) Consideration be given to the effects of omitting existing regulation 72(15) and 62(16) which require good cause to be continuous.

Costs/savings

- 67 We welcome the proposal to increase to the maximum the amount of subsidy payable to local authorities in respect of late claims. The existing system works as a direct disincentive to make full use of powers to backdate because local authorities do not receive full recompense, even when the need for backdating has not been caused by local authority error/maladministration.
- 68 The assertion in the memorandum that the costs of these proposals would be neutral appears based on little if any evidence. Moreover, it can only hold good in the strict sense of the programme costs of the DSS budget. The implication that a higher proportion of local authority expenditure will be picked up by central government without any increase in budget must be that there will be an equivalent reduction in payments to claimants. We do not believe that it is justifiable to fund a sensible increase in the subvention to local authorities at the expense of claimants, by reducing the amount of benefit that they would receive under the current arrangements. Furthermore, the memorandum has not taken into account the potential additional costs that could arise indirectly. Housing and social services costs could increase to meet the need to deal with homelessness. Social services may need to help additional people through community care issues and Children Act legislation where tenants with dependent children are evicted. The proposals could also lead to the provision of more temporary accommodation, which is more expensive.

Conclusions

- 69 HB/CTB were singled out for omission from the 1997 changes, because they are administered by local authorities. Ministers have given no indication in the memorandum of why it is now considered appropriate to align the rules, other than because of the introduction of a right of appeal to an Appeals Service tribunal. The proposals appear to be simplifying the benefits system by aligning the provisions for HB/CTB with those of the other income-related benefits. However, as we have illustrated, there are significant differences between HB/CTB and those other benefits which justify and indeed require a regime which operates more favourably to the HB/CTB claimant.
- 70 We believe the proposed changes:
- are not necessary to integrate HB/CTB into the Appeals Service system;
 - will make the system less flexible but not fairer;
 - will not make claimants claim earlier but will reduce the number of successfully backdated claims through their narrower definitions;
 - will particularly adversely affect the chronically sick and disabled, those with mental health problems, the elderly, the housebound, those whose first language is not English, ethnic minority groups those with communication problems and those with addiction problems;
 - will increase rent arrears and, potentially, homelessness;
 - will adversely affect Registered Social landlords as well as the Housing Revenue and Council Tax accounts of local authorities;
 - will clash with the Government's social exclusion and tackling poverty agendas.
- 71 Therefore, we **recommend** that the proposal to restrict backdating to three months should not proceed. We also **recommend** that good cause should not be replaced by a prescribed list of very limited circumstances. Instead, the Government should examine ways of improving the service delivery and research the impact of the proposed restrictions on claimants and on the levels of rent and Council Tax arrears.
- 72 If the recommendation concerning good cause is not accepted we **recommend** that the proposals on amendments to regulations, made in paragraph 66, should be implemented so as to safeguard claimants whose need for backdating arises from poor administration by the local authority or Benefits Agency.

Summary of recommendations

- **A reduction of the maximum period for which awards may be backdated should not be made (paragraph 45);**
 - **Good cause should not be replaced by a prescriptive list within regulations (paragraph 63). If this recommendation is not accepted, the draft regulations should be amended to (paragraph 66):**
 - **remove the requirement for another person to give assistance**
 - **add mental health problems and drug and/or alcohol addiction problems to the reasons for having difficulty with communicating**
 - **replace “landlord” with “social landlord”**
 - **allow the following to be a reason for backdating:**
 - **not being given information about potential entitlement to another benefit by an official**
 - **oral information given by outside advice agencies**
 - **failure to notify that the benefit period is due to end and/or failure to invite a renewal claim**
 - **a completed claim form was not processed because it and/or the substantiating evidence were lost or because the claim was closed in error**
 - **where it was reasonable given the claimant’s circumstances for the claimant to have failed to make a claim**
- and**
- **Regulation 6 of the Social Security Claims and Payments Regulations 1997 should be amended so as to allow a claim that would have succeeded, had the qualifying benefit been awarded at that time, to be treated as made on the date of the original claim;**
- and**
- **Consideration should be given to the effects of omitting regulations 72(15) of the HB regulations and regulation 62(16) of the CTB regulations.**

THOMAS BOYD-CARPENTER

10 October 2000

Annex B

The Housing Green Paper April 2000

The response of the Social Security Advisory Committee

The Committee is the main UK advisory body on social security matters. It offers advice to Government, mainly upon proposals for social security regulations. Its statutory remit does not generally extend to subjects - such as housing policy - that may interrelate with social security but which are not the responsibility of the Department of Social Security. Nonetheless, the Committee maintains a close interest in all developments relating to particular aspects of the benefits system.

The Committee has always monitored developments in housing policy, and the ways in which decisions in this area have influenced developments in social security, and vice versa. Our comments are therefore set in the context of the Green Paper's consideration of housing policy issues, but are directed mainly towards the recommendations on the future of Housing Benefit.

The problems with the Housing Benefit (HB) system described in paragraph 11.4 of the Paper are very familiar to the Committee. For a number of years we have been concerned about the ever-increasing complexity of the system, the fragmentation of administration across local authorities, the huge variations in the quality of service to customers, and of the quality and effectiveness of controls and security against fraud and abuse.

We have looked at, and on a number of occasions held public consultations on, proposals for regulations to give effect to changes to the HB system. We have often been struck by the vehemence and volume of the responses we have received. For some time now, we have been questioning whether the current system can be said to be meeting its main objective - enabling people on low incomes to afford reasonable accommodation, wherever they may live across the country.

Therefore, whilst we welcome a number of the initiatives that are floated in the Green Paper, we were disappointed to find that many of these appear to be at a very early stage of development, and that it will be some time before they can be implemented. Most also carry some risk. Furthermore, with enormous changes to the way that DSS carries out its business now underway, we are concerned about the ability of the worst-performing local authorities (and their contractors) to implement even modest change - such as the single claims process - and contribute effectively to improvements to service delivery for the various client groups, tackling error and fraud etc.

We were also disappointed that the situation in Scotland has not been given detailed attention nor specific proposals for reform. Circumstances in Scotland are notably different from those in England and Wales in terms of central government funding and administrative practice and because HB provides the single biggest public sector financial contribution to housing. This makes Scottish considerations extremely significant in the development of housing policy.

Accounts we have received of the chaos prevailing in some HB services - a minority, but a substantial one, numbering amongst them those operating in some of the most deprived and depressed communities in the country - must, in the longer term, call into question the role of local authorities as the administrators of this part of the social security system. One particular consequence of poor services is the disruption to landlords' (particularly Registered Social Landlords') cash flows, the consequent high levels of technical arrears built up by their tenants, and the number of actions for possession and eviction pursued where tenants' claims for HB have been delayed or disrupted. Often already vulnerable tenants and those with community care needs in the private rented sector are especially susceptible to the threat of eviction and even homelessness caused by delays in the payment of HB.

It is not just the poor performance of many local authorities that bothers us. The poor fit between local authority/Benefits Agency/Employment Service boundaries, and the communication problems that stem from this, put at risk the highly commendable principles of the ONE service. This cannot be tackled by improvements to liaison and information sharing alone. Best Value will not have an early impact on the worst performers, and some problems call for more urgent attention. In this regard, we would observe that there may have been a case for the location of HB services in local authorities, when the latter were the major providers of affordable housing. However, this is no longer the situation.

Indeed, the poor performance of local authorities as benefit administrators must be an impediment to furthering the successful transfer of social housing stock to alternative landlords. We would therefore suggest that the return of HB administration to the DSS - or its successors - is still worth consideration. In the new client group based organisation, there is scope for restructuring both the benefit and the service delivery to reflect your objectives for the different groups. There is also an opportunity here to concentrate your efforts to tackle fraud and abuse onto areas where there is the greatest risk.

For the moment, we would endorse moves to simplify the way in which the benefits system helps tenants meet their housing costs. Making a start with the consolidation of the HB regulations and guidance could help simplify and streamline the decision-making processes. We also welcome the proposals to bring HB decisions within the scope of the Appeals Service. But so long as local authorities work with disparate and inadequate IT systems, and their own-design claim forms and related material, the effect of such improvements is likely to be patchy. It seems to us that it is the complexity of the system *per se* that is a daunting barrier to real performance improvements.

We have recently seen an announcement from the Secretary of State for Education and Employment about forthcoming measures to carry an existing HB entitlement forward for some months after a claimant finds work. Whilst we welcome the underlying principle, such arrangements present an administrative challenge - and risk - that many local authorities would find hard to address. Such measures do nothing to advance the Government's "work pays" agenda if they cannot be administered effectively.

Some of the features of the HB scheme we have criticised in our reports (for example, the adverse effects on work incentives of the disregard provisions, and the harsh impacts on some vulnerable groups and on homelessness of the "hit and miss" application of crude cost-control measures, such as the Single Room Rents) can and should be tackled quickly. Likewise, we would welcome measures to reduce the number of overlapping sets of Rent Allowance rules. Whilst we understand that some claimants might see a reduction in their benefits, in our work on Transitional Protection (summarised in our 1999 Stewardship Report which is available on our website www.ssac.org.uk) we have previously pointed to situations where the case for the removal of administrative complexity may take precedence over the risk of the creation of losers at the point of change.

