

# **Social Security Advisory Committee**

## **TWENTY FIRST REPORT AUGUST 2007 – JULY 2008**

### **Members**

Sir Richard Tilt (Chairman)

Kwame Akuffo

Les Allamby

Simon Bartley

Brigid Campbell

Dr Angus Erskine

Richard Exell

Alison Garnham

Professor Elaine Kempson

Laurie Naumann

Professor Anthony Ogus

Pat Smail

Professor Janet Walker

Professor Robert Walker

### **Secretariat**

Gill Saunders (Secretary)

Dr Anna Bee (until November 2007)

Mark Langdon (March – August 2008)

Ethna Harnett

Bob Elbert (until June 2008)

Jamie Allen (from May 2008)

Kylee Wisnewski (until January 2008)

Nathalie Harwood (from February 2008)

### **Address**

Social Security Advisory Committee

New Court

48 Carey Street

London

WC2A 2LS

Internet website: <http://www.ssac.org.uk>

E-mail: [ssac@dwp.gsi.gov.uk](mailto:ssac@dwp.gsi.gov.uk)

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## Chairman's foreword

The last year has been both a challenging and busy one for the Committee, busy because of the volume of regulations we have dealt with, including a slight increase in formal referrals; and challenging as the Government accelerates the pace of its welfare reform programme. Over the year we have observed a gradual increase in benefit conditionality and, sometimes, in complexity. Both are of concern to the Committee.

We strongly support initiatives that seek to build the skills of individuals and support them into paid work. Identifying skills deficits, and offering constructive training opportunities and building work readiness in response, has become a cornerstone of the benefits system for people of working age. We broadly support the use of conditionality and 'activation' to encourage such initiatives that are likely to be of long-term benefit to the individual and wider society. However, we do question whether this approach has universal applicability. In our view it remains essential to provide a decent level of financial and other support to those individuals who cannot personally respond to this approach. We have been disappointed that more evidence has not been presented to show that sanctions and compulsion are effective in generating long-term sustainable employment. While sanctions may lead to better compliance with the conditions of benefit entitlement, they might not encourage more effective engagement with the support services which could eventually lead the individual to sustained employment.

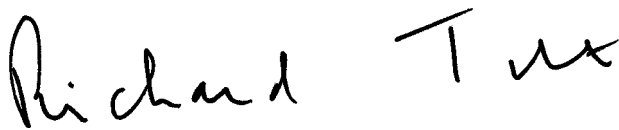
On the complexity front, we are concerned that the introduction of the Employment and Support Allowance in October 2008 will, at a stroke, add considerably to overall complexity because of the need to run two major benefit systems side by side for a number of years, and that this two-track arrangement will be reflected in Housing Benefit and Council Tax Benefit provisions. Whilst this was probably unavoidable, we would have liked to see greater evidence of work being progressed on the admittedly ambitious concept of a single working-age benefit. Indeed, we remain concerned that the 2006 initiative on complexity has been limited to mostly cosmetic improvements.

We have continued our programme of visits to operational sites and we are very grateful for the effort put in by local staff to organise them and make them productive occasions for us. We are always well received and we are impressed by the commitment and interest shown by staff. We have been pleased to observe in the course of these, a steady improvement in the service to customers (with the exception of the discretionary Social Fund, where problems have persisted throughout the year) now that the Contact Centre, Benefits Delivery Centre and Jobcentre Plus office networks have become established. We have also seen examples of proactive management making use of developing capacities in the telephony networks for the benefit of customers. The Department's modernisation of its services over the last few years represents a significant achievement.

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We expressed our concern last year about the operation of the Memorandum of Understanding (MoU) between ourselves and Her Majesty's Customs & Revenue (HMRC). We were grateful to Treasury Ministers for setting up a review and to Ann Chant who conducted the review with suitable despatch. All of her recommendations were accepted by both sides and Treasury Ministers immediately lifted the confidentiality requirements laid on us in the original MoU. We look forward to building a constructive and effective relationship with Her Majesty's Treasury (HMT) and HMRC officials based on a new MoU which we expect to sign shortly.

As always I am extremely grateful to Gill Saunders and her secretariat team for supporting us so ably and making it possible for us to function effectively. My thanks go also to all members of the Committee who make my job so interesting and enjoyable.

A handwritten signature in black ink that reads "Richard Tilt". The signature is written in a cursive style with a large initial 'R' and a stylized 'T'.

Sir Richard Tilt  
**SSAC Chairman**

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# Chapter 1

## *Our work – Summary*

- 1.1 Our work in the period August 2007 – July 2008 has been framed by the publication of two Welfare Reform Green Papers: *In work, better off: next steps to full employment* (July 2007), and *No one written off: reforming welfare to reward responsibility* (July 2008). These documents set directions for the benefit system that will entail significant changes and new challenges, both for those designing and delivering new benefits and services, and for their customers. As we have observed in previous reports, the pace, scope and scale of the changes that the Department and its agencies are committed to taking forward are impressive, but also carry risks. We have set out our concerns in both our general advice to ministers, published on our website (<http://www.ssac.org.uk>) and in our reports (published by the Secretary of State in the form of Command Papers) on the regulations that we have taken on ‘formal referral’.
- 1.2 In addition to our core business, we have continued our programme of visits to the Department’s operational sites (see Chapter 3) and our attendance at a range of seminars and conferences on welfare reform. We have also welcomed to our meetings senior officials from both the Department and Her Majesty’s Revenue & Customs (HMRC), and we have met privately with the Department’s ministers and a range of external stakeholders. In November 2007 we ran our second Annual Stakeholder Seminar (see Annex B) and we have taken account of feedback from this event to develop our independent work programme (see paragraph 1.12).

### *Scrutiny of regulations*

- 1.3 Our scrutiny of proposed regulations continues to form the core of our business and the greater part of our workload. In this reporting year we considered a total of 18 sets of proposed regulations (listed at Annex C) that have subsequently been brought into effect. In addition, we have taken two sets of proposed regulations on ‘formal referral’ for the preparation of a report to the Secretary of State. We also carried out an informal scrutiny of 13 sets of regulations made within six months of the coming into force of enabling primary legislation. These regulations are exempt from our statutory scrutiny and have been considered under the terms of a trial (detailed in our nineteenth report)<sup>1</sup> of an enhanced role for the Committee that we agreed

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<sup>1</sup> Social Security Advisory Committee, 19th Report, 2006.

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with the Department at the end of 2006. The trial continues, and we are about to commence a review of its first 18 months of operation. We also continued our informal scrutiny of regulations dealing with Tax Credits, Child Benefit and other matters that are linked to social security benefits and are the responsibility of HMRC. We have scrutinised six sets (four of which formed one package) of regulations under the terms of our Memorandum of Understanding (MoU) with HMRC that we signed with the then Inland Revenue in 2004.

- 1.4 Our reports on the two sets of regulations that we took on formal referral<sup>2</sup> have not yet been published by the Secretary of State. In addition to this formal advice, we have also offered advice generally to officials and ministers on both matters of policy and practice and the detail of proposed regulations.
- 1.5 Examples of the advice we have offered include a commentary on the calculation of the Better Off in Work Credit (a pilot scheme offering those taking employment a flat rate payment that should leave them better off in work than on benefits); the use of Voice Recognition Analysis (to combat Housing Benefit fraud); and the Department's use of telephony (considered in one of our 2007 Occasional Papers<sup>3</sup> and the subject of our continuing interest). We are grateful to both ministers and officials for their engagement with, and responses to, the issues we have raised.
- 1.6 Our detailed examination of draft regulations often identifies detailed questions that we resolve in correspondence with officials. One example that resulted in a small, but not insignificant, change to draft legislation, concerned the provision within the Employment and Support Regulations (a provision carried over from Incapacity Benefit (IB)) that deal with the circumstances in which a disabled person may sit as a member of a Social Security Appeal Tribunal without compromising benefit entitlement. Following our representations, ministers agreed that the regulations should be amended so as to permit a claimant to sit for two half-day sessions spread over two days, whereas previously attendance was limited to one day, irrespective of the duration of the session. Subsequently, the IB regulations were similarly amended.
- 1.7 This example arose in connection with our continuing informal scrutiny of regulations made within six months of the coming into force of enabling primary legislation. We find this to be an effective introduction to regulations that would otherwise not be put forward for our consideration, and a useful opportunity to get to grips with major changes to secondary legislation before they are subject to our statutory scrutiny as and when they are amended.

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<sup>2</sup> The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2008; and The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008.

<sup>3</sup> SSAC Occasional Paper No. 3 (July 2007), Telephony in DWP and its agencies: Call costs and equality of customer access.

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We are particularly grateful to the officials who handled our introduction to the Employment and Support Allowance (ESA) regulations. This was a major exercise, involving three extended presentations and discussions. The regulations we considered in this way are listed at Annex E.

*The Committee and the equality duty*

- 1.8 We reported last year that we would be paying particular attention to the diversity and equality implications of the proposed legislation we scrutinise. Although we had issued guidance to officials on the provision of the information we require to support the proper discharge of our statutory duties, we initially found that we were not routinely receiving the sort of information that we had expected would accompany proposals for some quite significant policy and legal changes. Accordingly, we asked the Department to further draw to officials' attention the need to demonstrate compliance with the equality legislation, and asked our secretariat to work with officials to raise awareness of our requirements. We also made it clear that we may decide not to scrutinise proposed regulations until we are satisfied that the appropriate Equality Impact Assessments (EIAs) have been provided.
- 1.9 Towards the latter part of the period covered by this report we observed a marked improvement in both the EIAs we were receiving and in the understanding of the equality duty displayed by the officials attending our monthly business meetings. We recognise that carrying out impact assessments may be challenging, not least because the information that is required to do the job effectively is sometimes sparse or simply unavailable. Information is not always gathered on important aspects of a particular policy or process, or is gathered in a form that does not lend itself to application to consideration of equality impacts.
- 1.10 We also recognise that information gathering can be challenging and present real practical difficulties. This was particularly apparent when we commenced our scrutiny of proposed changes to the backdating of Pension Credit, Housing Benefit and Council Tax Benefit (see paragraph 1.4) early in 2008. It caused us to question the extent to which the Department's knowledge and understanding of its customers – particularly those who are most disadvantaged and vulnerable – currently informs its policy making. Elsewhere, we have observed that a lack of information on, for example, ethnic minority groups (where research shows that labour market engagement rates are very variable by gender, subgroup and age) and a lack of information on disability, stands in the way of full and effective assessments of impacts. We believe that better targeted information gathering, monitoring and evaluation of policies and programmes – with the equality duties clearly in mind – are needed to better support the Department's discharge of its equality duties and the policy making process more generally.

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### ***Our work with HMRC***

- 1.11 The MoU was the subject of an independent review, carried out by Ann Chant, which reported in May 2008. The report (available to view on our website) endorsed the Committee's advisory role in relation to Tax Credits and Child Benefit and with the agreement of Treasury Ministers, the condition of confidentiality that previously governed all our advice on these matters was lifted with effect from June 2008. A new MoU is being negotiated with HMRC, which we hope will come into effect in the autumn of 2008. As noted already, we have considered a small number of sets of regulations and offered advice on four (comprising the linked sets of regulations defining eligible child care for Tax Credit purposes). We have scrutinised one HMRC information product alongside associated guidance (COP 26, dealing with overpayments of Tax Credits).

### ***Our independent work programme***

- 1.12 The pressure of mainstream business led us to scale back our independent work programme in the latter part of the year. However, we have published two Occasional Papers since the last Annual Report. The first paper (*Patterns of employment, benefit eligibility, and the rights and responsibilities agenda*) was prompted by a specific case-study of the operation of the Remunerative Work Rules in Lincolnshire in 2005 that led to people being unable to claim benefits over the winter months when there was a shortage of local employment opportunities. The paper explores some of the broad issues associated with the interaction of the benefits system and patterns of temporary/'seasonal' work and suggests that the benefits system should not penalise claimants who lose their jobs because of the insecure and transitory nature of much of the employment available to benefit-leavers.
- 1.13 The second paper (*Third Party Deductions (TPDs): Time for a Policy Review*) explores the current situation of third party deductions from benefits and considers whether the overall rationale for these deductions is focused and based upon consistent policy intentions. The paper concludes with a recommendation that the Department should undertake a review that considers the rationale for the scheme, its operation and its impact on customers. Both papers are reproduced in Chapter 4 and are available on our website.
- 1.14 We are developing a number of ideas that emerged from our 2007 Stakeholder Seminar, and reflecting on the proposals emerging from the July 2008 Green Paper, and planning further work on rights and responsibilities, with a view to making this the centrepiece of our next Annual Stakeholder Seminar in November 2008.

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- 1.15 In October 2007, an article written by our Committee Secretary, Gill Saunders, was published in the Journal of Poverty and Social Justice. The article<sup>4</sup> followed three articles that have appeared in different academic journals over the last 20 years, which give accounts of the Committee's role and remit and its contribution to policy making. It describes our current role, remit and activities, examines how these have developed since the Committee was established in 1980, and discusses our current contribution to the policy making process.

*Complexity in the benefit system*

- 1.16 Tackling complexity and promoting the simplification of the benefits system, remains a Departmental priority, and we continue to monitor the Department's progress in this area. However, in both our scrutiny of proposed legislation (where we require a complexity impact statement to be included with the explanatory information) and in our overview of policy development, we have seen only limited evidence of progress on simplification in terms of policy design and legislation. Although we have been disappointed by the modest showing, to date, of any plans for a single working age benefit, we do not find this altogether surprising. Complexity is inherent in the current benefits system and the services and programmes that fit around it. The system is intended to meet a range of contingencies, set and enforce a wide variety of increasingly stringent eligibility conditions and reflect individual needs and circumstances.
- 1.17 We are also aware of how difficult it is to effect large scale simplifications to the current system without creating 'losers' or negative effects on customers. This year we have noted that a very sensible proposed rationalisation of benefit periodicity and paydays (the regulations for which will come for our scrutiny later in 2008) is to be accompanied by transitional provisions that may not, in our view, take account of the needs of the most vulnerable customers or necessarily work in harmony with other changes being implemented on a similar timetable. A balance needs to be struck between the longer-term advantages that may be achieved by simplifying and streamlining administration and the short-to-medium term negative impacts on customers.
- 1.18 The Department's Change Programme, (which seeks to put the customer at the heart of the business), and the application of Lean techniques to service delivery, may have the effect of masking and smoothing some of the most obvious manifestations of complexity in the benefits system. However, some of the most complex parts of the benefits system appear to be the most intractable and resistant to simplification. In this regard we

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<sup>4</sup> Saunders, G. (2007) *Reflections on the Development and Work of the Social Security Advisory Committee*, Journal of Poverty and Social Justice, volume 15, number 3, pp 313-319.