These are relatively small steps to take. However, over the years, we have reluctantly come to the conclusion that the risks attached to “Big Bang” reform of the HB system are too great, and we understand the reluctance to pursue radical change in the short term. Whilst some of the ideas floated in the Green Paper for consideration in the longer term hold out the prospect of real simplification, we are glad to note that it is acknowledged that these could not be pursued in isolation from changes to housing policy, particularly for the social sector. Without measures to effect structural change in the housing market, most small-scale measures can be no more than sticking plasters on a failing system.

The lack of real housing choice for people on low-to-average incomes (especially when it comes to the price of accommodation) in the so-called “affordable” housing sector, the huge disparities in accommodation availability and quality across large parts of the country, the rigidity of the system of secure tenancies in LA accommodation, and so on, must be addressed before the current HB system is dismantled. This appears still to be a very long-term enterprise.

The Government’s Welfare to Work strategy, and other initiatives aiming to support and motivate individuals to take responsibility for themselves, and regenerate deprived communities, require arrangements made to assist those on low incomes to meet their housing costs to be credible, comprehensible and reliable. As we have noted, in many areas of the country such arrangements simply do not exist. Whilst we broadly support an incremental approach to change, simplified HB rules and improvements to the claims process may have a limited impact in areas where service delivery is already failing.

Understandably, there is an emphasis in the Green Paper on fresh measures to prevent fraud and abuse. However, we are concerned about the Paper’s emphasis on measures to penalise those local authorities who fail to perform. We would not advocate “throwing money” at the problems which seem now to be endemic in the HB system (and must in part be a reflection of its structural weaknesses and almost-unmanageable complexity).

But it seems to us that there is a real risk here that the losers will continue to be the claimants who depend on the services local authorities provide. We have seen press reports recently of services worsening following the introduction of the Verification Framework, with increased delays and late payments. We have also followed the reports of the Benefit Fraud Inspectorate’s local inspections. Here even some of the better-performing local authorities seem to be having difficulty following the new requirements to the letter.

Investing modest new funds in the design of a common claim form and the standardisation of IT systems and processes might sit well with Best Value measures to revitalise administration.

Our conclusion is that any measures - however modest - that hold out the prospect of improved services and enhanced security are to be welcomed. However, the debate on the future of HB has been going on for some time, and we found little that is new in the Green Paper. It seems to us that major changes to housing policy will be needed before any of the looked-for incentives for individuals to find and keep work, choose and control their levels of housing costs and so on, can be built into a modernised system of helping with the costs of housing.

We look forward to seeing and commenting on the details of the measures outlined in due course.

Annex C

Report on the proposed scheme for providing redress to those misled about the 1986 changes to the State Earnings Related Pension Scheme (SERPS)

1 Introduction – The consultation

- 1.1 In July 2000 the Secretary of State asked for our views on the outlines of a scheme for the provision of redress to those misled about the 1986 changes to the State Earnings Related Pension Scheme (SERPS). This consultation differs from the normal pattern, in that it does not represent a formal referral of draft regulations in discharge of our statutory role, but rather an opportunity at an earlier stage in the development of policy to advise on issues that would need to be addressed in regulations. Given the complexity of the issue, we welcomed this opportunity.
- 1.2 We would like to thank the 472 individuals and organisations that wrote to us. Their contributions greatly assisted us, both in our consideration of the proposed scheme, and of the wider issues it has raised.
- 1.3 The responses convey a striking strength of feeling about the inherited SERPS issue. Whilst the individuals who wrote to us may not be representative of the whole population of SERPS contributors, the details of their personal circumstances and concerns present a vivid picture of the consequences for some individuals of a reduction in the expected rate of inherited entitlement.
- 1.4 In addition, many respondents looked beyond the likely impact of the proposed scheme, raising questions about the Government's provision of information to contributors generally, the conduct of consultations on the Government's plans, and the handling of their previous enquiries and complaints about the SERPS issue. Some of these responses clearly lay beyond the scope of this consultation, or the role of SSAC, but we have taken note of the content of all the letters we have received. All have been sent acknowledgements, and our Secretariat has replied to some, with others copied to the Department for a reply.

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- 1.5 Other responses lay outside the precise issue on which we were consulting – the effectiveness and practicality of the proposed scheme to provide redress to those misled by inaccurate or incomplete information – in that they raised wider issues relating to the adequacy of such an approach. As will be seen from this report, we have, after discussion with the Secretary of State, widened its scope to address this issue. We are grateful to respondents for the points that they have drawn to our attention, and we have borne them in mind in the preparation of this report.

2 Summary

- 2.1 We approached our task recognising that the proposed scheme is one element in a package of measures to address the wide-ranging consequences of the DSS's failure to provide accurate and accessible information about the 1986 changes to rules governing inherited SERPS.
- 2.2 Whilst we have not lost sight of the other components of the Government's plans – in particular, the welcome deferral of the change to the SERPS inheritance rule to 2002, which addresses the most immediate problems facing those affected – the focus of our scrutiny has been the scheme. Our main objective has been to answer the question of the Secretary of State put to us: does the scheme proposed represent an appropriate and effective means for providing redress to those who were misinformed about their pension rights and entitlements. We have concluded that it does not, and in this report we examine those elements in your proposals that to us most seriously undermine the Government's policy objectives.
- 2.3 Whilst we welcome the Government's commitment to the provision of redress, we have concluded that the scheme as presented is not operationally viable. It would be virtually impossible to bring in all those in the target group; and it could not exclude those not in the target group who may be tempted to abuse its provisions. Furthermore, it will not be perceived as reasonable because it leaves out people who, until recently, were unaware of and unprepared for the change because they had received no information whatsoever.
- 2.4 Our main recommendation is that the Government does not proceed with the scheme proposed. We further recommend that the Government revisits the 1986 decision and considers a restoration of the 100% inheritance rule until such time as the State Second Pension is introduced in 2002, when the 50% rate could be introduced. We believe that this approach represents the only way of ensuring that Government delivers to SERPS contributors a level of service that they should reasonably expect to receive.

2.5 We are, however, conscious that to do this would be expensive – although, against the background of the Government’s commitment to raising the Minimum-Income Guarantee, and the fact that total costs of changes to the proposals will be spread over 50 years, the net annual costs of change should not be over-stated. We have therefore explored whether, by supplementing a redress scheme with more generous arrangements for transitional relief, in accordance with the principles that we recommended in an earlier report, it would be possible to mitigate the worst effects of the proposals. We have concluded that such an approach would not provide a universal safety net in all cases where individuals will have been disadvantaged. Our primary recommendation therefore stands. However, it would be possible to address the needs of large groups of those adversely affected, and to amend the scheme so that it offered less of an incitement to abuse, by introducing forms of relief that we believe would be significantly less costly than our main recommendation.

3 The proposed scheme

3.1 The proposed scheme is intended to compensate those SERPS contributors who, as a result of some incorrect or misleading information, failed to take the action (likely to be in the form of providing for additional or alternative income to make good the drop in inherited SERPS) that they would have taken, if they had been in possession of correct and complete information. The scheme would require individuals who believed that they met these conditions, and who are married, to complete a claim form in which they assert that they received incorrect or incomplete information and that they relied on this when considering what provision they should make for their surviving spouse. While they might be required to provide material to substantiate such an assertion, the burden of proof that a claim did not meet these conditions would rest with the DSS.

3.2 For such a scheme to deliver the policy intention, it must:

- Be structured reliably to reach the potential beneficiaries, so that they are aware of the scheme and their need to claim.
- Include a claim form that is accessible and effective.
- Have definitions of entitlement that match the policy intention, can be understood by the claimant and be fairly administered by the Department.
- Not be susceptible to fraud or abuse.
- Be capable of introduction within a reasonable timescale.
- Be capable of efficient administration.

Some of the answers to these questions would only become clear when the draft regulations were prepared. However, in the light of responses to the consultation, we have doubts over the ability of the Department to introduce a scheme that satisfied these criteria.

The potential beneficiaries

- 3.3 As we understand it, the SERPS scheme was essentially a residual additional pension programme for those who would generally be outside the pensions market. Many of the individuals who are potential candidates for redress are likely to be elderly, disabled or confused; some may be living abroad. It is likely to be very difficult to establish sufficient contact with such individuals reliably to establish whether they made decisions, possibly more than ten years ago, that would now qualify them for redress.
- 3.4 However, the target group also includes a minority who were sufficiently well educated and aware as to be able to make alternative plans. This is evident in the responses to the consultation. A good number of those who wrote to us demonstrated an extensive – and in some cases a professional – knowledge of pensions and investments. It seems likely, therefore, that the scheme as proposed will mostly benefit those already advantaged.

Advertising the scheme and advising potential claimants

- 3.5 We have welcomed the Government's commitment to making a scheme as visible and accessible as possible. This will be a huge undertaking, taking in advertising and awareness campaigns, new information and guidance materials for claimants and staff alike, staff training and so on. The provision of information to the public is one of our ongoing concerns and we look forward to contributing to the process in this case.
- 3.6 Many respondents have suggested that a mail shot to all contributors would be the most appropriate way of alerting potential claimants. We are aware of the likely costs of such an initiative (in excess of £6 million) and the practical constraints on its likely effectiveness (incomplete and inaccurate records of addresses, in particular). However, this is what most respondents want and expect from the Government as a demonstration of its commitment to the provision of redress.
- 3.7 From what we have been told about its likely limitations, we are not convinced that a mail shot would be the most effective way of alerting people to the scheme. Nonetheless, real creativity and enterprise will be called for if everyone with an interest is to have an opportunity to find out whether the scheme applies to them. If the scheme goes forward as currently proposed we look forward to being consulted on the Department's plans.

The choice of a claim-based scheme

- 3.8 The proposed scheme requires active initiation of a claim by the individual who believes he has grounds for seeking redress. A number of conditions have to be met, and the claimant will have to complete a claim form. The likely drawback of this approach is that those who are less well informed, confident and skilled when dealing with bureaucracy, perhaps without English as their first language, or generally “hard to reach”, are at risk of missing out. Previous efforts by Government to understand and address the traditionally low take-up of benefits by older people have had mixed results. Particular attention will have to be paid in this case to ensuring that those who may be entitled to redress are enabled and encouraged to claim. This will be made particularly challenging by the fact that the SERPS scheme is not well understood by a large proportion of potential beneficiaries. Whatever arrangements are eventually put in place, we would ask for the opportunity to scrutinise the accompanying publicity and marketing proposals.

Designing a claim form

- 3.9 Everything we have already noted about the likely operational difficulties posed by a claims-based scheme of this type applies equally to the design of a claim form. Formulating the relevant questions, and incorporating the information claimants will need in order to respond to them will be a sensitive and demanding task. In the event of the scheme going ahead, we would appreciate the opportunity to see the design as it advances.

Who can claim – providing for claims from spouses, and claims on behalf of those who are unable to make claims themselves

- 3.10 A detailed commentary on the conditions of entitlement of a claims-based scheme would require sight of draft regulations. However, we recognise that the Welfare Reform and Pensions Act (The Act) would permit such a scheme to make provision for claims from a spouse (rather than the contributor him/herself), where he/she may have been the recipient of incorrect information. Likewise, provision would be needed for claims from third parties on behalf of those who, by reason of incapacity, could not be expected to be able to pursue a claim, or given an account of action they may have taken in the past. We understand that Baroness Hollis accepted that provisions for the latter group will be necessary.

Application to those who were misinformed by a third party

- 3.11 We believe that it is particularly important that those who received incorrect or misleading information, but not direct from the DSS, should have access to redress. However, we can see that such an approach is problematic. It might seem wrong for the State to step in to make good a situation created, for example, by a professional financial adviser who had failed to work from primary legal sources. However, it would be inequitable to require individuals who had prudently taken steps to obtain professional advice to pursue individual actions through the courts against such advisers, even supposing that they were still in business, particularly as they would need to provide a far higher standard of proof than would be the case if the Department were the source of advice.
- 3.12 We have also given some thought to the circumstances of those who acquired information by “informal” routes – from friends, colleagues and so on. We suspect that these potential claimants are the ones least likely to be skilled at hunting down information and dealing with bureaucracy. If access to redress includes the condition that some account must be given of the “who, how, when and where”, we can foresee some unusual chains of causation being presented.

The conditions of entitlement – the “married” test

- 3.13 The primary “married” test as proposed seems to us to be inappropriately and un-helpfully restrictive. We accept that a direct “linkage” to marriage is required but, as it stands, the test has the potential to exclude individuals who may have sought and relied upon information in a range of different, everyday circumstances (about to divorce, contemplating marriage etc) that would likely change over the years. As it stands, the test adds nothing to the scheme and would serve to exclude some people who should be entitled to redress.

The conditions of entitlement – the “reliance” test

- 3.14 As with the problem of defining what actually constitutes “incorrect” or “misleading” advice for the purposes of making a claim (which we consider in more detail in paragraphs 3.19-3.25), a fair and transparent application of the reliance test seems to us to pose some difficulty. However, in asking claimants to make a statement confirming reliance there seems to us to be a risk that many will give an honest “don’t know” or “I don’t remember” in reply. We were rather surprised that, in practice, the Act permits the Secretary of State to accept reliance in such circumstances. Whilst we can understand the wish for provisions for redress to be inclusive in such circumstances, the risk of abuse, which we consider in more detail below, is evident.

The risk of abuse of the scheme

- 3.15 We understand the logic that led to the Government's acceptance that the burden of proof in all claims for redress should rest with the DSS. However, we have grave reservations about the provision that the simple assertion, unsupported by any additional evidence, that an individual had – for example – read the appropriate leaflet and, as a result, decided not to consider additional or alternative provision, would be sufficient for the burden of proving that an individual had not suffered a loss to be cast on to the Department.
- 3.16 In practice, of course, in most cases it would be impossible to rebut the presumption, and there would be an open invitation to pretend that there had been reliance. Although we understand that the Act provides for the burden of proof to be assumed by the Department, it seems to us wrong that the individual is required to produce no evidence – over and above the simple assertion – that he had actively considered the issue, for example by pursuing a personalised inquiry. However, we also appreciate that, followed literally, this would serve to exclude from the scheme many people who have no evidence other than a general recollection of events. In practice, in other areas of social security, a decision-maker considers all relevant facts and the law. If the assertion is the only evidence, and the decision-maker has no evidence to the contrary, the claim will always succeed.
- 3.17 We have noted that the Public Accounts Committee and others have expressed similar concerns. They have gone on to point out that many of those who would have no recourse to the scheme will be those who have declared honestly that they had no knowledge of the changes, and had made no enquiries, because they saw no need to do so (we return to this issue below).
- 3.18 We believe that it is wrong in principle for the Government to establish a scheme that has, in effect, a spurious legality. The potential – perhaps the near-incident – to abuse which is implicit in the scheme's design, and its scope to encourage and reward dishonesty, cause us particular concern.

What constitutes incorrect/incomplete information?

- 3.19 Our reservations about possible abuse of the scheme notwithstanding, this issue must be addressed and put beyond doubt. A scheme such as this would need its limits explained clearly and concisely in both the claim form and accompanying information and publicity.
- 3.20 An assertion that information was incorrect may be much simpler to address than an allegation that information was incomplete. In the latter case, further enquiries might well be called for and a judgement would have to be made about the significance of any alleged omissions and their bearing on the action – or otherwise – taken by the claimant.
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- 3.21 We have also considered the situation of someone who has asked for a pension forecast. Where a contributor to SERPS requested a forecast knowing that his/her pension includes provision for inheritance, would the omission of information in this document about forthcoming changes to the inheritance provision constitute the provision of “incomplete” information? We believe that, in the perception of many contributors, it may do so.
- 3.22 However, we appreciate that it could be argued that the absence of specific information should act as a prompt to those who enquired with inheritance questions in mind. We have also observed that, strictly speaking, any information could be deemed to be incomplete where it is supplied without the relevant legislation and guidance. In our role vetting the Department’s information products, we shall be looking very closely at the issues of accuracy *and* completeness.
- 3.23 We have given some thought to whether, in cases such as the ones involving SERPS forecasts, where a claim for redress fails, an individual might successfully pursue a case for damages in the courts, irrespective of the general principle that “ignorance of the law is no excuse”. We reached no firm conclusions, and can identify no precedent for such an action. However, we think it likely that the unusual nature of this situation may throw up such a challenge.
- 3.24 We know of no similar situations where a Government Department’s error had the potential so seriously to affect the personal finances and plans of so many individuals. In fact, few central Government Departments have any direct dealings whatsoever with the public and none quite like those of the DSS, whose “customers” include the majority of the population. We would be interested to know whether, in formulating the proposed scheme, this issue was specifically addressed.
- 3.25 As the scheme stands, however, we believe that more complicated enquiries, and more complex decision-making processes than those envisaged, may be inevitable. These would be at odds with the Government’s stated objective that the claim-based scheme should be simple to access and operate. We have already noted that the looked-for simplicity carries with it a strong risk of abuse, and sends the wrong messages about how an individual should go about seeking redress from Government. If the scheme goes ahead, we shall be looking further at how the incorrect/incomplete information test is to be managed.
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The timescale for the scheme

- 3.26 We believe that getting an adequately publicised and fully accessible scheme of the type proposed up and running by the second half of 2001 presents significant challenges. Accordingly, whilst we would not wish to see the provision of redress delayed further, we are of the view that proper preparation for a scheme is vital to its success. We therefore welcome the Government's commitment to researching how best to publicise and market the scheme and ensure the fullest possible take-up. However, we shall monitor developments carefully as any "go live" date approaches in order to satisfy ourselves that everything necessary has been done by way of preparation.
- 3.27 We would also suggest that, if the scheme proceeds, consideration be given to making provision for keeping the scheme running beyond the three year period currently planned. It is evident that there is considerable uncertainty around the estimates of numbers of claims, and speed of take-up. Experience has shown that take-up amongst the target group may be low. There is also a risk that administration of the scheme may be more complex than has been envisaged. Whilst it could be argued that the longer the scheme runs, the greater the risk of abuse, as people learn the best ways of playing the system, it would seem prudent to allow some flexibility to meet contingencies such as unexpectedly low take-up.