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were particularly struck by a set of regulations we scrutinised in January 2008<sup>5</sup>. These proposed Housing Benefit and Council Tax Benefit regulations were consequential upon the introduction of ESA towards the end of 2008. For those administering the benefits involved, these regulations would be daunting; for the average customer they would probably be beyond comprehension. Likewise, every time we scrutinise proposed changes to claims and payments and decision making and appeals regulations, and look at associated guidance to the Department's staff, we are conscious of how difficult it is to make rights, obligations and processes comprehensible and accessible to customers. We return to these concerns in the next chapter, when we consider our scrutiny of the Department's public information strategy.

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<sup>5</sup> The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2008 (SI 2008/1042).

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## Chapter 2

### *Scrutiny of the Department's public information strategy*

#### *General*

- 2.1 In our last two Annual Reports we have recorded our continuing uncertainty about the proper content and purpose of this part of our advisory role in respect of the Department's Information Strategy, which we originally took on in 2000/01. We have not subsequently made any significant progress with the Department on redefining our role in the light of the Department's current public information priorities. Accordingly, our activities have been confined to consideration of the Department's public information offering (leaflets, standard customer letters, etc). This has become an increasingly ad hoc exercise, and one which we believe may not be the best, or most effective, use of our time. At the same time, the Department is sometimes engaging with a wide range of stakeholder groups on major public information initiatives (the introduction of Employment and Support Allowance (ESA) being one example of this trend). We fully support such wider engagement and consultation, but we believe that it is time for the Department to look carefully at how it consults and engages external stakeholders (including the Committee) with a view to making external input on public information matters as consistent and as effective as possible.
- 2.2 Nonetheless, we have been asked to look at an interesting cross-section of material (a total of nine scrutiny exercises in all, some of which covered multiple products). Some of this material comes to us from project teams who are working on the implementation of proposed regulations that we have considered and commented upon; other material comes from officials who have regularly consulted us over a number of years (for example, officials working on the Pensions Transformation Programme). Officials we have dealt with have provided us with full and helpful responses to our advice and we sense that at this level there is an understanding of both the Committee's role generally and an appreciation of the contribution that our scrutiny can make to the quality of the finished products. Around 70 per cent of the suggestions we have made for changes and amendments to products have been accepted and overall, we have been satisfied that the final individual products we have seen are 'fit for purpose'.
- 2.3 Our aim is to offer advice on the completeness, accuracy and comprehensibility of the information products we consider. Inevitably, the

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complexity of the benefits system stands in the way of producing 'quick and simple' guides to benefits and services, and there is a tension between the need to make information accessible to all and user-friendly, and at the same time complete, accurate and without the potential to mislead. A further tension is introduced with the incorporation of the marketing messages that accompany the progress of welfare reform. For example, promoting the positive impacts of paid employment, and the support available from Jobcentre Plus in order to take and retain employment, should, in our view, always be balanced by the inclusion of clear factual messages about benefit conditionality and the consequences of non-compliance. It is also necessary to balance the need to engage hard to reach groups with an understanding that 'one size does not fit all'. We have expressed concern that some of the Department's messages to lone parents can appear simplistic and patronising and may not reflect the diversity of the lone parent client group. Accordingly, our commentaries do sometimes extend beyond matters of factual accuracy, to take in strategic and presentational points.

- 2.4 Preparing customers for major changes to the benefit system also presents a new and significant challenge. As we noted earlier, the Government proposes to end entitlement to Income Support for lone parents of older children and move them on to Jobseeker's Allowance. Lone parents will need to be notified and prepared for the changes. However, information will have to be issued before the necessary legislation is in place, requiring qualification to the effect that the changes are subject to Parliamentary consent. We are uneasy about the propriety of such an approach and concerned that it does not make for clear and unequivocal statements for customers to consider and on which they can act.
- 2.5 In terms of the Department's public information strategy more generally, we are not yet convinced that it has succeeded in making easily accessible the sort of basic, factual information that ordinary people look for when confronted with situations that can trigger questions about benefits and services. The Department has no single point for telephone enquiries, and the Department's websites, which are its main self-service points, do not seem to us to function as such. We have commented in the past on the issue of reliance on self-service when many people still do not have access to, or the skills to use, on-line services, and may not already be customers of one or more of the service delivery agencies. This point has been reinforced by our contacts in welfare rights and advice agencies who have told us that they handle large volumes of quite simple questions such as: "*These are my circumstances: am I entitled to anything?*", that cannot be easily resolved via the websites. To a limited extent, the Directgov website fills the general benefits information gap, but we believe that the Department should prioritise making 'entry level' benefits and services information, more easily and visibly accessible, in a variety of formats.

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# Chapter 3

## *Visits*

- 3.1 As has been our practice over the years, we have continued to visit operational sites (these visits are listed at Annex A). This year, our main focus has been on sites providing benefits and services for people of working age. We very much appreciate the time and effort that members of the Department's staff have put into organising and hosting our visits, and the warm welcome we received. We have again been impressed by the dedication of the staff and management and their obvious commitment to providing a high quality service.
- 3.2 As in previous years, we have observed how services and premises continue to be modernised and streamlined. We have also noted that the roll-out of new services and the introduction of new ways of doing business have not always been problem-free. Sometimes, the needs of those customers who find it difficult to use mainstream services have not been fully catered for. There have also been periods of particular pressure on service delivery, requiring 'recovery' or contingency plans to deal with service failings. However, it is undoubtedly the case that in the space of only a few years the Department's customer-facing businesses have been transformed and, overall, the quality of the services offered to all the Department's customers has improved significantly. We have welcomed the Department's developing customer service focus and ethos.
- 3.3 We are conscious of the challenges facing the Department – and Jobcentre Plus in particular – over the coming year and we shall be interested to see how well services and performance hold up as the changes work through, particularly if unemployment continues to increase. We are also aware of concerns about the rationalisation of Jobcentre Plus's local office network, with many smaller offices, particularly in rural areas, scheduled for closure. We will be looking at how service delivery and the customer experience are impacted by longer 'travel to office' journeys.
- 3.4 We recognise that it is not possible to draw conclusions about such a large and diverse Department from a small number of visits, which cannot be representative of the whole organisation. However, we did find that certain issues were recurring in our conversations with staff, both over time, and around the countries and regions, and we set these out in the following sections.

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### *The use of telephony*

- 3.5 We fully understand the Department's focus on telephony as the 'preferred' method of delivering benefits and services. For the majority of the Department's customers, telephony can, and usually does, work well. However, we remain concerned about the potential costs faced by those customers who do not have access to a conventional BT landline service, and about the suitability of telephony for the Department's more vulnerable customers. We continue to press the case to the Department for a universal and proactive offer of call-backs to customers. As things stand, practice varies both across the service delivery businesses, and locally within the business networks. We believe that the Department should be moving towards common practices and standards, and a common customer service experience, irrespective of the 'client group' the customer may be in.

### *Pathways to Work*

- 3.6 The Committee has followed closely the development of the Pathways to Work programme for Incapacity Benefit (IB) customers and we have been impressed by examples of innovative work and good quality service delivery, both by Personal Advisers (PAs) in Jobcentre Plus and programme contractors. The in-work support on offer through Pathways acts an incentive to engagement for employers as well as customers, and PAs have told us that the use of Work Trials has proved useful, both in persuading employers to offer job-ready customers a chance and in building customer confidence.
- 3.7 However, we have some concerns about the potential of Pathways as a national programme to deliver the reductions in the numbers of people claiming 'inactive' benefits that the Department is seeking. We continue to be struck by the complexity of the circumstances of many Pathways customers, and the seriousness of their medical conditions and associated problems. Personal Advisers have told us how challenging the task of engaging and supporting such people can be, and how extended support, possibly stretching through an individual's working life, may be needed to sustain paid employment. At the same time, access to the labour market for some groups – particularly people with mental health problems and/or fluctuating conditions – remains very difficult and we believe that much more needs to be done to engage employers – particularly those running small and medium sized businesses that dominate certain labour markets – to engage with the Department's agenda. Local Employment Partnerships are an encouraging innovation, and Access to Work funding has the potential to improve the prospects of those customers who need on-going support in the work place.

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*New Deal for Lone Parents (NDLP)*

- 3.8 We have also had the opportunity to meet with NDLP PAs and their customers. We believe that the continued success of the New Deal programme for lone parents rests on the relationship built up between the PA and the lone parent. For many PAs, the lack of suitable childcare provision, outside of school hours, for children with a range of needs is of real concern. Many of the PAs that we have spoken to were unconvinced of the need for greater compulsion, believing that it would make their job harder.

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## Chapter 4

### *Social Security Advisory Committee published papers*

- 4.1 In the period covered by this report we have published Occasional Papers on our website <http://ssac.org.uk>. These are reproduced in full in this chapter.

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The logo for the Social Security Advisory Committee is centered on the page. It consists of a dark grey horizontal bar with the words "SOCIAL SECURITY" in white, uppercase letters. Below this bar is another dark grey horizontal bar with the words "ADVISORY COMMITTEE" in white, uppercase letters. The background of the logo is a complex arrangement of overlapping rectangular shapes in various shades of grey, creating a layered, architectural effect.

**SOCIAL SECURITY  
ADVISORY COMMITTEE**

**Social Security Advisory Committee  
Occasional Paper No. 4**

**Patterns of employment, benefit eligibility  
and the rights and responsibilities agenda**

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# **Social Security Advisory Committee Occasional Paper No. 4**

## **Patterns of employment, benefit eligibility and the rights and responsibilities agenda**

This paper was produced in support of advice offered to the Secretary of State in accordance with the Committee's remit (s 170(i) (a) of the SSA 1992 refers). The original text was sent to Ministers in November 2007 and is now being given wider distribution. We are grateful for the assistance of our Research and Policy Specialist, Dr Anna Bee, who prepared the paper for us, and to Departmental officials who provided factual information. However, the views expressed and any conclusions reached in the paper are solely the responsibility of the Committee.

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# Patterns of employment, benefit eligibility and the rights and responsibilities agenda

## Introduction

- 1 This Occasional Paper was originally inspired by a specific example of the effects of the interaction of 'seasonal' work and the benefits system. In 2005, we became aware of problems in Lincolnshire, where Jobcentre Plus customers who had taken 'seasonal' employment – mainly in leisure, tourism and agriculture – were refused benefits – and, thereby, National Insurance credits – when their employment ended. Instead of being able to claim benefits when work was scarce in the winter months, claimants were deemed to be in continuous employment and so unable to claim. This resulted in some significant, negative impacts on would-be claimants and the local community. The official response to the situation, and a Minister's answer to a Parliamentary question, suggested that the Lincolnshire cases had wider significance for the relationship between benefits and forms of temporary employment.
- 2 The Lincolnshire case study prompted us to consider more widely the links between what the government has been saying about the characteristics of those customers who make repeated claims to benefit and the centrality of the rights and responsibilities agenda, and the fact that much of the work available to benefit leavers is short-term, insecure and relatively low-paid. While our starting point is the part played by traditional 'seasonal' employment, of the sort we encountered in Lincolnshire, we also look at the relationship between the benefits system and the dominance of what the Trades Union Congress (TUC) refers to as 'vulnerable' employment more generally<sup>1</sup>, which we have observed, in at least some areas of the UK.
- 3 The recent Department for Work and Pensions (DWP) Green Paper (*In work, better off*<sup>2</sup>) proposed ambitious plans to increase the employment rate to 80 per cent and bring those at some distance from the labour market into employment. It set out a reinforced commitment to the rights and responsibilities agenda, whereby claimants are provided with increased support and are therefore expected to do more to find employment. The paper also considered the issue of retention and the engagement of employers to provide sustainable work that 'pays'. However, there is a risk that ex-claimants may be forced to enter the labour market in a marginalised and vulnerable position. This paper makes the case for ensuring that the benefits system is designed to support welfare to work objectives and that claimants who take up 'seasonal' and other temporary work are not penalised for doing so.
- 4 The Paper also illustrates the impact of a mismatch between eligibility criteria for benefits and Tax Credits. The income-related benefits that are the responsibility of the DWP and the Working Tax Credit (WTC) that is the responsibility of HM Revenue & Customs (HMRC) do not employ the same definitions of 'recognised cycles of working' which govern the treatment

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<sup>1</sup> TUC Commission on Vulnerable Employment, <http://www.vulnerableworkers.org.uk>

<sup>2</sup> Department for Work and Pensions, (2007) *In work, better off: Next steps to full employment*, Cm 7130.

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of 'seasonal' work. The result is that customers can find themselves excluded from both 'out of work' and 'in work' benefits. There is also a link between the remunerative work rules and the National Minimum Wage (NMW). In making the assumption that people who had worked for a few months in a year at the NMW were still in work over the winter months, the Department effectively allowed people to work for less than the NMW, when they were actually in work.

### ***The Jobseeker's Allowance Remunerative Work rules and eligibility for benefits***

- 5 In terms of whether someone is eligible for Jobseeker's Allowance (JSA), a basic question is whether they are in remunerative, full-time employment (16 or more hours per week). If they are not in remunerative full-time employment they will have entitlement to JSA (providing the other conditions of entitlement are met). However, the fact that someone is not actually working does not mean that they will be treated for benefit purposes as 'not in remunerative employment'. If the claimant has a 'recognisable cycle of work' that includes periods in/out of work that are clearly identifiable, the JSA Decision Maker (DM) may determine that they should be treated as being in remunerative employment.
- 6 When the JSA regulations were introduced, they included the 'Remunerative Work' rules. These are set out in section 51 of the 1996 JSA Regulations, see Annex A. The policy that underpins these rules is that an individual who has a well-developed cycle of working, and whose hours over the cycle as a whole average out at 16 or more hours per week, should be deemed to be in continuous employment. The regulations were apparently designed to prevent people who have regular cycles of work, e.g. oil rig workers who are relatively highly paid for relatively short periods of activity, from claiming unemployment benefits when not at work.
- 7 When deciding whether someone is in remunerative work, DWP guidance states that a recognisable cycle is a recurring round of events where the end of a cycle marks the beginning of the next cycle, and a cycle may include periods when no work is done. The guidance continues that a cycle may apply to casual workers where no employment contract exists. In this case, a cycle may be established after one or two years where a claimant is employed on a casual basis for an average of at least 16 hours per week. Although there is no contract for re-employment, there is an assumption that the claimant has a recognised cycle of work and so the remunerative work rules apply. In a 2001 test case, it was ruled (by the House of Lords) that if a claimant has a cycle of work, then they are regarded as being in work throughout that cycle, including periods of non-work<sup>3</sup>.
- 8 However, from what we have observed of local practice around the UK, it would appear that these rules have not been applied consistently. In a number of areas where minimum wage work that is nominally 'seasonal' is prevalent, i.e. it is linked to the main holiday periods and/or produce harvesting times, we have not found the rules being applied. Coincidentally, these are often also areas where permanent, well-paid work is in short supply. It would appear to have been recognised that enforcing the rules would have the effect of deterring people from taking

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<sup>3</sup> House of Lords (R(IS) 15/01 Banks).

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whatever employment is available and generating the sorts of problems that we encountered in Lincolnshire.

- 9 The next section of the paper explores the situation in Lincolnshire in 2005/2006, the following section examines the implications of the Commissioner's decision in the case of three Lincolnshire claimants who had been denied benefit and the final section explores the wider issues associated with the interaction of the benefits system and patterns of temporary/'seasonal' work.

### ***Summary of the Lincolnshire case***

- 10 The case of Lincolnshire highlights how a specific interpretation of one of the central elements of the JSA regulations can have a significant, negative impact on would-be claimants. Lincolnshire is the fourth largest county, in area, in England with Skegness as its largest coastal town. The Lincolnshire coast experiences large fluctuations in claimant unemployment with approximately double the claimant count in winter compared with summer. As in similar parts of the country, the main employment is in the tourist sector, agriculture, horticulture and the public sector. Until autumn 2005 in Lincolnshire, people were accustomed to taking the work that was available during the summer season, usually working for the minimum wage and then claiming benefit when work was in short supply over the winter months. However, from autumn 2005 the remunerative work rules were applied to these 'seasonal' workers and so many of those who had worked temporarily for two or more years were subsequently denied JSA.
- 11 The decision to apply the rules to all 'seasonal' workers was made as a result of a specific complaint. A complaint was made that one individual (who worked overseas in the winter months) had been disallowed benefit when other 'seasonal' workers in the area had received it. In response, local Jobcentre Plus DMs began to apply the Remunerative Work rules to all cases of 'seasonal' work where there had been periods of work in at least the two previous years.
- 12 Once the remunerative work rules were applied in this way, 'seasonal' workers, e.g. hotel workers, holiday camp employees and 'seasonal' staff at the local council, were deemed to be in 'continuous' employment and were therefore denied access to JSA and IS. This had an impact upon claims for Housing Benefit (HB) and Council Tax Benefit (CTB). As a result, claimants were also denied access to hardship payments and crisis loans. Somewhat ironically, because they had been issued with a P45 and were not considered to be 'in work' by HMRC, they were not entitled to claim WTC.
- 13 The situation in Lincolnshire was first brought to our attention by a SSAC Member's visit to Lincoln Jobcentre Plus in 2005. Soon afterwards researchers at Sheffield Hallam University published a paper prepared for the Lincolnshire Coastal Action Zone.<sup>4</sup> The report considered the impacts of this interpretation of the remunerative work rules on claimants, employers and local stakeholders. The report cited effects on claimants, including exceptional hardship and distress to people refused benefits over the winter months. Many people found themselves

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<sup>4</sup> Beatty, C., Fothergill, S., Powell, R and Wilson, I. (2006) '*Coastal Proofing the Benefits System*' A report to Lincolnshire Coastal Action Zone.

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with no source of income and this led to consequences that included increased levels of crime, mental ill-health, homelessness and hunger. SSAC Members undertook a follow-up visit to the District in autumn 2006 and heard that the situation had led to perverse consequences, such as an increase in claims for Incapacity Benefit (IB), people who had found 'seasonal' work though the New Deal being left with no work and no income at all, and a deteriorating relationship between Jobcentre Plus staff and customers.

- 14 In February 2006, two local MPs, Mark Simmonds and Henry Bellingham raised the question of remunerative work rules in the House. The Minister stated:<sup>5</sup>

*'In Lincolnshire, the remunerative work rules for 'seasonal' workers were incorrectly applied prior to June 2005 – Decision Makers are now applying the legislation correctly... The rules laid down for 'seasonal' work are clear. The Act states that where there is a cycle of work consisting of one year or more that qualifies as 'seasonal' work, and if the weekly average of hours worked over the cycle is 16 or more, there is no entitlement to JSA. Those have been the rules since 1995, and those are the rules still enacted.'*

(see Annex B for further details)

- 15 The Minister also stated that the rules were being applied correctly in Lincolnshire during the latter half of 2005 and early 2006. Local Jobcentre Plus staff reported in 2006 that they knew of similar cases in north Norfolk and parts of Scotland where 'seasonal' workers, and others with a 'pattern of employment', were being refused JSA but that many other areas were not applying the rules in the same way. SSAC Members have explored this issue on visits and are aware that there is a lack of coherent interpretation across Jobcentre Plus Districts. For example, 'seasonal' workers in coastal towns in the north east and south west appear to have consistently received JSA in the low season.

- 16 The Minister's response to the Parliamentary Question also highlights some of the wider issues about how those at the margins of the labour market are perceived. He stated that<sup>6</sup>:

*'It is worth pointing out that the benefits system is not intended to subsidise employers, who expect their 'seasonal' workers to return but are not offering any retainer in the meantime. 'Seasonal' workers need to accept that they might need to look for other work at other times of the year.'*

- 17 The Minister's statement suggests that people are simply not looking for local work opportunities in the low season and that they would be able to move in search of work elsewhere. He also singled out a particular group of employers who use temporary and casual labour as seeking a subsidy from the benefits system. Anecdotally, we are aware that many A8 nationals take 'seasonal' work in Lincolnshire and appear willing to move around the region – and indeed, the country – to take up work opportunities as and when they arise. However, the local population may be less able to move regularly because of ties to family, housing, children's schools etc.

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<sup>5</sup> Hansard, 6 February 2006, Column 594.

<sup>6</sup> Hansard, 6 February 2006, Column 595.

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- 18 A report by the Communities and Local Government Select Committee highlighted some of the issues of (un)employment and benefit receipt in coastal towns. Evidence supplied by DWP showed that the level of 'seasonal' employment in coastal towns was more than double that found in non-coastal towns (15 per cent compared with six per cent)<sup>7</sup>. The report noted that DWP appeared to have had little awareness of the continuing levels of 'seasonal' employment within coastal towns and the policy implications of this 'seasonality'. At the same time, as we note below, around the UK there are many employers engaged in a range of manufacturing and service industries who rely heavily on short-term contract, temporary and casual workers, who may work for the same employer for several extended periods over the years in patterns of employment that are not dissimilar to those of 'seasonal' workers. We suspect that in a flexible employment market, where employers are keen to minimise their costs, there is likely to be as much if not more 'cyclical' work of this nature than there is traditional 'seasonal' employment.

### ***The Commissioner's decision in the case of Lincolnshire 'seasonal' workers***

- 19 Between September 2005 and August 2006, the Remunerative Work rules were applied by DWP DMs to 492 cases in Lincolnshire. Of these: in 285 cases, the customer was found not to be in remunerative work or the pattern of working was not established; in 207 cases the customers were found to be in remunerative work, and therefore benefit was disallowed. Of these cases, 60 had appealed the decision and a number have been heard by a Commissioner.
- 20 In December 2006, a Social Security Commissioner gave his decision in the cases of three different individuals (with 'seasonal' working patterns) who had been denied JSA because of 'remunerative work' rules<sup>8</sup>. The three individuals had all worked for several months, usually between March and October, in at least two previous years before making their benefit claims at the end of the season. None had a continuing relationship with their employer over the winter months or any guarantee they would find work in the spring. The cases had been heard at a tribunal and the decision had been taken that the claimants should not have been denied JSA when 'wholly out of work after their summer employments terminated'. The DWP appeal centred on the fact that the claimants had worked for at least an average of 16 hours per week over a period of 52 weeks. The Commissioner rejected the appeal and upheld the Tribunal's decision. He stated that:

*'In each of these cases the question is whether an unemployed person unable to find work, though actively seeking it, throughout the winter months of the year has nevertheless to be treated (artificially, and contrary to the fact) as in "remunerative employment" during those months, by virtue of having been able to get casual summer employment in that and one or more previous years.'*

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<sup>7</sup> House of Commons, Communities and Local Government Committee, (2007) *Coastal Towns, Second Report of Session 2006-2007*, HC 351.

<sup>8</sup> Commissioner's File: CJSa 1390/06 (heard with CJSa 1398/06 and 1403/06).

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- 21 The Commissioner rejected the Department's argument about averaging hours over a period when a claimant is both in work and out of work. He concluded that Regulation 51(2) was concerned with the calculation of a numerical average of hours **at** work over a period when a person continues to be **in** work. He rejected the assertion that a cycle of work could be identified within an arbitrarily defined period of 52 weeks and concluded that the position of people engaged in intermittent, 'seasonal' work is different to that of a person continuing in employment under a 'one week on, one week off' basis. The Commissioner confirmed the Tribunal's decision that the claimants were not in remunerative work for the purposes of JSA after their 'seasonal' work had finished.
- 22 The Department responded to the decision and declared that it was confined to findings of fact and not matters of law and that there were no plans to review the regulations<sup>9</sup>. We are of the opinion that the decision does deal with matters of law to the extent that facts in other cases are equivalent to those in this case. In other circumstances, such as term time employment or an absolute agreement of re-employment when the 'seasonal' work recommences, may mean that the decision in 1390/2006 does not apply. Although the Department has no current plans to review the regulations, it revised the guidance on 'seasonal' workers to ensure that DWP DMs were aware that a history of re-employment should not necessarily lead to an expectation of future employment. In Lincolnshire, cases where 'seasonal' workers had been denied benefit were to be reviewed. Since the decision, the remunerative work rules have not been applied in a way that denies 'seasonal' workers benefit in the winter months. Those claimants who appealed the decision to deny benefit have had their cases reviewed and backdated benefit paid. However, these changes cannot compensate people for the hardship they experienced over the winter months when they were denied benefit and, without a review of the regulations, it is possible that a 'Lincolnshire' case may emerge in the future.
- 23 The mismatch of definitions of 'cycles of employment' in income-related benefits and tax credits is not dealt with in the Departmental response to the Lincolnshire case. If the rules with respect to income-related benefits were being applied correctly in Lincolnshire, then claimants should have been eligible for Tax Credits as they were in remunerative employment. However HMRC rules with regard to cycles of employment and the fact that the claimants had received their P45s, meant that they were not eligible for tax credits. The Low Incomes Tax Reform Group (LITRG) provided evidence to the Work & Pensions Committee inquiry on Simplifying the UK Benefit System of the need for much closer working between the DWP and HMRC. The issue of different treatments of 'seasonal' workers between the two Departments was highlighted and LITRG has confirmed that the matter was independently drawn to the attention of officials of both Departments in 2006.

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<sup>9</sup> Letter to SSAC – 22 February 2007.

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## *Other examples*

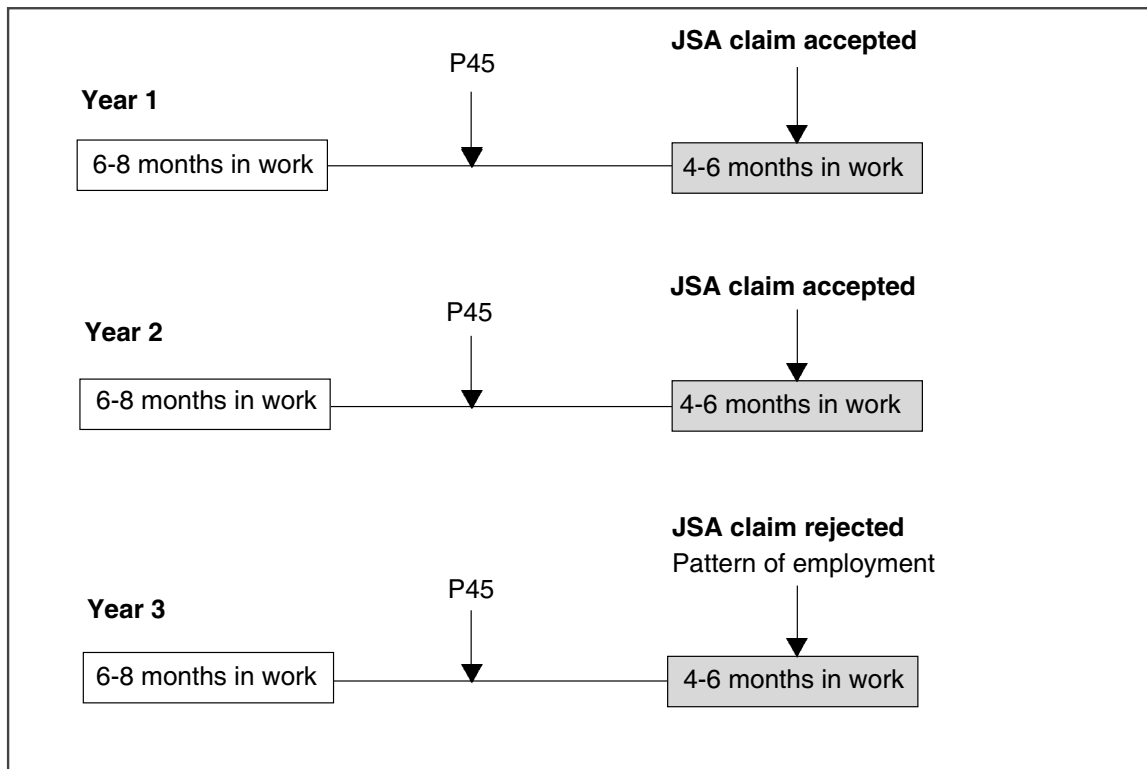
- 24 The case of Lincolnshire also has ramifications for other areas and other employment sectors. Other workers with temporary employment (including 'seasonal' workers in other sectors) may find the relationship between work and benefit receipt complex. The JSA regulations, and their varying interpretations, have implications for many people who experience short-term and insecure employment. Indeed, it is not just claimants from coastal towns with high levels of 'seasonal' employment who have been affected by the interpretation of the remunerative work rules to identify a 'pattern of work'. An east of Scotland Citizens' Advice Bureau (CAB) reported a number of examples, including a client who had been employed on temporary contracts with a local factory at various times between 1999 and 2005. Her last eight-month contract had ended and she had been refused JSA on the grounds that she had established a pattern of work and, if her hours were averaged over a year, the weekly amount exceeded the limit for JSA eligibility. She had no guarantee of employment and no savings. A similar case had emerged with regard to a man who had worked on a golf course between March and October for a number of years and had been refused JSA on the grounds that he was still employed, even though he had no guarantee that he would return to work at the golf course.
- 25 Another east of Scotland CAB reported the case of a client who had been employed by a cleaning company on two short-term contracts. He worked from mid-January to mid-February and then again from early March until late April. The client had been refused JSA following his second period of work, on the grounds that he had an on-going contract of employment. He received his P45 on each occasion and was only employed during these two periods<sup>10</sup>. In this case, the pattern of work had not been developed over a number of years so we can only assume that the refusal was based on an assumed on-going contract of employment – a contract that did not exist<sup>11</sup>. Discussions with Citizens Advice Scotland in April 2007 revealed that there had been no more recent cases of the rules applied in this way. The problem appears to have been isolated to a few areas and for a relatively short period of time (late 2005/early 2006).
- 26 However, while the specific interpretation of the remunerative work rules would appear to have been suspended, the precedent has been set for individuals (whether in Lincolnshire or elsewhere) with a 'pattern of employment' consisting of temporary work in two or more years to be denied benefit. Figure 1 illustrates what could be described as a typical 'seasonal' worker employment pattern that was identified by DMs in Lincolnshire (and a few other places) as the basis for denial of benefit. In these cases the cycle was assumed to develop over an arbitrary 52 week period, rather than the period when someone was in work.