Administering the scheme

- 3.28 We have noted that consideration may be given to contracting out the administration of the scheme. We are familiar with the poor record of some of the contractors providing Housing Benefit and it would seem to us that the most powerful of contracts would be called for if any of the supposed benefits of contracting out are to be achieved in this present situation.
- 3.29 Even the handling of requests for information and advice, provision of assistance with the completion of the form, and the gathering of information for decision-makers is potentially complex and demanding. We believe that the skills and expertise required are best found from within the Department, with the risks associated with a scheme managed "in house".
- 3.30 We are aware that the Department is going through a period of profound and far-reaching change as the Focus on Delivery initiative re-shapes the way that social security business is carried out. It will be important to ensure that a scheme is run in a manner compatible with the way that service delivery for pensioners more generally is being developed. The quality of service provided to potential claimants through the various outlets (Pensions Direct, local offices etc) that claimants will be using is critical to the success of the scheme. We believe that the administration of this sort of scheme offers the opportunity to learn about the sorts of services that the new dedicated Pensions Organisation will need to deliver, and the best ways of delivering them.
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Summary

- 3.31 While clearly much will depend on the precise details of the regulations, and such matters as the design of the claim form, we have grave doubts whether the scheme as currently conceived will meet the policy intention. It will provide access for the articulate and informed, but it is far less likely to reach many of the older poorer potential beneficiaries. The precise boundaries of entitlement risk creating anomalies and hard cases. Moreover, the provisions in respect of the burden of proof provide, in effect, an incitement to claimants to distort their recollection of events which in any case may be difficult to recall over a period of many years. The unfortunate precedent that this might set would in our view of itself constitute a powerful argument for looking for an alternative approach.

4 *Limitations in the coverage of the scheme*

- 4.1 A theme in the PAC report, and in many of the several hundred letters we have received from individual contributors to the SERPS scheme, is the perceived duty of Government to inform contributors about changes that would materially affect the benefits for which they would eventually qualify. Many of those who will lose out were not misled or misinformed. Rather, they simply did not know that the changes had taken place.
- 4.2 The Public Accounts Committee noted that private pensions providers, with whose schemes SERPS was effectively aligned with the reduction to 50% for inherited rights, must notify their customers of such changes. Many of those who wrote to us also pointed to the special nature of the SERPS scheme. They point out that they were required to enter into what was effectively a long-term contract to secure additional income in retirement, for both the contributor and a surviving spouse, whether as part of a state scheme, or an "opt-out" occupational alternative. In the latter case, the scheme provider would have been obliged to notify changes to the terms and conditions of the scheme.
- 4.3 When legislation introduced the SERPS scheme, the new provisions were publicised, and contributors made aware of how to make the best use of the options available to them. This is also the case today, when Government is stepping up its efforts to increase knowledge and awareness of pensions, including the new State Second Pension, and promote responsible pension planning. However, no such information and awareness initiative accompanied the changes to the inheritance rules in 1986, rules that govern a most significant element in many contributors' plans for the future. Several of our respondents point to the pensions forecasts they obtained from the Department in the years after 1986, and subsequently used to plan for the future, as making no mention of the forthcoming change in the SERPS inheritance rules.

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- 4.4 We understand the argument that Government has no general responsibility to explain changes in the law to individual members of the public. We also appreciate the practical and financial constraints on even selective promulgation of information to particular groups. However, this was not a general change to the law. It was directed at one particular group of contributors, who were required to make contributions to a state pension scheme that represented a long-term investment in the expectation of receiving a predictable level of benefits – both for themselves and for their spouses. The responses to our consultation indicate that many of those who are directly affected by the 1986 changes started their working lives around the time that the Beveridge social security system was introduced. They feel very strongly that they have paid into the system in expectation of a fair return, and that the state is not honouring its side of the compact.
- 4.5 Accordingly, we have much sympathy with those who are calling for the redress to be available to those contributors who would have considered making other provisions for the future had they known about the 1986 changes, as well as those who received incorrect information, and in consequence, failed to act. Although we have been given to understand by officials that the 1986 changes do not contravene Article 1, Protocol 1, of the ECHR, some respondents have suggested otherwise, and we have heard that some contributors are about to pursue legal action. We would suggest that this issue might be explored further before the Government's plans are advanced.

5 *Alternative options*

- 5.1 As the previous two sections of this report have illustrated, the core problem can be summarised as follows:
- The Government did not inform *generally* that a change in the inheritance rules was in the offing;
 - The Government *negligently mis-informed* some people about the change; and
 - The point of change is now so close that there is *inadequate opportunity* for those affected to make alternative provision.

The proposed scheme seeks to address the second of these issues, although we doubt whether it does so effectively, but does not touch the other two points. Almost without exception, those who have written to us have expressed disappointment that other options that might have been available under the terms of the Welfare Reform and Pensions Act have been little explored.

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- 5.2 A majority of respondents have argued for all SERPS contributors to receive full inheritance rights, and for the 50% inheritance provision to be incorporated into the new State Second Pension scheme when it is introduced in 2002. This might cause minor injustice to those who had been made aware of the legislation and had taken action that would thus be rendered nugatory; however, we suspect that such individuals will be few in number and the adverse consequences are likely to be limited.
- 5.3 The argument against such a step is the potential cost, and therefore the opportunity cost of such a major reversal of policy. We have only seen indicative numbers, and the figures in them are undoubtedly large. However, this concern should be treated with a degree of caution. First, the calculations represent potential expenditure over a very long period of time; while the sums may be large, the percentage of total welfare expenditure that they represent is not. Secondly, while the potential beneficiaries of such a change would include some with substantial earnings, in numerical terms the majority of those to whom SERPS represents a significant proportion of their retirement income are not well off. Many of their partners, were they not to receive a 100% inheritance, would benefit from the Government's future plans for the Minimum Income Guarantee. There is therefore a substantial saving from the Income Support budget to be netted off against this expenditure. We believe that such an approach represents the only sure method of addressing the problem, and it therefore represents our primary recommendation.
- 5.4 We have, however, explored other lesser alternatives. The problem set out above, and particularly its third element, falls squarely within the circumstances which in an earlier paper⁸ we identified as being appropriate for transitional protection – the change has *significant consequences* for those affected, and they *relied on* the original provision. By delaying the introduction of the change until 2002 the Government has gone some way towards addressing this, but we do not consider that it has gone far enough. This view is shared by the respondents to our consultation. They have advocated, as a minimum, the retention of full inherited rights for people who are at, or close to, pension age, and for those who have taken early retirement, particularly those who retire early on health grounds, or as part of a planned “early exit” scheme. They point out that this group has the least chance to make alternative provisions. Individuals who acted upon the best information available to them at the time should not be penalised.

⁸ “Transitional Protection in Social Security”, published in “Social Security Advisory Committee, Twelfth Report 1999”, Corporate Document Services 1999.

5.5 To provide an adequate form of transitional protection, the following categories of individuals would need, as a minimum, to be provided for:

- **Those over 60 when the new scheme becomes effective in 2002.** Whether or not they are currently in receipt of pension, it would be unrealistic to expect such individuals to make arrangements within their residual working life to replace the lost entitlement. This group should therefore be totally exempted from the reduction in the 100% inheritance.
- **Those who in 2002 have only a limited opportunity to provide an alternative solution.** Clearly those approaching retirement may be able to make additional provision for their spouse's pension, to compensate for the loss of the 100% inheritance, but their capacity to do so will be limited by the length of their residual working life. We would recommend a sliding scale approach, which might run either for age 50, or 46 – the latter replicating the 14 year period for implementation envisaged in the 1986 legislation. For example those over 55 but under 60 in 2002 might retain an entitlement to say, an 80% inheritance, with lesser figures for those under 55 but under 60 in 2002 might retain an entitlement to, say, an 80% inheritance, with lesser figures for those under 55.
- **Those of whatever age whose partners die before 2012.** Even for younger earners it would take time to replace the loss of inheritance rights.

Providing for these groups would not cover all potential cases – for example those who become physically or mentally incapacitated and are therefore unable to take steps to replace the loss of inheritance rights. For this reason we do not regard an approach of this nature as a preferable alternative to rescinding the entire change in the scheme. That said, it would mitigate effects for a large proportion of those likely to be worst hit by the proposals.

5.6 A further category remains – those who sought and were given inaccurate or incomplete advice. Many of these, but not all, would be picked up by a transitional relief scheme of the sort we have proposed. We consider that they should be entitled to redress. However, given the more effective safety net that we have advocated, we believe that it would be appropriate for a slightly more stringent approach to be adopted by the Department in demanding from claimants some substantiation of their basis of claim. This should not go so far as insisting on a level of proof appropriate in a legal context – and for this reason the position in respect of advice given by independent financial advisers, set out in paragraph 3.11, should stand – but it should be sufficient to deter blatant abuse of the system.

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- 5.7 In the time available the Department has not been able to cost these proposals for us. However, we are clear that, should our primary recommendation be deemed unaffordable, they would represent a significant mitigation of the problem and an affordable cost.

6 *Conclusion*

- 6.1 We sought to assess the Department's proposals against their potential to operate fairly and properly in respect of claims from the Government's target group. We have concluded that, not only will it be very hard to make the scheme fully inclusive for this group, but it will also be almost impossible to screen the scheme from abuse. More seriously, it sets a most dangerous precedent, especially at a time when Government is working to eliminate abuse and remove the scope for "playing the system" from the full range of social security provisions.
- 6.2 At the same time it will raise and dash expectations amongst the numbers of people who have only recently discovered that they stand to lose out under the changed inheritance rules, but do not come within the scope of the scheme because they had received no information whatsoever. This is most unlikely to satisfy the public at large. It is also notably at odds with what Government rightly requires from private sector providers.
- 6.3 The provision of inadequate or incorrect information, which the proposals are intended to address, represents only part of the problem. The other elements are the failure of Government to provide an adequate level of information to all those potentially affected, and now that this information is being made available, a lack of time for them to make alternative provision. In our view this can only be fully and fairly addressed by rescinding the 1986 legislation; and we think it important that the net annual costs of such a solution are not over-stated. If this is, nevertheless, deemed too expensive a solution, it would be possible, by following the principles in our earlier report on transitional protection, to mitigate the worst effects for a large section of the population.

7 *Recommendations*

- 7.1 The Government should not proceed with the scheme as conceived. Instead it should revisit the 1986 decision and reconsider a restoration of the 100% inheritance rules, with a 50% rule to be introduced as part of the State Second Pension.
- 7.2 If these recommendations are not accepted, transitional protection on the lines set out should be afforded to those who are unable to make alternative arrangements: but this could be combined with a requirement for those still making a claim for redress to substantiate the basis of their claim.
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7.3 If the Government still wishes to persist with the proposed scheme a number of aspects should be reconsidered, with a view to making modifications. In particular:

- the “onus of proof” and “reliance” arrangements should be re-examined with a view to reducing the scope for abuse;
- the restrictive effect of the proposed “married” test should be re-examined with a view to catering for the wide variety of circumstances to be addressed;
- the test of what constitutes “incomplete” information should be re-examined with a view to addressing the operational consequences of the difficulties of practical operation that we have identified;
- comprehensive arrangements for alerting contributors to the scheme’s introduction and its conditions should be put in place as quickly as possible, to allow the maximum time to reach the target group and inform those who would not be entitled of their exclusion from the scheme. Plans should be made to extend the life of the scheme if take-up is slower than expected.

7.4 Finally, we have indicated that we would wish to have the opportunity to comment on a number of operational aspects of a developing scheme. We hope that we shall be consulted further on whatever scheme is taken forward.

Annex D

Funeral expenses

Anthony Ogus⁹

Background

- 1 In our 1995¹⁰ and 1997¹¹ reports on amendments to the regulations governing the Funeral Expenses scheme we were forthright in our criticisms both of the details of the proposed changes and of the general policy behind them. In the second of the two reports, we suggested that “rather than implement rules which change eligibility yet again, the opportunity should be taken to consider a new approach to help with funeral costs, whether by state or private insurance, a combination of the two, or by some other means”.¹² As far as is known, no such consideration has yet been given to the matter within Government circles. In November 1999 the Chairman wrote again to the Secretary of State about our suggestion, and he invited the Committee to generate ideas. At the same time, arrangements for the Social Fund are being reconsidered by the DSS in the light of the changes currently being made to the administration of benefit delivery.
- 2 In this paper I seek to take up the Secretary of State’s invitation. After an account of the history of UK social security provision for funeral expenses, I summarise the present rules and the criticisms which can be made of them. I then outline possible options for reform. The latter are presented in very broad terms with no attempt to work through the detailed implications of implementation.

History of social security provision for funeral expenses

- 3 I make no excuse for devoting some space to the history of our topic because the present position has been reached only after considerable experience with a variety of forms of assistance, including private and social insurance, and the problems to which they have given rise.

⁹ I gratefully acknowledge the assistance of the Secretariat and Department officials in preparing this paper.

¹⁰ Social Fund Maternity and Funeral Expenses (General) Amendment Regulations 1995 (Cm 2858).

¹¹ Social Security (Social Fund and Claims and Payments) (Miscellaneous Amendments) Regulations 1997 (Cm 3585).

¹² *Ibid*, para.45.

*Private insurance*¹³

- 4 A phenomenon of Victorian society which had a considerable influence on the development of both private and social insurance was the fear and humiliation of a pauper's funeral. Two forms of private funeral insurance became prominent. The first was taken out with small, local burial societies, organised by, and for, the more affluent workers. They were under the control of their members who thus could ensure that administrative costs were kept to a minimum. Very different was the position of the large collection societies which were run on a commercial basis by insurance companies and whose clientele was predominantly from the poorest section of the community. The administrative costs were high, amounting in some cases to as high as 40 per cent of the benefits paid. There was also a large proportion of abortive insurance, policies lapsing before they matured because of a failure to maintain premium payments. Fierce competition between the companies resulted in allegations of exploitation and sharp practice.

National Insurance Death Grant: the 1946 approach

- 5 A series of official committees investigated the problems and their recommendations led to an increased degree of regulation of insurance practices. However the Beveridge Report found that there was a strong case for reform, not least because the cost of funeral insurance was a substantial drain on the resources of lower-income groups. As a result of the proposals, a lump sum death grant was included in the 1946 National Insurance scheme, payable on the death of a contributor, or member of his or her family. The rates set varied according to the age of the deceased but were based on pre-war funeral costs. The grant could be claimed by any person (though not a "body corporate") who "had reasonably incurred or reasonably intends to incur ... any expenses of an appreciable amount, in connection with the funeral of the deceased".¹⁴

National Insurance Death Grant: the 1957 approach

- 6 The method of payment caused administrative difficulties. The Minister had discretion to determine priority of entitlement where more than one person came within the statutory principle. But payment on mere proof of intention to incur expenditure meant that individuals could benefit without paying some or all of the money received; and difficult questions of interpretation arose regarding what was "reasonably" incurred. Our predecessor, the National Insurance Advisory Committee, having been asked to investigate these

¹³ A definitive study of the period before the Second World War is provided in A.Wilson and H.Levy, *Industrial Assurance* (London: Oxford University Press, 1937).

¹⁴ National Insurance Act 1946, s.22.

problems, proposed a radical revision of the rules of entitlement¹⁵ and these were largely implemented by legislation in 1957.¹⁶ The grant became an asset, as with arrears of other NI benefits, forming part of the deceased's estate and thus payable to his or her personal representative. Moreover the sum payable was fixed, irrespective of the amount actually spent on funeral expenses.

The means-test approach: Supplementary benefits

- 7 The value of the death grant was allowed to decline substantially in the years following the 1957 reform: the maximum rate remained at £30 from 1967 onwards. By 1982, when the Government reviewed the benefit, it covered only about 10 per cent of the cost of a simple funeral and the administrative costs consumed about one-half of the payments made.¹⁷ A survey carried out in 1980 had shown that relatively few families had difficulties in meeting funeral costs from their own resources.¹⁸ There was already provision in the supplementary benefits scheme to aid this minority by means of an exceptional needs payment and the Government felt that this was the best method of targeting assistance to those in need. The death grant was abolished in 1986.

The means-test approach: Social Fund from April 1987

- 8 The current Funeral Payment (FP) scheme was introduced as part of the new Social Fund. Regulated FPs replaced Single Payments and Death Grants. Anyone in receipt of a qualifying benefit could receive an FP if they had taken responsibility for arranging a funeral. However, there was evidence of bereaved families ensuring that responsibility for arranging the funeral lay with someone in receipt of a qualifying benefit so that the State would meet the costs. This undoubtedly contributed to the increase in the number of FP awards from 37,000 in 1988/89 to 72,000 in 1993/94 with a corresponding rise in expenditure from £18.4m to £62.9m.

The means-test approach: Social Fund from April 1994

- 9 Changes were made to restrict awards to applicants who held a close relationship with the deceased in order to minimise "shopping around in families". The Adjudication Officer (AO) would consider if there was anyone else who by way of the nature and extent of their contact with the deceased, and in the case of close relatives, the individual's income and capital, was better positioned to take responsibility for the costs.

¹⁵ *Report on the Death Grant Question* (1956, Cmnd 33).

¹⁶ National Insurance Act 1957, s.7.

¹⁷ DHSS Consultative Document, *The Death Grant*.

¹⁸ P.Hennessy, *Families, Funerals and Finances* (London: DHSS).