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<sup>10</sup> Citizens Advice Scotland briefing note, 2005.

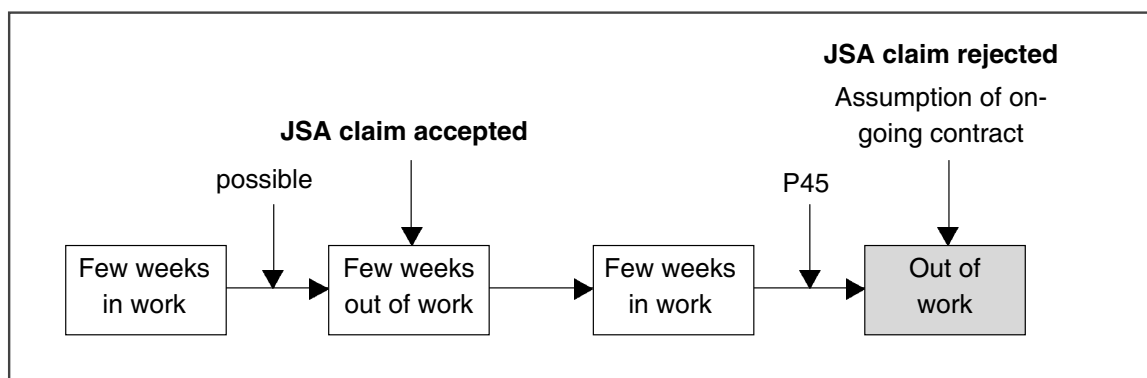
<sup>11</sup> There are other areas affected by a 'seasonal' pattern of employment both within the UK and overseas. For example, cruise ship jobs such as cabin stewards and pool attendants have contracts that last between four and twelve months. Many of these jobs advertise priority re-employment but they do not offer guarantees.

**Figure 1 – ‘Seasonal’ pattern of employment**



- 27 The rules have also been applied to individuals who have experienced an intermittent 'pattern of employment' over a relatively short period of time (see CAB example above). In this case the decision is taken to deny benefit as the person is assumed to have an on-going contract of employment. This is the case even when the person has received their P45 after each period of employment and has no guarantee of returning to the same employer, see Figure 2 at paragraph 24. However, such people may be entitled to a four week run-on of Working Tax Credit if they were receiving it at the date of employment termination. This run-on itself will affect the JSA claim and may eliminate it. Temporary, 'Seasonal' and Insecure Work and the 'Rights and Responsibilities Agenda'

**Figure 2 – ‘Intermittent’ pattern of employment**



### ***Temporary, ‘seasonal’ and insecure work and the ‘rights and responsibilities agenda’***

- 28 The previous sections have looked at specific case studies of the interaction of different forms of temporary work and the benefits (and Tax Credits) system. In this section we explore some of the wider evidence on temporary, insecure work and its relationship with the current ‘rights and responsibilities’ agenda. The recent Green Paper (In Work, Better Off) reconfirmed a further strengthening of the rights and responsibilities agenda, raising expectations of what jobseekers should do to find work<sup>12</sup>. However, it may be difficult for the unemployed to find stable, long-term employment in an increasingly flexible labour market and they may need the security of claiming benefits when a period of ‘temporary’ work (in all its various forms) comes to an end. Any interpretation of the remunerative work rules that effectively penalises those in unstable employment will be likely to have perverse consequences on work incentives.
- 29 In terms of the discussion about the remunerative work rules it is worth considering briefly that many JSA recipients have fairly recently claimed benefit and that many of the jobs they enter are temporary, low-skilled and insecure. Much of the evidence points to the fact that those who are in temporary work would, in reality, rather be in permanent work<sup>13</sup>.
- 30 Administrative data show that in 2006 nearly a half of men and a third of women making a new claim to JSA were last claiming less than six months ago<sup>14</sup>. The pattern has stayed relatively constant over the last decade (see Figure 3). Entry-level jobs tend to be dominated by expanding high turnover sectors, e.g. retail, that largely offer less skilled manual jobs when compared with the stock of all jobs. Compared with all jobs, entry-level jobs are five times more likely to be temporary and 50 per cent more likely to be part-time<sup>15</sup>. In November 2006, of a total of 297,350 job vacancies notified to Jobcentre Plus, over 82,000 (28 per cent)

<sup>12</sup> Department for Work and Pensions, (2007) *In work, better off: Next steps to full employment*, Cm 7130.

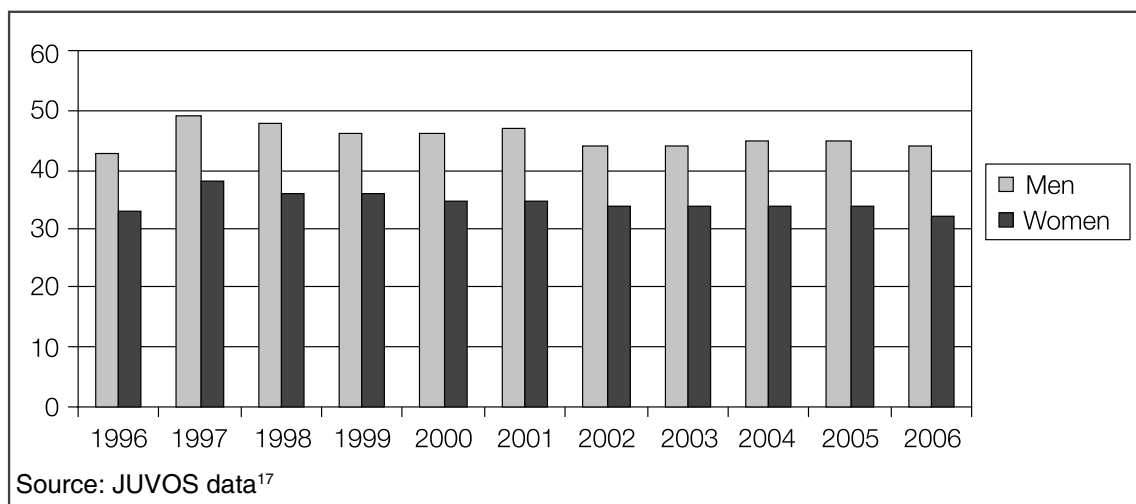
<sup>13</sup> Carpenter H. (2006) *Repeat Jobseeker’s Allowance spells*, DWP Research Report No 394.

<sup>14</sup> JUVOS cohort, first quarter of each year.  
Quoted in <http://www.poverty.org.uk/33/index.shtml>

<sup>15</sup> Kellard, K, Walker, R., Ashworth, K., Howard, M. and Liu, W. C. (2001) *Staying in work: Thinking about a new policy agenda*, DfEE Research Report No 264.

were temporary vacancies (although this may show a 'seasonal' influence with an increase in Christmas vacancies). In February 2007, temporary vacancies made up 23 per cent of total vacancies notified and, in May 2007, the figure was 25 per cent<sup>16</sup>. Overall, it would appear that approximately one quarter of vacancies notified to Jobcentre Plus are temporary.

**Figure 3 – Percentage of new JSA claims made within six months of previous claim**



- 31 Temporary work may act as a stepping-stone to permanent employment but a survey of those with experience of temporary work found only limited evidence that this was happening<sup>18</sup>. The same study found that nearly three-quarters of respondents (73 per cent of 607 respondents) said that they would rather have a permanent job and that the main reasons they had taken up temporary employment were a lack of suitable permanent work and lack of available permanent work.
- 32 These findings are echoed by data from the 2006 Labour Force Survey that showed that a significant minority of temporary workers could not find a permanent job. Twenty eight per cent of male temporary workers and 22 per cent of female temporary workers could not find a permanent job. A slightly higher percentage of female temporary workers stated that they did not want a permanent job, which may reflect the gendered nature of temporary and part-time work, and women's preferences for more flexible forms of working.

<sup>16</sup> DWP Tabulation Tool.

<sup>17</sup> JUVOS cohort, first quarter of each year.

Quoted in <http://www.poverty.org.uk/33/index.shtml>

<sup>18</sup> Tremlett, N and Collins D (1999) Temporary Employment in Great Britain, DfEE Research Report No 100.

**Table 1 – Reason for temporary working – 2006**

		Reason for temporary working (percentage of temporary workers)			
	Total temporary workers (thousands, seasonally adjusted)	Could not find permanent job	Did not want permanent job	Had a contract with period of training	Some other reason
All	1,454	25.0	28.7	7.4	38.8
Men	647	28.1	26.6	7.8	37.5
Women	806	22.5	30.4	7.2	40.0

Source: Labour Market Trends, December 2006, Vol. 114, No 12. Data for April-June 2006

- 33 DWP research from 2006 suggests that the proportion of JSA claimants who had a permanent job was far lower than amongst the labour force as a whole. The report is based on a quantitative survey of 2,725 repeat JSA claimants and raises some important issues about the nature of work at the margins of the labour market and the prevalence of temporary and insecure employment<sup>19</sup>. The research showed that there was little evidence that the movement between benefit and temporary work was due to personal choice. Instead, the findings indicate that respondents were unable to find sustained employment rather than choosing to avoid it. Of those respondents who had ever left a job, 33 per cent reported that their last job had ended because it was temporary (the most common reason for leaving last job), 16 per cent reported that they were made redundant and ten per cent reported that they had been sacked/dismissed.
- 34 Previous research has emphasised the relatively vulnerable position of the unemployed when entering work. A study of young men who had experienced a period of long-term unemployment found that previously they usually worked in a variety of low-skilled jobs and that the jobs ended as a result of changes in labour demand, rather than because of employers' dissatisfaction with their work. The authors suggested that 'employment insecurity tended not to reflect negative attitudes on the part of the young men or necessarily a lack of skills: it was almost entirely a consequence of the 'flexible' nature of low-skilled employment in modern Britain'<sup>20</sup>. Analysis of youth (un)employment in the UK suggests that young people churn between benefits and entry level jobs partly in response to a welfare to work agenda that serves the short-term needs of employers in the more casualised job sectors<sup>21</sup>.
- 35 Temporary work is a reason for recycling in itself: once the job comes to an end, the individual often returns to benefit before starting their next job. This pattern of temporary work prevents individuals from gaining sustained employment, and from obtaining the benefits that accompany

<sup>19</sup> Carpenter H. (2006) *Repeat Jobseeker's Allowance Spells*, DWP Research Report No 394.

<sup>20</sup> Furlong, A and Cartmel, F, (2004) *Vulnerable young men in fragile labour markets: Employment, unemployment and the search for long-term security*, JRF Research report.

<sup>21</sup> Worth, S. (2005) Beating the 'churning' trap in the youth labour market, *Work Employment and Society*, Vol 19(2): 403-414.

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permanent jobs. The repeat JSA claims survey identified two scenarios for temporary work: the first where the individual's working background and barriers to work restricted them to temporary, low skilled work; and the second where despite having better employment prospects, the individual has become stuck in a cycle of temporary work. The JSA regime for repeat claimants, works for the majority of claimants in terms of initially finding work but is much less successful in supporting them to find sustainable work<sup>22</sup>.

- 36 It will be difficult to reconcile the rhetoric of the 'rights and responsibilities' agenda and the 'something for something' contract with the need for claimants to find secure work in an increasingly flexible labour market. A flexible labour market may be positive for many employers, especially those with fluctuating labour needs, but it can also trap employees in cycles of unstable work. The Department is working towards helping people stay in work and progress. The early results from the Employment Retention and Advancement (ERA) demonstration project illustrate that providing on-going, in-work support and financial incentives to remain in work can increase the earnings for ND25+ customers and lone parents (although the effects were more positive for the lone parents)<sup>23</sup>. Through programmes such as ERA, there is a focus on helping people to stay in work. This will be especially important as lone parents are moved onto the JSA regime, since they typically experience poorer retention rates than other customer groups.
- 37 The Freud review proposed that private and voluntary contractors should be paid to help people stay in work for several years, with funds being generated from the resulting benefit savings. This aim may be difficult to achieve, given the nature of the labour market and the types of jobs claimants more typically enter but should certainly encourage contractors to work to keep people in jobs that are more sustainable than the current 13-week measure. However, the long-term outcome payments proposed in the Freud review now appear to be unlikely in the near future. In any event, it will be essential for contractors to be able to give holistic advice concerning the implications of Tax Credits (including the childcare element), National Insurance Contributions and Income Tax if the 'better-off calculation' is to be demonstrated to the benefit claimant.
- 38 The Lincolnshire (and Scottish) cases illustrate the importance of a clear interpretation of regulations in a complex and changing labour market. The government should ensure that those taking temporary, 'seasonal' work should not be penalised when they need to rely on the benefit system when out of work. Most JSA claimants would rather be in long-term sustainable employment and yet the evidence suggests that many are, in fact, unable to find this type of employment. The regulations should be reviewed and clarified to ensure that administrative interpretation does not lead to low-paid workers in insecure, 'seasonal' jobs being incentivised either to remain unemployed or to move to 'inactive' benefits.

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<sup>22</sup> Carpenter H. (2006) *Repeat Jobseeker's Allowance Spells*, DWP Research Report No 394.

<sup>23</sup> Dorsett, R. *et.al.* (2007) *Implementation and first year impacts of the UK Employment Retention and Advancement (ERA) demonstration*, DWP Research Report No 412.