The means-test approach: Social Fund refinements 1995-96

- 10 There were a few refinements made in June 1995 and October 1996. A £500 cap was placed on specified funeral directors' services and the payment of reasonable costs for other specified "disbursements" was introduced. A new priority order reflected that the responsible person would be the surviving partner or, where there was no partner, a close relative or friend. The Close Relative Test was refined so that where there were one or more close relatives, the AO would consider the nature and extent of the contact the claimant and each other relative had with the deceased. In October 1996 provision was made for the treatment of pre-paid funeral plans, and a donation for a Minister of religion was provided for.

The means-test approach: Social Fund from April 1997

- 11 The scheme now allowed the reasonable cost of a small number of specified items or services, in particular the necessary cost of burial or cremation, plus up to £600 for other funeral expenses. An "immediate family member" test was introduced where there is no surviving partner of the deceased.

The current scheme

- 12 The purpose of the scheme is to help those on income-related benefits and some tax credits who have good reason for taking responsibility for a funeral but who have insufficient funds to cover the costs. FPs are a non-taxable, non-contributory benefit payable to people awarded Income Support, Income-based Jobseeker's Allowance, Working Families' Tax Credit, Disabled Person's Tax Credit, Housing Benefit or Council Tax Benefit. Claims are made on form SF200 at any time from the date of death to three months after the funeral. The FP covers:
- fees levied by crematoria and burial authorities for cremation, or for opening a new grave or reopening an existing grave;
 - in the case of cremation, doctor's certificates and the cost of removing an implanted medical device;
 - the cost of documentation needed for immediate release of the assets of the deceased;
 - where it is necessary to move the body over 50 miles to the funeral director's premises or place of rest, the reasonable cost of that part of the journey which is over 50 miles;
 - where the return journey to the funeral is necessarily over 50 miles, the reasonable cost of that part of the return journey which is over 50 miles for the transport of the coffin and bearers, plus one additional vehicle;
 - the necessary cost of a return journey for the claimant either to arrange or attend the funeral;
 - up to £600 for any other funeral expenses.
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- 13 Any money available from the deceased's estate, contributions received and savings over £500 are taken into account on a pound-for-pound basis (or £1,000 for over-60s). Payments are also reduced by a pre-paid funeral plan. The FP may be recouped from the deceased's estate. The immediate family member test ensures that only the most appropriate relative takes responsibility for the funeral. FPs are paid by girocheque made out to the funeral director via the claimant. About 46,000 awards are made each year (out of 600,000 deaths annually) at an annual cost of around £40m.

Critique

- 14 It will be convenient now to summarise the principal criticisms which can be made of the current scheme. Many of these have already appeared in our two reports.¹⁹

Complexity

- 15 The rules on entitlement, assessment of the items of expenditure for which reimbursement can be made and recoupment clearly give rise to considerable complexity. And that for a benefit which, in terms of the amounts paid out in individual claims, is relatively modest. The Department estimates the administrative costs to be about £16.44 per claim, thus roughly 2.5% of the amounts paid out. If claims are being properly scrutinised in the light of the complex rules, it is nevertheless difficult to believe that this is a reliable estimate.
- 16 The contrast with the earlier, simpler regimes is striking and can easily be explained. First, conferring entitlement to the benefit on the individual incurring the expenditure makes it necessary to establish the legitimacy of that person (other than a surviving partner) taking responsibility for the funeral expenses and thus claiming benefit. The "closeness to the deceased" test is a response to "benefit planning" likely to occur among families aware that funeral costs may be reimbursed if they can be attributed to someone in receipt of one of the income-related benefits. Secondly, as the system has become less discretionary and more rule-bound, it was considered desirable to attempt to define with precision what is meant by "reasonable" expenses.

¹⁹ See also M. Drakeford, "Last Right? Funerals, Poverty and Social Exclusion", *Journal of Social Policy*, 27: 507 (1998).

Inappropriate test of entitlement

- 17 Although, as we have seen, the “closeness” test of entitlement can be defended as necessary to confront benefit planning and to target protection of those families (broadly construed) without resources to meet funeral expenses, it is subject to what many would regard as overriding objections:
- (a) It is arguably based on an inflexible notion of family responsibility which many would regard as outmoded or inappropriate;
 - (b) If (which one may have reason to doubt) the rules are applied literally and conscientiously by decision-making officials, it involves an investigation which – at the time of bereavement – is intrusive, undignified and simply impracticable (I know of no other example within our social security system of a rule requiring “objective” decisions to be made on the closeness of human relationships of people not living together);
 - (c) If, as seems more likely, claimants’ declarations about whether or not they are the closest relative are invariably accepted by officials at their face value without further investigation, we would, in the light of current concerns about abuse, question whether this is desirable practice.

Capping of expenditure

- 18 Undoubtedly it is necessary to have some principle limiting the amount recoverable from the social security system, but there are significant problems with the methods currently used.
- (a) As we have already noted, the itemisation approach is complicated – it is almost pedantic in its detail - and inevitably throws up further issues for interpretation (for example, whether it was “necessary” to incur the relevant burial fees; and what are the “reasonable expenses of one return journey” within the UK)
 - (b) Arguably it is insensitive to ethnic and cultural diversity, being clearly modelled on a traditional Christian burial.
 - (c) As was manifestly demonstrated in our 1995 Report,²⁰ the fixing of a uniform maximum rate, takes insufficient account of some regional differences in funeral costs.

Disincentives for prudent behaviour

- 19 The rule requiring deductions to be made for pre-payment plans obviously reduces the incentive to take out such plans. The £500 savings limit may have an equivalent effect and may, in any event, be too strict a condition if the targeting principle is to operate effectively.

²⁰ Above n.2, paras.15-23.

The future: General considerations

- 20 Unhappily death is a contingency which awaits us all. On the assumption that individuals have sufficient resources for this purpose, it is reasonable to expect them to assume the responsibility for their own funeral arrangements and, by so doing, to meet the preferences regarding its character and costs, which they and their family may have. In some cases, it is to be anticipated that the assets available at death will be insufficient to meet such preferences: responsible individuals faced with this risk will want to enter into some form of pre-payment scheme.
- 21 While the preceding paragraph may postulate a general principle of individual, and not social, responsibility, it is clear that it cannot be applied to all the population, and not to two groups in particular:
- (a) those who neither have sufficient assets at their death to cover funeral expenses; nor had a sufficient income during their lifetime to enable them to contribute to a pre-payment scheme;
 - (b) those without sufficient assets at their death to cover funeral expenses and who did not – even though they had an adequate income for this purpose – voluntarily contribute to a pre-payment scheme.
- 22 Intervention of some sort would seem to be justified for both groups, but before proceeding with any radical reform proposals, it is essential to discover their estimated size.²¹ If, but perhaps only if, group (b) contains substantial numbers, some form of compulsory insurance (see further below) might be justified. A complicating factor here is that, as indicated above, the very existence of the Social Fund safety net may have encouraged some or many individuals to be members of group (b).²² And that raises the delicate question whether, and if so how, cultural attitudes can be changed.

The future: Some options

Insurance-type schemes

- 23 Although an insurance-type scheme might seem to be appropriate only for group (b), it could be applied to group (a). Just as with existing arrangements, contributions to a (public) scheme could be credited for those within the normal categories of unemployment and incapacity for work. And, as regards both groups, there would be several clear advantages to insurance methods for dealing with the problem. Suitably designed schemes – and to a certain extent this applies to public as well as private schemes – can cater for different preferences regarding the type of funeral and the level of expenditure to be incurred – in the case of credited contributions, no doubt this would be for

²¹ Some update of the Hennessy study, above n.10, is thus called for.

²² Some evidence of this may be derived from the statistics cited in Drakeford, above n.11, p.513.

the lowest level of benefits. The amounts payable would be largely pre-determined, with presumably a sharp reduction in the administrative costs of *individual* claims. Whether the *aggregate* administrative costs would be lower would depend on the nature and scope of the scheme. There are several possibilities.

- (i) **the system could be universal and public, thus as (say) a supplement to existing compulsory social security contributory schemes;**
- (ii) **it could involve a combination of public and private insurance, individuals being entitled to contract-out of the state scheme on evidence of equivalent or enhanced coverage in a private scheme.**

24 If, as may well be the case, the numbers in groups (a) and (b) are small relative to the whole population, then such solutions are open to the obvious objection that the scheme and its costs are disproportionate to the problem (the proverbial “sledgehammer to crack a nut”). On the other hand, the administrative cost burden might not be overwhelmingly great if funeral expenses were in some way combined with existing provisions. Thus, for example, option (i) could be affiliated to, or become part of, the recently enhanced bereavement payment, and option (ii) could be ancillary to existing compulsory pensions arrangements for widows (or widowers), provision for a funeral payment being a required part of the state (SERPS or stakeholder), occupational or personal pension scheme. Of course, in the case of both options, protection would extend to cases where the deceased is not survived by a widow or widower

25 Narrowing the scope of compulsory insurance would be problematic. There is no obvious way of identifying individuals within group (b). As regards group (a), duration of entitlement to a means-tested benefit would provide some proxy, but it is not easy to see how those involved could be covered by an insurance scheme. It might be possible to apply an insurance-type solution here through social security credited contributions, thus, for example:

- (iii) **a funeral public insurance benefit would be payable on the death of individuals with more than a certain threshold of credited (but not paid) contributions.**

26 However, this is likely to lead to many practical problems and those benefiting would, in any event, constitute only a subset of group (a).