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## ***SSAC recommendations***

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39 We have three recommendations:

- 1) First we recommend a review of the remunerative work rules to ensure that they are applied consistently and fairly. DWP appears to be failing to consider the many permutations of vulnerable employment and has not analysed the effects that the current rules can/do have, not just on individuals, but also on the effectiveness of its employment programmes. While the review is underway, DWP should ensure that the regulations are interpreted uniformly at a national level. If, as the Department has asserted, the rules were being applied correctly in Lincolnshire then they should be applied coherently across all Districts and address all the permutations of 'seasonal', temporary and casual work that may occur. If they were not being applied correctly in Lincolnshire, then the Department should look very carefully at why they were applied in this way and how they can assure claimants and staff that something similar will not occur again. The Commissioner's decision should be applied nationally as it is not uniquely applicable to Lincolnshire. There will always be a need for 'seasonal' workers and the system needs to be able to distinguish between 'seasonal' work 'proper' and periodic patterns of work such as that experienced by oil-rig workers.
- 2) Second, we recommend that the review should be undertaken in conjunction with HMRC, so that the approach for both benefits and tax credits is coherent. The eligibility rules for benefits and tax credits need to be aligned so the rules for 'seasonal' workers do not categorise them as being in work for the purposes of benefit eligibility but out of work for tax credit eligibility. The outcome of the review would ideally ensure that employers cannot unreasonably use the benefits system to subsidise their employees when they are unable to offer employment. The review should also ensure that employers that are unable to pay wages throughout the year and employees who are limited to 'seasonal' work are not penalised.
- 3) Our third recommendation involves ensuring that the benefits system does not penalise claimants who lose their jobs because of the transitory nature of such employment. The question arises as to what extent the current JSA regime (and one that is likely to further emphasise the responsibility aspect of the State/claimant contract) supports claimants to find sustainable work. The recent Green Paper highlighted the importance of employment retention and it will be interesting to see how far its proposals lead to better long-term outcomes for claimants. DWP can play a role in ensuring that the jobs that are on offer to claimants offer some form of stability and progression but it is also reliant on employers to help retain employees, even in our modern flexible employment market.

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## Annex A

### Relevant extract from Statutory Instrument 1996 No. 207 – The Jobseeker's Allowance Regulations 1996

#### Remunerative work

51.—(1) For the purposes of the Act "remunerative work" means-

- (a) in the case of the claimant, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; and
  - (b) in the case of any partner of the claimant, work in which he is engaged or, where his hours of work fluctuate, is engaged on average, for not less than 24 hours per week;
- and for those purposes, work is work for which payment is made or which is done in expectation of payment.

(2) For the purposes of paragraph (1), the number of hours in which the claimant or his partner is engaged in work shall be determined—

- (a) where no recognisable cycle has been established in respect of a person's work, by reference to the number of hours or, where those hours are likely to fluctuate, the average of the hours, which he is expected to work in a week;
- (b) where the number of hours for which he is engaged fluctuate, by reference to the average of hours worked over—
  - (i) if there is a recognisable cycle of work, and sub-paragraph (c) does not apply, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);
  - (ii) in any other case, the period of five weeks immediately before the date of claim or the date of review, or such other length of time as may, in the particular case, enable the person's average hours of work to be determined more accurately;
- (c) where the person works at a school or other educational establishment or at some other place of employment and the cycle of work consists of one year but with school holidays or similar vacations during which he does no work, by disregarding those periods and any other periods in which he is not required to work.

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***Persons treated as engaged in remunerative work***

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52.—(1) Except in the case of a person on maternity leave or absent from work through illness, a person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in regulation 51(1) (remunerative work) where the absence is either without good cause or by reason of a recognised, customary or other holiday....

(3) A person who was, or was treated as being, engaged in remunerative work and in respect of that work earnings to which regulation 98(1)(b) and (d) (earnings of employed earners) applies are paid, shall be treated as engaged in remunerative work for the period for which those earnings are taken into account in accordance with Part VIII.

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## Annex B

### ***'Seasonal' workers*** ***(Hansard, 6 February 2006, 48333)***

14. **Mark Simmonds (Boston and Skegness)** (Con): If he will make a statement on how jobseeker's allowance is applied to 'seasonal' workers. [48333]

**The Parliamentary Under-Secretary of State for Work and Pensions (Mr. James Plaskitt):** The arrangements are set out in the Jobseekers Act 1995. Entitlement to jobseeker's allowance depends on the nature of the employment arrangements and whether it is reasonable to assume that there is a continuing pattern of re-employment. For 'seasonal' workers, where the average hours worked over the cycle is 16 or more, the claimant is not entitled to JSA.

**Mark Simmonds:** The Minister will be aware of the immense problems caused, particularly in Skegness, by the unannounced recent implementation of regulation 91, which relates to the jobseeker's allowance. That is causing significant hardship to 'seasonal' workers, all of whom anticipated being able to claim benefit in the winter months, as they have done in previous years. That change in Government policy has led to people being evicted from their homes, people having to pawn their possessions, and people fainting through hunger in the Skegness benefits office. This matter requires the Minister's urgent attention. Will he assure me and my suffering constituents that he and his civil servants will look into it with the utmost urgency?

**Mr. Plaskitt:** I have looked into the particular circumstances. In Lincolnshire, the remunerative work rules for 'seasonal' workers were incorrectly applied prior to June 2005. I can assure the hon. Gentleman that there has been no policy change. The problem has been in deciding a condition of entitlement—namely, whether the customers in question are in remunerative work. Decision makers are now applying the legislation correctly. I can assure the hon. Gentleman that no action has been taken against customers who received JSA when the rules for 'seasonal' workers were applied incorrectly and that no one has been asked to repay any benefit paid.

**Mr. Henry Bellingham (North-West Norfolk)** (Con): Is the Minister aware that 'seasonal' workers in my constituency who work at the sugar beet factory at Wissington, in the fishing industry, or in food processing, and who have tried to find jobs out of season but have been unable to do so, have in the past always been able to claim benefit? They are most concerned about the fact that they have had no warning whatsoever and have therefore been unable to plan their lives and make other arrangements. What does the Minister say to those constituents of mine, who are in a real dilemma?

**Mr. Plaskitt:** There has been no change. The rules were set down in clause 1(2)(e) of the 1995 Act, if the hon. Gentleman would like to take a look. The rules laid down for 'seasonal' work are clear. The Act states that where there is a cycle of work consisting of one year or more that qualifies as 'seasonal' work, and if the weekly average of hours worked over the cycle is 16 or more, there is no entitlement to JSA. Those have been the rules since 1995, and those are the rules still enacted.

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**6 Feb 2006 : Column 595**

It is worth pointing out that the benefits system is not intended to subsidise employers, who expect their 'seasonal' workers to return but are not offering any retainer in the meantime. 'seasonal' workers need to accept that they might need to look for other work at other times of the year.



## **Third Party Deductions (TPDs): Time for a Policy Review**

### **Social Security Advisory Committee Occasional Paper No. 5**

This paper was produced in support of advice offered to the Secretary of State in accordance with the Committee's remit (s 170(i) (a) of the SSA 1992 refers). The original text was sent to Ministers in November 2007 and is now being given wider distribution. We are grateful for the assistance of our Research and Policy Specialist, Dr Anna Bee, who prepared the paper for us, and to Departmental officials who provided factual information. However, the views expressed and any conclusions reached in the paper are solely the responsibility of the Committee.

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## Deductions from Benefit: Time for a Policy Review?

1 This paper in the Occasional Paper series published by the Social Security Advisory Committee (SSAC) explores the current situation of third party deductions from benefits and considers whether the overall rationale for these deductions is focused and based upon consistent policy intentions. Third Party Deductions from benefit were originally introduced to safeguard the position of people receiving income-related benefits when they fell into arrears with essential bills. While, according to DWP, this remains the principal rationale for the scheme, deductions are now also made under wider powers to pay debts that help in enforcing compliance with social and financial obligations (amongst others paying court fines and child maintenance payments), as well as a way of furthering new social policy objectives (integration loans and arrears on consumer credit granted by third sector lenders)

2 The Committee scrutinised two sets of regulations in 2006 that widened the scope of the scheme considerably. The Committee raised its concerns in respect of both sets of regulations at the time but also felt that there was scope to reiterate its thoughts on deductions for payments to third parties more generally in this paper. The Committee set out its opinion that there should be a review of the system of deductions from benefits before there is any further widening of the system. The review should consider issues of consistency in policy and efficient administration as well as the impact on claimants of deductions being taken from their benefits<sup>1</sup>.

3 This paper begins by providing a basic introduction to policy regarding deductions from benefit; then considers the context for deductions (e.g. changes in utility service disconnections); the impact of deductions on claimants and examines two case studies of recent changes to the scheme. It then sets out a number of principles for a review of the scheme.

### Background

4 There are currently four types of deductions: Third Party Deductions (TPDs) from benefits, overpayment recovery, Social Fund loan repayments and Child Support Maintenance. The key focus of this paper will be on TPDs but it is worth considering briefly the full-range of deductions for which claimants may be liable<sup>2</sup>. Third Party Deductions apply to income-related benefits: Income Support (IS), income-based Jobseeker's Allowance (JSA) and Pension Credit. Deductions can also be made where the income-related benefit is combined with another benefit, e.g. Incapacity Benefit. The scheme works by diverting a specified amount of benefit (currently £2.90 a week in respect of arrears) directly to the creditor until the arrears are paid off. Where appropriate, an amount is also deducted to cover ongoing consumption or liability.

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<sup>1</sup> SSAC (2006) The Social Security (Claims and Payments) Amendment (No.2) Regulations 2006 (S.I.2006 No. 3188) Command Paper Cm6974

<sup>2</sup> We are grateful to DWP Officials who provided much of the background information about deductions to the Committee.

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In Northern Ireland deductions can be made from other benefits such as IB even where IS is not in payment. This relates to historically higher rates of public debt that may no longer apply in practice.

According to DWP, Third Party Deductions have a two-fold purpose:

- to provide last-resort rescue where a claimant is struggling with arrears of essential household outgoings, or;
- to impose compliance with a social and monetary obligation.

These are very distinct in purpose. The first, when imposed without the claimant's consent is designed to make decisions assuming they are in the interest of the claimant without their agreement. It might be called 'paternalistic'. The second raises larger issues because this purpose could be widened according to government policy. It may raise constitutional and human rights issues because it involves the confiscation of claimants' assets.

5. In Great Britain, the TPD scheme began in the 1970s, in response to concerns about a large number of fuel supply disconnections which were particularly affecting those on the lowest benefit incomes. The provision that started in respect of fuel arrears has extended over time to various other items:

- housing costs and rent arrears,
- water costs (1990)
- fines (1992).
- deductions for Council Tax arrears and Child Support payments were added in 1993 and
- more recently further deductions were added for refugee integration loans (2007) and then
- arrears from an affordable credit scheme (2006) (see paras 24:28 below for more details)<sup>3</sup>.

6 The rules governing deductions are set out in Schedule 9 of the Claims & Payments Regulations, entitled 'Deductions from Benefit and Direct Payment to Third Parties'. Schedule 9 prescribes the amount for each individual arrears deduction, currently £2.90, i.e. five per cent of the single person's Income Support rate. The total amount deductible for arrears is subject to a cap of three x five per cent (i.e. £8.70). For utility costs an amount can also be deducted to cover the cost of *current* consumption as well as arrears, which prevents the debt continuing to grow at one end while being paid off at the other. There is a protective stipulation that the total amount deducted must not, without the person's consent, exceed 25 per cent of their benefit income.

7 Where there are three or more sets of deductions, a priority order is applied to determine which ones should take precedence. This is designed to ensure that deductions that protect the individual and the family (e.g. to prevent fuel disconnections) are prioritised.

The priority order is currently:

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<sup>3</sup> This paper does not include Mortgage Interest Direct where the portion of the claimant's benefit paid directly to the lender does not reduce the claimant's aggregate benefit income for living expenses and housing costs as it is not a 'deduction' proper.

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- 1 Housing costs (not covered by the mortgage payment scheme)
  - 2 Rent arrears & service charges
  - 3 Fuel costs
  - 4 Water charges
  - 5 Council tax
  - 6 Magistrates Court Fines (any court in Scotland)
  - 7 Child Support Maintenance (pre-2003 cases)
  - 8 Integration Loans
  - 9 Eligible Loans

8 In October 2004, the TPD for fines was increased to a flat-rate of £5 and Magistrates Courts' access to fines deductions was speeded up. However, the overall deduction limit remained the same. So if existing deductions leave no room for a £5 deduction without exceeding the limit, the fine deduction defaults to the standard £2.90. From July 2006, in England and Wales regulations were introduced to deduct court imposed compensation. If a court orders an offender to pay compensation to the victim of their crime, it is deducted (without their consent) from their benefits or by an attachment of earnings. In 2006, deductions for Eligible Loans were introduced and, in 2007, Integration Loan deductions for refugees were introduced. These two types of deductions are considered in more detail later in the paper.

### ***Non-Third Party Deductions from benefit***

9 As non-Third Party Deductions are a debt to the Department rather than a third party, overpayments do not figure in Schedule 9 and recovery is not restricted to the Schedule 9 individual amount. However, they are bound by other regulations to the same maximum amount as Schedule 9 deductions and also to the priority order, where they have a 'ghost' penultimate place after fines and before (pre-2003) Child Support Maintenance payments. Thus overpayment recovery has to be deferred if the aggregate of Third Party Deductions with greater priority has already reached the £8.70 maximum (unless the overpayment was a result of fraud, when a higher maximum of £11.60 can apply, with the recovery filling any available room up to that limit).

10 The interest-free Social Fund Crisis Loan and Budgeting Loan deductions account for just over half of the total deductions from benefit. They are the choice of the beneficiary, as the loan applicant agrees repayment terms before the loan is paid and repayment deductions commence. Deductions are not linked to Schedule 9's priority order so the presence of other deductions is no impediment to a loan. However, Social Fund loan repayment rates are sensitive to other commitments the claimant already has, including TPDs. If the applicant's weekly commitments from income are more than 15 per cent of the weekly income support rate for a single person, the repayment rate offered will be the lowest one of 5 per cent of benefit. Given the increase in Crisis Loan applications once the system became telephone based (estimates suggest that applications increased by 30 per cent in summer 2007), there may be a concomitant increase in the number and amount of deductions taken from claimants' benefit.

11 Between 1993 and 2003 Child Support payments were a straightforward Third Party Deduction. The third party was the person entitled to the maintenance. However, from March 2003 Child Support Maintenance (CSM) cases were lifted out of Schedule 9 and relocated in a new Schedule 9B, where a flat-rate £5 payment was introduced for

new cases. CSM therefore became a separate, freestanding deduction, independent of the priority order in Schedule 9 and allowing the deduction to be applied regardless of any others already in place. Schedule 9 rules, however (i.e. the ordinary Third Party Deduction rules), still apply to pre-2003 cases.

### Consent for Deductions

12 In some circumstances, claimants can request DWP to arrange deductions (e.g. for utilities), in others they can be levied on them without consent. The Jobcentre Plus leaflet that explains deductions sets out how and when a claimant can instigate a deduction and when it may be imposed upon them. It states:

*'You can apply for third-party deductions at your local Jobcentre Plus office, jobcentre or social security office or pension centre. Your landlord or fuel or water supplier can also ask us to take deductions if this is the most convenient arrangement for you to clear your debt. For Council Tax, your local authority may ask us to take payments from your benefit. You cannot ask for his yourself. For a fine, the courts may ask us to take payments from your benefit...You cannot ask for this yourself'.*

13 A key issue relates to explaining consent to claimants and helping them to understand fully the range of deductions that are available to them (or can be imposed upon them). The deductions system is relatively complex and research has shown that awareness of deductions and their operation amongst claimants is patchy (see para 20).

### Third Party Deductions – Volumes and Trends

14 There was a decrease in the total number of deductions between 1997 and 2005, even taking into account the addition of Pension Credit deductions in 2003. The most noticeable fall was in deductions amongst JSA claimants, where both the number and percentage of claimants with deductions fell. Although the number of IS deductions fell, the percentage of IS claimants with deductions increased from 29 to 46 per cent.

**Table 1 - Deductions 1997-2004**

	Number of deductions 1997	Per centage of claimants with deductions 1997	Number of deductions 2005	Per centage of claimants with deductions 2005
Income Support	1,149,000	29	990,000	46
Jobseeker Allowance	519,900	29	187,000	24
Pension Credit	-	-	224,000	8

Source: DWP Quarterly statistical enquiries, 2004

In terms of the type of deduction, the sharpest fall has been in utility deductions. A major factor in this fall has been the fall in the number of eligible JSA claimants. Other factors that explain this fall include the increased availability and spread of pre-payment meters, budget payment plans and the fuel companies' policy of only disconnecting supply as a 'last resort'. However, other deductions have increased in volume over the same period. Table 2 below shows the number of deductions for IS claimants in 1997

and 2005. Although at a low level, the number of fines deductions doubled over the period. In both 1997 and 2005, approximately 70 per cent of those with deductions had more than one deduction.

**Table 2 - Third Party Deductions from Income Support payments by type and average weekly amounts in Great Britain**

Type of Deduction	August 1997	February 2005	Average Weekly Amount of Deduction Feb 2005
Electricity	39,000	17,000	£12.05
Gas	114,000	22,000	£10.94
Water and Sewerage	144,000	92,000	£7.39
Mortgage Interest	278,000	100,000	£37.34
Council Tax	111,000	179,000	£2.98
Fines Recovery	14,000	28,000	£3.27
Child Support Maintenance	-	10,000	£4.66
Social Fund loan recovery	567,000	743,000	£11.24
Overpayment Recovery	102,000	119,000	£6.35

Source: DWP Quarterly Statistical enquiries, 2005

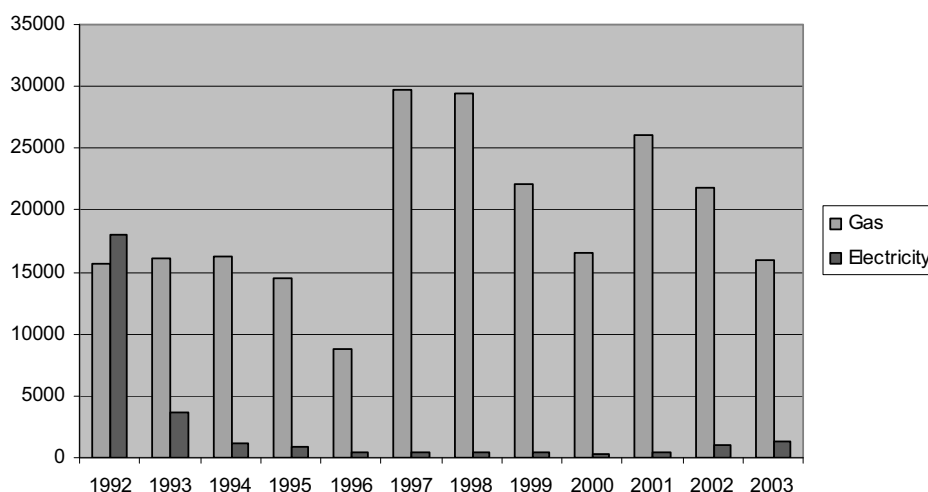
### Changes in Utility Services and Deductions

15 There have been a number of changes in terms of utility services and deductions that have a bearing on the rate of take-up. There has been a marked reduction in the number of electricity disconnections since the early 1990s, although gas disconnections have remained at about 15,000-20,000 per year. The higher figure for gas disconnections is apparently caused by the gas industry maintaining that it cannot, for health and safety reasons, install a prepayment meter in the absence of the occupier.<sup>4</sup>

<sup>4</sup> Parliamentary Warm Homes Group (2004) Consultation Response – Disconnection from Domestic Gas and Electricity Supply  
[http://www.nea.org.uk/downloads/Parliament/Disconnection\\_from\\_Domestic\\_Gas\\_and\\_Electricity\\_Supply.pdf](http://www.nea.org.uk/downloads/Parliament/Disconnection_from_Domestic_Gas_and_Electricity_Supply.pdf)

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**Chart 1 - Number of Disconnections for Debt 1992-2003**



16 It seems likely that the falling number of disconnections is largely attributable to the increased use of prepayment meters as an alternative. Whilst this option is clearly preferable to actual disconnection, it does mask the extent of problems faced by many low-income households in paying for fuel. Many families and individuals who would have been identified as in difficulty with their energy costs are now anonymous, under-consuming and effectively self-disconnecting or rationing their access to energy<sup>5</sup>. This reduction in the number of disconnections is also a feature of relatively low energy prices. With the increase in fuel costs experienced in recent years, we might expect to see more people suffering fuel poverty and possibly an increased need for gas and electricity deductions to prevent disconnections. Since 2003 domestic gas prices have risen by 87 per cent and domestic electricity prices by 56 per cent. Millions of low-income consumers and fuel poor households use prepayment meters as a way to help them budget. But people with prepayment meters are paying up to £173 a year more for gas and up to £113 more for electricity than quarterly billed (standard credit) consumers<sup>6</sup>.

17 Water was added to the Third Party Deduction scheme in 1990; since then the Water Industry Act of 1999 made it illegal for any water company in England and Wales to disconnect, for non-payment, any dwelling that is occupied by a customer as their principal residence. So claimants in debt to water companies are highly unlikely to be disconnected as a result of non-payment. However, OFWAT argued in 2002 that water payment deductions from benefit should be given higher priority than they already receive. They are currently considering whether water companies should be more proactive in using TPDs to recover arrears (Water companies can set up a deduction

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<sup>5</sup>National Energy Action (2005) Debt and Disconnection  
[http://www.nea.org.uk/Policy\\_and\\_Research/Fuel\\_poverty\\_facts/Debt\\_and\\_disconnection](http://www.nea.org.uk/Policy_and_Research/Fuel_poverty_facts/Debt_and_disconnection)

<sup>6</sup>National Consumer Council, Press release, 4<sup>th</sup> September 2006  
[http://www.ncc.org.uk/cgi-bin/kmdb10.cgi/-load964191\\_nccviewcurrent.htm](http://www.ncc.org.uk/cgi-bin/kmdb10.cgi/-load964191_nccviewcurrent.htm)

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without the customer's permission but OFWAT suggests that good practice would be to make reasonable attempts to contact the customer first)<sup>7</sup>.

### **Departmental Research into Third Party Deductions**

18 The Department has undertaken several pieces of research that explored the use of the Social Fund, especially when it was first set up. There is, however, a limited amount of research into Third Party Deductions more generally. Qualitative research concerning Social Fund budgeting loans has consistently shown that claimants value the opportunity to pay back the loans by regular deductions from benefit. However, research has also tended to conclude that repaying Social Fund budgeting loans can lead to increased hardship for some recipients. It appears to reinforce poverty by reducing an already meagre income further and leaving many with insufficient funds.<sup>8</sup>

19 In 2005 DWP published a research report that focused on both Social Fund loan repayments and Third Party Deductions<sup>9</sup>. It was a qualitative study involving 45 interviews with claimants to explore their understanding of deductions and the impact of deductions on their households. The sample included lone parents, unemployed couples with children, disabled people and pensioners. In addition to having both Social Fund loans and TPDs, almost three-quarters of the sample had other debts including bank loans, overdrafts, hire purchase and catalogue debts.

20 The study found that awareness of Third Party Deductions was low across the sample and that claimants' understanding of the mechanics of the schemes was patchy. Respondents were often unclear about when their own Third Party Deduction was set up and how much was outstanding. Even when they had no prior awareness of Third Party Deductions, users had assumed that DWP would be able to provide some sort of help with the repayment of arrears. Claimants expressed both positive and negative views about deductions and the nature of the views related to a number of factors (excluding whether the Third Party Deductions were requested or imposed):

- Whether Third Party Deductions were seen as being 'fair'
- How effectively Third Party Deductions were explained and implemented; and
- Whether an individual's financial independence was seen to be compromised

21 There was general acceptance of the principle of deductions among respondents, although some felt that they reduced their financial independence. A key area of concern was the rate of repayment. Most respondents viewed deductions negatively when a significant proportion of benefit (over 20 per cent) was taken up in deductions. Below 20 per cent, a range of views were expressed that related to issues

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<sup>7</sup> OFWAT (2002) *Dealing with customers in debt – guidelines*  
[http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/debt\\_guidelines\\_1002.pdf/\\$FILE/debt\\_guidelines\\_1002.pdf#search=%22OFWAT%20dealing%20with%20customers%20in%20debt%202002%22](http://www.ofwat.gov.uk/aptrix/ofwat/publish.nsf/AttachmentsByTitle/debt_guidelines_1002.pdf/$FILE/debt_guidelines_1002.pdf#search=%22OFWAT%20dealing%20with%20customers%20in%20debt%202002%22)

<sup>8</sup> Finch, N and Kemp, P., (2004) *The use of the Social Fund by families with children*, DWP in-house Report No 139 <http://www.dwp.gov.uk/asd/asd5/ih2003-2004/IH139.pdf>

<sup>9</sup> Farrell, C., Brown R. and O'Connor W., (2005) *Perspectives of Social Fund loans and third party deductions - A qualitative study of recipients*, Research Report No. 240  
<http://www.dwp.gov.uk/asd/asd5/rports2005-2006/rrep240.pdf>

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such as how helpful the Third Party Deductions were felt to be and the level of existing debt. The impacts of repayments on household financial management depended on the total amount of benefit deducted and the level of other debt.

- Manageable rates of deductions helped reduce the level of debt to be repaid and removed the risk of defaulting and incurring penalties
- Unmanageable rates appeared to exacerbate the effects of living on low income and led to reduced household spending, accrual of arrears and increased borrowing from other sources.

When repayment rates (in combination with other factors) made it difficult to make ends meet, then all members of the family were affected. Adults attempted to protect their children but children were undoubtedly affected.

22 An earlier research report (1994) explored deductions from IS claimants and included a questionnaire survey (1,137 IS recipients), interviews with claimants and staff and analysis of existing credit and debt surveys<sup>10</sup>. The research is dated but some aspects are still relevant, such as the advantages and disadvantages of deductions (known as 'Direct Payments' in 1994): The advantages included the fact that Direct Payments prevented creditor sanctions (e.g. disconnection and eviction), helped with budgeting and were often cheaper than alternative payment methods (pre-payment meters may have incurred higher tariffs). The disadvantages included the fact that Direct Payments reduced cash flow and made it harder for people to meet other household expenses (40 per cent of questionnaire respondents stated that they did not have enough to live on once the payment had been deducted from their benefit). In addition, some claimants complained about a lack of information, especially about whether payments had been made and how much arrears had been paid.

### **Recent Additions to the Deductions Scheme**

23 In late 2006 and early 2007, two new types of loans were added to the TPD scheme. The regulations for both the new loans were presented to the Committee by DWP and the Committee had a number of concerns about the loans. Overall, the Committee felt that the new loans widened the scope of the TPD scheme in an ad-hoc fashion. Further details of the loans and our concerns with them are set out below.

### **The Eligible Loan Deduction Scheme**

24 The Eligible Loan Deduction Scheme (ELDS) was introduced in December 2006 as part of the Government's financial inclusion strategy designed to help increase the supply of affordable credit to people on low incomes. The purpose of the scheme is to allow lenders from the third (not for profit) sector to apply for deductions from benefit to repay loans, in certain circumstances, if repayments have not been made for 13 weeks or more. Under the terms of the scheme, approved lenders must sign a Memorandum of Understanding (MOU) with the Department prior to entering into any loan agreements with their customers. DWP has been allocated a maximum of £10 million from the

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<sup>10</sup> Mannion, R., Hutton, S and Sainsbury, R., (1994) Direct Payments from Income Support, DSS Research Report No 33

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Financial Inclusion Fund to support administration costs of the scheme, with a cost of approximately £3 million for start-up.

25 ELDS forms part of the TPD scheme and normal TPD rules apply in respect of deduction rates, overall limits and priority. Accordingly, the deduction is five per cent of the IS personal allowance for a person aged not less than 25 (£2.90 a week in 2006/07). The customer must be left with a minimum of 10p IS after the deduction has been made. Deductions for loans currently have the lowest priority in the list of nine types of deductions (see paragraph 7 above). Although the scheme was implemented in December 2006, because of the lender application process and the operation of the scheme, the Department expected the first applications for deductions from benefit to come through in summer 2007.

26 The Committee had several concerns with the proposed scheme and in August 2006 formally consulted on the proposals. Its report on the consultation, published in December 2006,<sup>11</sup> suggested that the scheme appeared to be ‘an over-elaborate and costly mechanism to produce a relatively minor and uncertain effect’. The report concluded that the addition of loans from third sector lenders to the TPD scheme widens the scheme in an ad-hoc fashion and dilutes the focus on repaying priority debts. The Merits of Statutory Instruments Committee also examined the regulations, and subsequently, in February 2007 Lord Skelmersdale initiated a debate to annul the regulations introducing the scheme. The debate ranged over some of the criticisms set out in the SSAC’s report. There was a consensus that the benefits system is not a debt recovery tool and that the Social Fund might be a more suitable route to increasing the provision of affordable credit.