27 It also has to be acknowledged that an insurance-based solution, at least to the extent that it would involve a public fund, would run counter to the general thrust of contemporary social security policy and its deviation from the “contributory principle”. Nevertheless considerations might be different if the insurance in question was fully-funded and not (as with our main existing scheme) “pay-as-you-go”. We also ought finally to note that in most EU countries funeral payments are dealt with through social insurance, though from the information made available to me²³ it is not clear that the levels of payment are always sufficient to cover typical funeral costs.

An altered means-tested approach

28 It is of course possible to envisage “tinkering” with the current Social Fund scheme, to eliminate its worst aspects, but I understand our project to be one investigating the possibilities of more fundamental change. The following have occurred to me but there may be several others.

(iv) **Entitlement to benefit could be based on the financial circumstances of the deceased person, rather than those of the individual incurring the funeral expenses.**

29 That would, of course, avoid the invidious “closeness” test and the problematic aspect of family responsibility, but if for example simply linked to entitlement to one of the income-related benefits at the time of death, it could significantly increase the number of claims and therefore the proportion of the social security budget used for this purpose. And, by itself, it would not alleviate the difficulty of determining appropriate amounts. However, it is possible to envisage as a variant of (iv):

(v) **Entitlement to a uniform lump sum (as in the old National Insurance Death Grant).**

30 The idea for a further variant, to reduce administrative costs, is taken from the Dutch health insurance scheme:²⁴

(vi) **Rather than be the subject of an independent claim, the uniform sum could be payable in the form of continuation of the deceased’s personal benefit (e.g. the personal allowance used to calculate Income Support entitlement) for a prescribed period (e.g. 8 weeks).**

²³ A paper of 1998 prepared (largely from printed and by now outdated sources) by a DSS official.

²⁴ As reported in the paper above n.15.

31 A major drawback of both (v) and (vi) is that they could not take account of significant regional differences. To meet this problem some devolution of responsibility for assistance to local government might be envisaged. DSS officials have alerted me to possible difficulties arising from such a transfer, including the complications of co-ordination between the Benefits Agency and the local authority and a potential conflict of interests where the authority provides burial sites and cremation facilities. Subject to this, several alternatives can be envisaged. The most simple would be:

(vii) **local authorities assuming the functions of the Social Fund currently discharged by the Benefits Agency;**

or

(viii) **in addition, replacing the existing rule-based approach with a larger degree of discretion as under the old Supplementary Benefit scheme.**

32 But a more interesting possibility would be to combine devolution with reform of the ancient obligation on local authorities to provide a funeral “where no suitable arrangements for the disposal of the body have been made”.²⁵ Of course, the key to successful reform would be to “destigmatize” this approach and culturally this might not be easy. Further exploration might be necessary, but a possibility might be:

(ix) **local authorities to enter into franchising arrangements for local funeral directors to supply standard services at market rates, but with the fees being paid by the authorities.**

Conclusions

33 This is a paper only of ideas. The arguments need to be fleshed out by the cost implications of the various options and by reference to considerations of insurance, financial and administrative practice. As regards the last of these, I am particularly conscious of the desirability of the payment process operating quickly and smoothly at the time of bereavement. Moreover, as I point out in paragraph 21, for sensible progress to be made with reform proposals, it is essential to have information on the estimated need for assistance with funeral expenses. It may be, too, that the question of social security assistance cannot be separated from the operation of the (private) funeral services market. I have not dealt with this dimension in the paper, but there is evidence that, in some regions at least, oligopolies and other problems persist,²⁶ funeral costs thereby being higher than is justified.

34 I am reluctant to reach firm conclusions on what seems to be the best way forward. However, at this stage it does seem to me: (A) that if a comprehensive solution is being sought, option (ii) would appear to be the most likely contender; while (B) if simplicity were to be the primary consideration, then option (vi) looks to be attractive.

²⁵ Now contained in Public Health (Control of Diseases) Act 1984, s.46(1), on which see Drakeford, above n.11, 519-23.

²⁶ Drakeford, above n.11, 509-12. See also our 1995 Report, paras.32-7.

Annex E

Visits by members of the Committee to the Benefits Agency and other parts of the Social Security system

Ashton in Makerfield B.A. District Office

Cardiff & Vale B.A. District Office

Cardiff West B.A. District Office

Cwmbran One Pilot Call Centre

Doncaster B.A. District Office

Doncaster Jobcentre

Doncaster Employment Zone

Dunfermline B.A. District Office

Dunfermline (Fife New Deal for Lone Parents Pathfinder)

Edinburgh East (Portobello) B.A. District Office

Edmonton B.A. District Office

Exeter B.A. District Office

Newcastle, B.A. Pensions Direct

Newham B.A. District Office

St Austell B.A. District Office

Sheffield B.A. District Office

South Shields B.A. District Office

South Tyneside Lone Parent Pathfinder Office

Stratford Jobcentre

Suffolk (Private and Voluntary Sector) ONE Pilot

Wembley Disability Benefits Centre

West Lothian Connected (Livingstone)

Social Security Agency Offices (Northern Ireland)

Belfast, Corporation Street

Belfast, Shaftesbury Square

Lisburn

Enniskillen

Individuals and Organisations met by the Chairman and other Members of the Committee

Professor Bruce Ackerman, Yale University

Hugh Bayley MP, Parliamentary Under Secretary

Ursula Brennan, Group Director, DSS

Carers National Association

Child Poverty Action Group

Alexis Cleveland, Working Age Operations Director, DSS

Rt Hon. Alistair Darling MP, Secretary of State

Disability Living Allowance Board

Angela Eagle MP, Parliamentary Under Secretary

Paul Gray, Group Director, DSS

Archy Kirkwood M.P. Chairman, Social Security Select Committee

Rachel Lomax, Permanent Secretary, DSS

Nick Montagu, Chairman, Inland Revenue

Social Development Committee, Northern Ireland

Professor Tony Newman Taylor, Chairman Industrial Injuries Advisory Council

Professor Robert Walker, University of Nottingham

Working Age Customer Services Team, Quarry House

Annex F

Regulations implementing proposals considered by the Committee and coming into force in Great Britain since April 2000

Statutory Instruments – 2000

- 979 The Income-related Benefits and Jobseeker's Allowance (Amendment) Regulations 2000.
- 1370 The Jobseeker's Allowance (Amendment) (No.2) Regulations 2000.
- 1401 The Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 2000.
- 1402 The Income Support (General) (Standard Interest Rate Amendment) (No.2) Regulations 2000.
- 1444 The Income Support (General) and Jobseeker's Allowance Amendment Regulations 2000.
- 1471 The Housing Benefit and Council Tax Benefit (General) Amendment (No.2) Regulations 2000.
- 1922 The Social Security Amendment (Students and Income-related Benefits) Regulations 2000.
- 1926 The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000.
- 1981 The Social Security Amendment (Students) Regulations 2000.
- 1993 The Social Security Amendment (Personal Allowances for Children) Regulations 2000.
- 2028 The Social Security (Therapeutic Earnings Limits) Amendments Regulations 2000.
- 2085 The Housing Benefit and Council Tax Benefit (General) Amendment (No.3) Regulations 2000.
- 2229 The Social Fund Winter Fuel Payment and Maternity and Funeral Expenses (General) Amendment Regulations 2000.
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- 2239 The Social Security Amendment (Bereavement Benefits) Regulations 2000.
- 2313 The Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) (No.2) Regulations 2000.
- 2331 The Housing Benefit and Council Tax Benefit (General) Amendment (No.4) Regulations 2000.
- 2422 The Social Security (Students and Income-related Benefits) (No.2) Regulations 2000.
- 2545 The Social Security Amendment (Capital Limits and Earnings Disregards) Regulations 2000.
- 2629 The Social Security Amendment (Enhanced Disability Premium) Regulations 2000.
- 2690 The Social Security Cold Weather Payments (General) Amendment Regulations 2000.
- 2693 The Sharing of State Scheme Rights (Provision of Information and Valuation) Regulations 2000.
- 2864 The Social Fund Winter Fuel Payment (Amendment) Regulations 2000.
- 2883 The Statutory Maternity Pay (General) (Modification and Amendment) Regulations 2000.
- 2891 The Child Benefit (General) Amendment Regulations 2000.
- 2910 The Social Security Amendment (Employment Zones) (No2) Regulations 2000.
- 2914 The Sharing of State Scheme Rights (Provision of Information and Valuation) (No2) Regulations 2000.
- 3030 Social Security (Recovery of Benefits) (Miscellaneous Amendments) Regulations 2000.
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Statutory Instruments 2001

- 22 The Social Security Amendment (Capital Disregards) Regulations 2001
- 206 The Statutory Maternity Pay (General) and Statutory Sick Pay (General) (Amendment) Regulations 2001
- 487 The Housing Benefit (General) Amendment Regulations 2001
- 488 The Social Security (Miscellaneous Amendments) Regulations 2001
- 537 The Housing Benefit and Council Tax Benefit (Extended Payments) Regulations 2001
- 538 The Social Security (Invalid Care Allowance) Amendment Regulations 2001
- 573 The Social Security (Credits and Incapacity Benefit) Amendment Regulations 2001
- 652 The Social Security (Miscellaneous amendments) (No. 2) Regulations 2001
- 721 The Income Support (General) Amendment Regulations 2001
- 859 The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2001
- 944 The Social Security (Hospital In-Patients) Amendment Regulations 2001
- 1118 The Social Security Amendment (Capital Disregards and Recovery of Benefits) Regulations 2001
- 1189 The Social Security (Claims and Information and Work-focused Interviews for Lone Parents) Amendment Regulations 2001
- 1265 The Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001
- 1324 The Housing Benefit (General) Amendment (No. 3) Regulations 2001

Annex G

Membership of the Social Security Advisory Committee

Sir Thomas Boyd-Carpenter, KBE, joined the Scots Guards as a National Serviceman in 1956 and was commissioned in 1957. He has served in the United Kingdom and in Aden, Oman, Malaya, Borneo and Germany, and was Chief of Staff, HQ British Army of the Rhine from 1988-89. His final post was Deputy Chief of Defence Staff (Programmes and Personnel) in the Ministry of Defence. He is Chairman of the Moorfields Eye Hospital NHS Trust, Chairman of the Lord Chancellor's Advisory Board on Family Law and works as a Director of the management communications company People in Business.

Mr Neil Barlow is Integration Manager for Aventis Crop Science UK Ltd. He is a fellow of the Institute of Personnel and Development and a Fellow of the Royal Society of Arts, Manufacturers and Commerce. He is an associate of the Institute of Linguists, a member of the Eastern Regional Council of the Confederation of British Industry and a member of an Employment Tribunal.

Mrs Sylvia Denman CBE is currently conducting an independent inquiry for the CPS, and is a part-time tribunal Chair. She has a background as a barrister with experience of anti-discrimination law and practice. She has been deputy director of education with the Inner London Education Authority and a Senior Lecturer in Law at the University of the West Indies and at Oxford Polytechnic. She is currently a member of the Housing Corporation and a Governor of Oxford Brookes University. Previous appointments include membership of the Equal Opportunities Commission, the Race Relations Board (now the Commission for Racial Equality), the Criminal Justice Consultative Council and the Lord Chancellor's Advisory Committee on Legal Aid.

Mr Andrew Dilnot CBE is Director of the Institute of Fiscal Studies. He is an economist whose research has concentrated on the effect of Government on the household sector, and has written extensively on social security policy. He has taught at the Universities of London and Oxford and is a regular broadcaster and contributor to the printed media in discussions of social security and other current policy debates.

Mrs Elisabeth Elias, JP, qualified as a barrister. She sits as a Magistrate and as a Chairman of the Rent Assessment Panel for Wales. She is a Chairman of the Council of The Girls' Day School Trust. She has been Chairman of a Local Research Ethics Committee and a non-executive member of the Board of the Welsh Health Common Services Authority from 1995 to 1999. She is a Governor of the University of Glamorgan.

Mr Richard Exell OBE is the TUC's Policy Officer responsible for social security. He took part in the European Commission's discussions leading to the Recommendations on Minimum Standards in Social Protection and the Guarantee of Benefits and Resources, and was a member of the trade union team in the discussions leading to the conclusion of the European agreement on parental leave. He has acted as rapporteur's expert for the Economic and Social Committee on two reports, including that on Social Exclusion. He is a member of the Disability Rights Commission.

Dr Christine Kenrick is Chairman of Birmingham Women's Hospital NHS Trust. Her background is in market research, nationally and internationally. She founded the Birmingham Community Foundation in 1995 and was formerly Chairman of Birmingham Settlement, the largest of the UK Settlements. A Trustee of local and national voluntary sector organisations, she is also a Member of Council of Aston University.

Dr Pui-Ling Li is Head of Corporate Unit at the Department of Health. She has an in-depth knowledge of population health, primary care and health service research. She was a general practitioner in Hackney until 1995, and has worked on primary care issues at national level as a member of the Primary Care Support Force for London, and as Chairman of the Primary Care Resource Group for the NHS Executive's Ethnic Health Unit. She has extensive experience of the voluntary sector. She set up the Chinese National Healthy Living Centre in China Town, London, in 1987, and has been Chairman of the Board since, and she is a director of the Bromley by Bow Healthy Living Centre. She is currently the UK Chairman of the Core Priority Group for the UK/USA Programme of Collaboration in Minority Ethnic Health.

Professor Eithne McLaughlin is Professor of Social Policy at the Queen's University of Belfast. She is Chair of the UK Social Policy Association, the 1999 President of the Sociology & Social Policy section of the British Association for the Advancement of Science and a fellow of the Royal Society of Arts. Her previous public service includes: Chair of the Belfast Group of Citizens Advice Bureaux, Vice-Chair of the Northern Ireland Association of Citizens Advice Bureaux, Chair of Derry Women's Aid, member of The Standing Advisory Commission on Human Rights in Northern Ireland and the Commission on Social Justice (UK). She is currently a non-executive Director of Northern Ireland's largest Health and Social Services Board (EHSSB), where, from 1994 to 1998, she had lead responsibility for complaints from the public about HPSS provision. Professor McLaughlin has researched and published extensively on unemployment, employment and labour market policies, community and informal care, and social security policy.

Mr Laurie Naumann retired in March 1999 from the Scottish Council for Single Homeless, of which he had been director since 1978. From 1992 to 1995 he was seconded to The Scottish Office's Social Work Services Inspectorate to work on voluntary sector issues. Between 1981 and 1992 he was secretary of the Care in the Community Scottish Working Group. He is currently undertaking a mixture of voluntary and self-employed work in the housing and social service field in Scotland, Russia and Hungary. At present he is a member of the Polmont Young Offenders' Institution Visiting Committee and on the Scottish Health Advisory Service review panel. He is vice-chair of the Highland Housing and Community Care Trust and a trustee of the Refugee Survival Trust and the Unemployed Voluntary Action fund, a board member of Garvald Training Centre, for people with learning disabilities, and of Kingdom and Old Town Housing Associations.

Professor Anthony Ogus holds a Chair of Law at the University of Manchester, having previously held appointments at the Universities of Leicester, Oxford and Newcastle-upon-Tyne. He has worked with social scientists in appraising different aspects of law and has written extensively on welfare law, including a textbook on social security. He is a member of the Editorial Advisory Committee of the Journal of Social Security Law. He has also served on committees of the Economic and Social Research Council.

Professor Olive Stevenson, CBE. She was the Chair of Age Concern England from 1980 to 1983 and Chair of the Advisory Committee on Rent Rebates and Rent Allowances from 1977 to 1983 and ESRC representative on the EC Committee on Science and Technology for elderly people until 1996. She is currently Chair of Leicestershire, Cambridge and Peterborough Area Child Protection Committees. She has undertaken considerable research and published mainly in the area of the personal social services, with special reference to the social care of frail elderly people and child welfare. Her most recent publication (1998) is on neglected children, in the Blackwells series which she edits, 'Working Together for Children, Young People and Families'.

Dr Adrian V Stokes, OBE, is Chief Executive of CAT Ltd., a small IT consultancy. He was previously Joint Director at the NHS Information Authority and is Honorary Visiting Professor of Information Management at Nene University College, Northampton. He is Vice-President of the Disabled Drivers' Motor Club, a Governor of Motability and Hon. Vice-President of the Royal Association for Disability and Rehabilitation. He is also involved with a number of other organisations concerned with disability and is a member of a Disability Appeal Tribunal and a Trustee of the Independent Living Funds. He has experience of work among, and the needs of, chronically sick and disabled people and has himself been disabled since birth as a result of spina bifida.

Mr Robin Wendt, CBE, DL, is a former Secretary of the Association of County Councils, and was a member of the Joseph Rowntree Foundation Enquiry into Income and Wealth and the Royal Commission on Long-Term Care of the Elderly. He is also Vice-Chair of NCH, the children's charity and a member of the South Cheshire Health Authority. He was Chief Executive of Cheshire County Council from 1979-89. Until 1975 he was an Assistant Secretary of DHSS and has wide experience of social security policy and the operation of local authority services. He was a Trustee of the Independent Living Funds, and is a member of the Benefits Agency Standards Committee.

Remuneration

Meetings of the Committee normally take place monthly. Members are paid a fee for attendance. The Chairman receives £284 a day; Members £140 a day. Members also receive expenses incurred in connection with meetings and visits to local Benefits Agency offices and other organisations.

Code of Practice

The Committee has an agreed Code of Practice and a Register of Interests in line with the Cabinet Office requirements for all advisory bodies.