### **Integration Loans**

27 The Integration Loan Scheme is a Home Office designed initiative to help individuals and their dependants to settle into the community following a decision to grant them refugee status or humanitarian protection in the UK. The initiative is intended to provide interest free loans to certain groups to buy goods and services that will assist integration (e.g. essential household items, training). The scheme has been created to replace the existing system of backdated payments of: Income Support, Housing Benefit, and Council Tax Benefit. In other words these loans replaced what was, in effect, a grant. The Home Office considers applications for loans and DWP then pays the loan on behalf of the Home Office and collects the repayments, either from benefit or by agreed installments from the client when the client is not in receipt of an income-related benefit.

28 The primary legislative powers for this scheme lie with the Home Office, while DWP legislation set the deductions in the framework of the existing deduction systems as set out in Schedule 9 of the Claims and Payments regulations. The scheme was introduced in January 2007. As the primary power for the regulations lies with the Home Office, the Committee was unable to consult formally on the proposals although it did have a number of concerns with the scheme. Overall, the Committee was concerned

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<sup>11</sup> Social Security Advisory Committee (2007) *The Social Security (Claims and Payments) Amendment (No 2) Regulations 2006* (S.I. 2006 No. 3188) Command Paper Cm 6974

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that adding the repayment of integration loans dilutes the focus of the TPD scheme and in effect moves the scheme away from one that was designed to 'protect' claimants, to one that can be used as a method for collecting a range of non-priority debts. Not only does the scheme widen the scope of Third Party Deductions but it also essentially promotes the Government to the status of priority creditor. Priority creditors in court or voluntary negotiated debt repayment programmes are mortgage lenders, landlords and utility service providers, that is, the arrears currently recoverable through Third Party Deductions. In addition, the scheme may discriminate against people on benefits, as there is no proposal for attachment of earnings to recover integration loans. The Committee also had concerns about the rate of repayment and the time allowed before repayment begins. As the loan scheme replaced backdated benefit, the Committee questioned whether a rate of five per cent of the Income Support personal allowance might be too high and sought reassurance that the repayment of the loans would not lead to unnecessary financial hardship amongst recipients.

### **Deductions from Benefit – Rationale for a Review**

29 The Committee has suggested to the Department that there should be a review of the current scheme. The current system of Third Party Deductions adds considerably to the complexity and administrative costs of benefit delivery. Stakeholders have also raised a number of issues with both the theory and operation of deductions, and the scheme is not without its critics. For example, Citizens Advice has suggested that the current scheme represents a 'mixed blessing' for its clients in receipt of benefit. On the one hand, the scheme allows those on benefit who face debt enforcement to arrange deductions from benefit and so prevents people falling deeper into poverty. On the other hand, multiple deductions may leave people with a very severe reduction of net income from which to buy food and other essentials<sup>12</sup>. A number of respondents to the consultation into the proposed Eligible Loan Deduction Scheme (ELDS) suggested that the scheme should be reviewed before the piecemeal addition of further deductions.

30 Citizens Advice suggest that the scheme needs to be reviewed for three main reasons:

- Deductions cannot be made from tax credits, yet payment for people with children is transferring to tax credits;
- The range of benefits covered by the scheme is too narrow, and;
- Claimants have inadequate controls over the number and amount of deductions (consent is only required when the total deductions exceeds 25 per cent).

31 The National Energy Action group view the deduction scheme for fuel payments as being a 'virtually moribund payment method of last resort' and would wish to see it expanded to become an improved version of the existing system. It argues that this should go hand in hand with further reducing the incidence of fuel disconnections<sup>13</sup>. Energy Watch has proposed a number of changes, including better publicity and referral to the scheme, making the scheme available to consumers in low-income employment

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<sup>12</sup> CAB (2005) *Take it Away*, CAB evidence on the DWP third party deductions scheme and financial exclusion [http://www.citizensadvice.org.uk/take\\_it\\_away.pdf](http://www.citizensadvice.org.uk/take_it_away.pdf)

<sup>13</sup> National Energy Action, May 2004

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and using the scheme as a debt prevention measure as well as debt resolution<sup>14</sup>. However, although stakeholders offer options for improving the scheme they are clear in their support of the principle of deductions and they highlight the importance of the scheme in allowing claimants to manage priority debts.

## Conclusion

32 The Committee recommends that the Department undertake a review that considers the rationale for the scheme, its operation and its impact on customers. The review should explore why the scheme exists and whether it should be limited to supporting claimants to meet priority debts. A number of issues requiring investigation are set out below:

- i) Current Third Party Deductions for essential services such as housing, fuel etc. provide claimants with a certainty of the protection of these services. However, they may also act as a disincentive to moving into employment. For claimants who are in debt, moving into work will entail managing those debts without the support of the TPD scheme, and dealing personally with creditors who can apply for the full arrears, or much more demanding repayment arrangements, once TPDs have ended. Making the transition to work may be complicated and compromised in these circumstances. The presence of debts – in particular those which do not relate to essential service – that are ‘managed’ by TPDs, complicates any ‘better off’ calculation of the advantages of entering employment. Debts which become unmanageable may precipitate an early return to claiming benefits.
- ii) Are the current rates of repayment appropriate? Although no individual should have more than 25 per cent of their benefit deducted without consent, benefit rates are at a level that makes further income reduction problematic. Commercial lenders are prepared to accept lower rates of payment (e.g. £1-2 per month) from those in financial difficulty, compared with £2.90 a week for TPDs. In many cases creditors suspend payments altogether while someone is out of work and claiming JSA or IS.
- iii) Should water still be included in the scheme as water disconnections are illegal in most circumstances? Water companies have recourse to other methods of debt recovery and Third Party Deductions are rarely needed to prevent claimants and their families losing access to water.
- iv) Should non-priority debts be included in the scheme at all? By including integration loans, for example, the Home Office is being made a priority creditor over suppliers of other essential services who can only, normally request TPDs for arrears. Moreover, by including these loans and arrears on affordable credit, they are being given priority over any secured loans the benefit recipient may have. Again this runs counter to accepted practice with regard to the recovery of money owed, such as court agreements between debt advisers and creditors to prioritise secured lending, rents and utility bills above all other payments.

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<sup>14</sup> [www.energywatch.org.uk](http://www.energywatch.org.uk)

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v) Should the scheme be made available to people in receipt of a wider range of benefits? As the scheme is only available to JSA, IS and Pension Credit recipients it excludes a range of people on similar incomes (e.g. lone parents who have had lost their entitlement to IS when the benefit for their children started to be paid by child tax credit).

vi) Does the basis for a different approach to the scope of deductions between Great Britain and Northern Ireland remain sustainable?

### **Recommendations**

33 As the Committee recommended in the report on The Social Security (Claims and Payments) Amendment (No. 2) Regulations 2006 (S.I.2006 No.3188) there should a review of the system for deductions from benefits which should consider consistency of policy and the impact upon claimants of these deductions.

34 The starting point should be a consideration of the policy objectives of Third Party Deductions which currently appear to have four potentially conflicting aims:

- i) To manage the financial affairs of claimants who are judged as not able to manage them themselves;
- ii) To reduce the risk that claimants and their families will suffer from not meeting their financial liabilities;
- iii) To assist in the management of certain debts to selected creditors;
- iv) To control through the social security system certain debts to achieve other public policy measures, such as the recovery of fines.

35 Recognising that Third Party Deductions will continue within the social security system and the value of such deductions for some claimants, the Committee makes the following policy recommendations for reform:

- i) Third Party Deductions should be confined only to maintaining essential services such as housing, water etc, and ensuring that responsibilities to children are continued through child maintenance;
- ii) Third Party Deductions should not be used to recover money which can be secured through other existing civil procedures since this places benefit recipients in a different group from other citizens;
- iii) For claimants with debts managed by TPDs who are moving into work, a one-off payment (similar to the Job Grant paid by Jobcentre Plus to claimants taking up work of at least 16 hours per week) of the equivalent of four week's TPDs should be made to all creditors in order to give the claimant some time in which to negotiate new, manageable, independent repayment arrangements. This should be supported by improved information and advice on debt management within the Department's work-focused programmes.

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# Annex A

## *List of the Committee members' visits and meetings*

### *Visits to operational sites made since 1 August 2007*

Pathways to Work	Newcastle-Under-Lyme Jobcentre Plus
Benefit Delivery Centre	Clydebank
In and out of work pilot	Liverpool
Voice Risk Analysis pilot	Coventry
Local Employment Partnerships	Birmingham
LEAN	Marylebone Jobcentre Plus
In and Out of Work pilot	West Lothian
In and Out of Work pilot	Clapham (London)
Pathways to Work	Paisley Jobcentre Plus
Pathways to Work	Rothesay Jobcentre Plus
In and Out of Work pilot	Somerset
Community Links	East Ham (London)

In addition, six visits took place in July 2007 that were not listed in our last Annual Report:

Jobcentre Plus	Swansea, Tredegar and Yeovil
Benefit Delivery Centres	Llanelli and Newport
The Welsh Refugee Council	Newport

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## Annex B

### *The SSAC Stakeholder Seminar 2007*

#### *Background to the Seminar*

The aim of the seminar was to build on the first seminar held in 2006 by examining the future agenda for social security and the work of SSAC. The event coincided with the publication of the SSAC 2006/07 Annual Report (<http://www.ssac.org.uk/pdf/reports/20threport.pdf>).

The seminar took place on 8 November 2007 at Sadler's Wells Theatre, London. The morning session comprised an introduction and welcome from the Chairman, Sir Richard Tilt, followed by presentations from Dr Roy Sainsbury from the Social Policy Research Unit at the University of York and then Kate Green, Chief Executive of the Child Poverty Acton Group. This was followed by a panel discussion which included two SSAC members, Alison Garnham and Les Allamby.

This paper summarises the presentations and feedback from the morning's plenary discussion and the afternoon workshops.

#### *Welcome from Sir Richard Tilt*

In welcoming stakeholders and the guest speakers for the day, the Committee Chairman reported on the changes to working practices which have taken place since the first stakeholder seminar last year. SSAC now publishes its agendas, papers and minutes on its website ([www.ssac.org.uk](http://www.ssac.org.uk)) and has taken the opportunity to meet local stakeholders on visits to the Department's operational sites. SSAC has again timed the seminar to coincide with the publication of the Annual Report.

SSAC's response to the Green Paper *In work, better off: next steps to full employment* [CM7130] has also been recently published on the web ([http://www.ssac.org.uk/pdf/gp\\_response\\_version\\_8.pdf](http://www.ssac.org.uk/pdf/gp_response_version_8.pdf)) and SSAC would use this seminar to engage further with stakeholders in the debate on the future direction of welfare reform. SSAC would also seek to draw topics and themes for its independent work programme from the day's discussions.

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## ***Section 1 – Keynote speakers***

This section summarises the key points made by the keynote speakers during the morning session.

***Dr Roy Sainsbury, Assistant Director of the Social Policy Research Unit, University of York***

### ***Do we need a single working age benefit?***

Roy Sainsbury presented the case for considering a Single Working Age Benefit. He argued that the benefits system needed reform because it is too complex and, as the Freud Report suggested, obstructs people from entering work. Currently, there are some 30 to 40 benefits which interact, with different organisations administering them. As policy develops, complexity increases. These complexities are well illustrated in the recent NAO Report ([http://www.nao.org.uk/publications/nao\\_reports/05-06/0506592.pdf](http://www.nao.org.uk/publications/nao_reports/05-06/0506592.pdf)) and in the Seventh Report of the Work and Pensions Select Committee (<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmworpen/463/46302.htm>).

Dr Sainsbury suggested that there are two linked pressures – complexity and welfare to work objectives. There were three options to deal with complexity: do nothing; simplify incrementally; or have a radical reform. He outlined his approach to a proposed Single Working Age Benefit with a standard basic rate and a standard set of rules with the benefit remaining at the same level over time. The gateway to the benefit would consist of two basic questions: “*Do you think you will be able to work at any time in the future?*” and: “*Do you want to work at some point in the future?*”

He argued that among the advantages of a Single Working Age Benefit would be: reduced complexity; no more moving between benefits; no uncertainty about the effect of trying work and no perverse incentives.

However, he recognised that there are still a number of big questions in moving towards a Single Working Age Benefit which need to be answered, but he argued that the status quo was not sustainable and that radical thinking was required.

***Kate Green, Chief Executive of the Child Poverty Action Group***

### ***How to end child poverty by asserting rights***

Kate Green suggested that while discussion of welfare reform is very fashionable at the moment, it seems to be based upon the assumption that the welfare state is a problem. What is lost in the debate is the way in which the welfare system is becoming marginalised and residualised rather than being a universal system and that it is being applied in an increasingly discretionary and discriminatory manner. As a result it is failing in its fundamental role of preventing poverty and income inequality.

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She argued that this was because the concept of rights as being at the heart of the welfare state has been lost. Whilst acknowledging what had been achieved, she also pointed out that achieving the child poverty target by 2010 was not on track.

She argued that there should be four principles at the heart of a successful welfare state which are prerequisites for bringing about an end to poverty:

- it should be universal and not just a system for people who are poor;
- it should be preventing poverty not alleviating it;
- people should be treated fairly and transparently;
- it should be based upon entitlement.

She outlined a number of ways in which the system is moving away from these principles and suggested a need to return to a language of entitlements and rights as used in relation to the National Health Service, and concentrating upon a system of social protection that is focused on preventing poverty and with a right to an adequate income would begin to end child poverty for good.

### ***Plenary discussion***

The two plenary speakers were joined by Alison Garnham and Les Allamby for a question, answer and discussion session. In answer to questions about how a Single Working Age Benefit would differ from Supplementary Benefit or Income Support, and the relationship between a Single Working Age Benefit and the divide between contributory and income-related benefits, Roy Sainsbury emphasised that there is a case for radical reform but there was no one blueprint for a Single Working Age Benefit. He suggested the need for a ten-year perspective, perhaps starting with a Welfare Commission similar to the recent Pensions Commission, as the first step.

Discussion also focused upon the complexity of the benefits system, the changes taking place in service delivery (particularly the role of the voluntary sector in both delivering services and ensuring that it continued to act as an advocate for the rights of claimants) and the issue of adequacy of benefits and the nature of income inequality.

### ***Discussion groups***

The afternoon session consisted of discussion groups who were asked to consider three key issues:

- Rights and responsibilities – where should the balance lie?
- Service delivery – how to secure equality of access?
- A Single Working Age Benefit – the solution to complexity?

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The discussions were wide-ranging and not all discussion groups managed to explore all of the issues within the time allocated, whilst it was suggested that SSAC should engage in the debates about the 'big issues' such as these. The main points raised in relation to these issues were:

### ***Rights and responsibilities***

The responsibilities of claimants are being increased without any accompanying emphasis upon their rights. Employers' responsibilities should be increased. For example, the enforcement of the National Minimum Wage needs to be improved. Concern was expressed in the light of the Green Paper about the responsibilities of lone parents for their children and their ability to choose to work without having to rely upon paid work as the source of their income. The Government is also concerned about anti-social behaviour and preventing this requires good parenting.

One group identified two levels of rights and responsibilities – the first in relation to work, Work Focused Interviews (WFIs) and conditionality, but the second lies at a more general level of ensuring that the welfare state delivered an appropriate balance of rights and responsibilities across a much wider field of housing, health, families, childcare and caring.

It was also pointed out that there is no discussion taking place about the adequacy of benefits.

### ***Service delivery***

DWP needs to talk more to claimants and hear their feedback about service delivery under the Change Programme. The first contact by telephone is important and should allow access to all services. More joint working is needed across Department for Work and Pensions (DWP) and Her Majesty's Revenue & Customs (HMRC) on educating people about where welfare policies are going and how customers should interact with the appropriate Department. Whilst there are jobs available (for example, in London) people on Jobseeker's Allowance (JSA) do not get intensive support to access these jobs early.

It was also pointed out that telephony may not be the best form of access for many customers, particularly those with mental health problems and the issue of call-backs needs to be addressed. Much more consideration should be given by the Department to the likely impacts of 'modernisation' of services before changes are implemented.

With greater discretion being proposed for Personal Advisers (PAs) there is a need to standardise how this discretion will be used. This is particularly the case for vulnerable claimants. How more WFIs will be delivered with cutbacks in the Jobcentre Plus network and staff cuts is an issue of concern.

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The issue of how the Standard Operating Model could deal with the diverse customer base of Jobcentre Plus and how successful it was in delivering good quality customer service, was discussed in one group.

### ***Single Working Age Benefit***

It was pointed out that moving to a Single Working Age Benefit would take many years and it would not be possible to avoid having 'add-ons' which would generate its own complexity. The example of Jersey where the Single Benefit has been implemented was discussed in one workshop. In Great Britain a Single Working Age Benefit would need to recognise the needs of those in work and those out of work as well as benefits for housing costs. A Single Working Age Benefit would need to consider whether it was targeted; how pensioners were dealt with and the implications for taxation. There was some concern expressed that such a simplification would either inevitably introduce additional elements or result in a form of rough justice where claimants would lose out.

### ***Future action for SSAC***

- SSAC should encourage better education of citizens on their rights and responsibilities and ensure that the link between benefits and tax credits are communicated clearly.
- SSAC should pay attention to the role of the private and voluntary sector and the nature of the contract management control, payments and targets. In addition, consistency of service nationally is a potential issue.
- SSAC should be encouraging a debate on alternative benefit structures including a Single Working Age Benefit, perhaps through a Welfare Commission, with attention also being paid to the adequacy of benefits.

### ***Feedback and evaluation***

Twenty-five participants completed evaluation feedback sheets. All respondents felt the event was worthwhile and all said they would attend again. Only six respondents felt that the objectives were only partially met or didn't respond to this question, whilst only three suggested that the event had only partially or mostly met their expectations. The remainder felt it had.

Participants expressed the view that it was a useful occasion to have a high level discussion on welfare reform with useful meetings with other people on an informal basis.

Suggestions for next year's event were that it should be planned for earlier and that as the networking opportunities of the event were important there should be a longer lunch break.

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## Annex C

### *Regulations considered by the Committee and coming into force in Great Britain since 1 August 2007*

This annex lists the regulations put to the SSAC which the Committee decided did not require formal reference. The list refers only to regulations covering Great Britain; however, in most cases, the SSAC agreed to regulations similar in effect in relation to Northern Ireland.

#### **Statutory Instrument Number:**

#### **2007**

- |      |   |
|------|---|
| 1632 | The Social Security (Students and Income-related Benefits) Amendment Regulations 2007 |
| 1749 | The Social Security (Miscellaneous) Amendments (No. 3) Regulations 2007               |
| 1886 | The Social Security (Claims and Payments) Amendment (No. 2) Regulations 2007          |
| 2470 | The Social Security (Miscellaneous) Amendments (No. 4) Regulations 2007               |
| 2582 | The Social Security (National Insurance Credits) Amendment Regulations 2007           |
| 2618 | The Social Security (Miscellaneous) Amendments (No. 5) Regulations 2007               |
| 2911 | The Social Security (Claims and Information) Regulations 2007                         |
| 2912 | The Social Fund Cold Weather Payments (General) Amendment Regulations 2007            |
| 3183 | The Social Security (Housing Costs and Miscellaneous) Amendments Regulations 2007     |

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**2008**

- 13 The Jobseeker's Allowance (Joint claims) Amendment Regulations 2008
- 223 The Social Security (National Insurance Numbers) Amendment Regulations 2008
- 441 The Social Security (Claims and Payments) Amendment Regulations 2008
- 498 The Social Security (Home Responsibilities) Amendment Regulations 2008
- 637 The Discretionary Financial Assistance Amendment Regulations 2008
- 1042 The Social Security (Miscellaneous) Amendments (No. 2) Regulations 2008
- 1599 The Social Security (Students and Miscellaneous) Amendments Regulations 2008
- 1778 The Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2008
- 1826 The Social Security (Students Responsible for Children or Young Persons) Amendment Regulations 2008

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## Annex D

### *Regulations considered by the Committee other than under the terms of its statutory remit and coming into force since August 2007*

The following is a list of legislation which, although outside the Committee's statutory remit (in most cases because it was made within six months of the coming into force of the relevant Act), was offered for information to the Committee.

#### **Statutory Instrument Number:**

#### **2007**

- |      |   |
|------|---|
| 2474 | The Housing Benefit (Loss of Benefit) (Pilot Scheme) (Supplementary) Regulations 2007                                   |
| 2538 | The Independent Living Fund (2006) Order 2007   |
| 2868 | The Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007                        |
| 2869 | The Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007 |
| 2870 | The Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007               |
| 2875 | The Social Security (Attendance Allowance and Disability Living Allowance) Amendment Regulations 2007                   |

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**2008**

- 586 The Housing Benefit (Local Housing allowance, Information Sharing and Miscellaneous) Amendment Regulations 2008
- 794 The Employment and Support Allowance Regulations 2008
- 795 The Employment and Support allowance (Transitional Provisions) Regulations 2008
- 959 The Housing Benefit and Council Tax Benefit (Extended Payments) Amendment Regulations 2008
- 1082 The Employment and Support Allowance (Consequential Provisions) Regulations 2008
- 1554 The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008
- 1879 The Employment and Support (Consequential Provisions) (No. 3) Regulations 2008

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## **Annex E**

### ***Regulations considered by the Committee under the terms of its MoU with HMRC***

The Working Tax Credit (Entitlement and Maximum Rate) (Amendment No. 2) Regulations 2007

The Tax Credit (New Category of Child Care Provider) (Revocation) (England) Regulations 2007

The Income Tax (Qualifying Child Care) (No. 2) Regulations 2007

The Tax Credits (Child Care Providers) (Miscellaneous Revocation and Transitional Provisions) (England) Scheme 2007

The Tax Credits (Miscellaneous Amendments) Regulations 2008

The Tax Credits (Miscellaneous Amendments (No.1) Regulations 2008

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## Annex F

### *Membership of the Committee (as at 31 July 2008)*

**Sir Richard Tilt** joined the Prison Service in 1966 as a graduate entrant, and worked in a variety of prison establishments before governing Bedford and Gartree prisons. From 1990 he worked in Prison Service HQ, first as Head of Industrial Relations, then as Director of Services. In 1994 he was appointed Director of Security, and in the same year he became Director-General. He retired from the Prison Service in 2000. He was an NHS Chair for six years and is the Social Fund Commissioner. In 2007 he was appointed to chair the Independent Complaints Panel for the Portman Group (Alcoholic Drinks Industry). He is a governor of de Montfort University. He was a Churchill Fellow in 1991 and was knighted in 1999.

**Kwame Akuffo** is Chair of Ealing Racial Equality Council and Chair of the free law clinic, Community Advice Programme (CAP). He is co-founder of the Equality and Human Rights Centre West London and has been a law teacher since 1982. He is currently a Senior Lecturer at Ealing Law School, Thames Valley University. His research interests and publications are in International Human Rights, Trusts and International and Comparative Law. He is engaged in issues of equality, diversity and cohesion in Ealing where he has also worked for many years in community relations and community legal service delivery. He is a JP and a member of the Family Panel. He served as a member of the Independent Monitoring Board at HMP Wormwood Scrubs until 2004.

**Les Allamby** is Director of Law Centre (NI). He is a solicitor and sociology and social administration graduate. He is a social security adviser involved in advocacy before the Social Security Commissioner, and with taking cases to the ECJ and ECHR on social security issues. He is currently a member of the Legal Services Commission in Northern Ireland and from 2006, was a member of the Legal Services Review Group in Northern Ireland. From 1999-2004 he was the Chairperson of the Standards Committee for Northern Ireland, reporting on the quality of decision making for social security and child support. He has written widely on legal and social policy issues. He has also served as an election monitor and supervisor in Bosnia and Pakistan, and Georgia.

**Simon Bartley** is Chief Executive of UK Skills. He was educated at Durham University where in 1979 he graduated with a BSc in Engineering Science and Management and in 1985 with an MSc in Management Science.

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Simon is a Chartered and a European Engineer, a Member of both the Institution of Civil Engineers and of CIBSE and is a Fellow of the Institution of Engineering Technology and of the City & Guilds of London Institute. He is Chair of SummitSkills, the Sector Skills Council for the Building Services Engineering Sector which covers the electrotechnical, heating, ventilating, air conditioning, refrigeration and plumbing industries, a Member of The City & Guilds Council and a Director of the Centre for Enterprise. Simon's other business representations include him being a past Chair of the CBI's Small and Medium Enterprise Council. He currently Chairs both the 14-19 Diploma Steering Group for Construction and the Built Environment and the BSI SME Policy and the BSI Standards and Policy Committees. Simon is Chair of Providence Row Charity, a Charity for the homeless in the East End of London.

**Brigid Campbell OBE** studied Classics before entering the civil service, working mainly with expert advisory committees in the medical field. She subsequently underwent teacher training, spent five years in a Citizens Advice Bureau, and went on to study law and qualify as a solicitor. After a short spell in practice, she joined the teaching staff of The College of Law and became the College's Head of Welfare Law, co-authoring the student textbook used for the Legal Practice course. She was appointed to the Independent Tribunal Service (now The *Tribunals Service*) in 1995, and sits as a part-time Chairman, with particular experience in disability and incapacity appeals. Since retiring from the College of Law in 2000 she has returned to Citizens Advice, where she works mainly in social policy.

**Angus Erskine** is a freelance research and policy consultant. He has been a lecturer at the Universities of Stirling, Glasgow and Edinburgh and, the then, Sunderland Polytechnic. He has many years of experience working with local area-based anti-poverty initiatives. He is particularly interested in social security delivery in rural areas and the rights of citizens. He was Chair of the Editorial Board of the Journal of Social Policy and Review Editor for the Journal of Social Policy. He has researched and written on social security, employment, social exclusion and poverty and co-edited The Student's Companion to Social Policy and The Dictionary of Social Policy.

**Richard Exell OBE** is the TUC's Senior 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 was a member of the Disability Rights Commission, 2000 – 2007.

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**Alison Garnham** is joint-Chief Executive of the Daycare Trust, taking up her position in June 2006. Prior to this, for nine years she was the Director of Policy and Research at One Parent Families. She worked for many years as a welfare rights adviser and for a number of women's organisations before, in 1989, joining the Child Poverty Action Group (CPAG) where she co-authored a number of publications about the Child Support Act. She has subsequently written about lone parenthood and child poverty, including an edition of *Poverty: the Facts*, published by CPAG. Before joining One Parent Families she was Senior Lecturer in Social Policy at the University of North London (now London Metropolitan University) where she remains an Honorary Research Fellow.

**Professor Elaine Kempson CBE** is Professor of Personal Finance and Social Policy Research and Director of the Personal Finance Research Centre at the University of Bristol. She is an internationally known and respected authority on consumer financial issues, and has over 20 years' experience in conducting research into various aspects of personal financial services. In recent years, this has included a large body of work on access to financial services and financial inclusion, over-indebtedness, and the need for financial education. Elaine was appointed as the first independent reviewer of the UK Banking Codes in 2002 and was reappointed to review the Codes again in 2004. She is a member of the BERR advisory group on over-indebtedness and HM Treasury's Financial Inclusion Taskforce. She is also a non-executive director of the Financial Ombudsman Services and was, until recently, a non-executive director of the Banking Code Standards Board. In 2007 Elaine was awarded a CBE for services to the Financial Services Industry.

**Laurie Naumann** took early retirement from the Scottish Council for Single Homeless in 1999. He had been involved in setting it up and was director from 1978. From 1992 to 1995 he was seconded to The Scottish Office Social Work Services Inspectorate. 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 and on voluntary sector issues, mainly in Scotland. At present he is Chair of the Highland Housing and Community Care Trust, the Consultation and Involvement Trust Scotland and the Refugee Survival Trust. He is a board member of Garvald Centre Edinburgh, the Kingdom Housing Association, the Voluntary Action Fund and FEAT Enterprises.

**Professor Anthony Ogus CBE** 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

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Editorial Advisory Committee of the Journal of Social Security Law. He has also served on committees of the Economic and Social Research Council. In 2002 he was awarded the CBE for services to the Social Security Advisory Committee and in 2007 was elected a Fellow of the British Academy.

**Pat Smail** is a research consultant and partner in Focus Consultancy, undertaking social research and evaluations across the public and charitable sectors. She has been a non-executive director of Gwent Healthcare NHS Trust for ten years; she currently holds special responsibilities for children's services and sustainability. She is a registered social worker and has worked in both Wales and England, primarily in children and family services. She is past Chair of MIND Monmouthshire and retains an interest in mental health policy. Her current research interests include severe child poverty, children and young people's participation in decision-making and community regeneration. She takes a particular interest in equality and diversity issues.

**Professor Janet Walker** is Emeritus Professor of Family Policy in the Institute of Health and Society at the University of Newcastle-upon-Tyne. Until 2005 she was director of the Newcastle Centre for Family Studies. She has led over 45 studies in the fields of marriage and divorce, parenting, criminal justice and services for children. She has been an expert consultant to the Council of Europe and a non-executive Director of Newcastle City NHS Trust where she was responsible for dealing with complaints from the public and overseeing services for the elderly. She is Vice-Chair of the Board of Trustees of the Family and Parenting Institute and Trustee of the National Academy of Parenting Practitioners. She is a Fellow of the Royal Society of Arts and of the Academy of Learned Societies for the Social Sciences.

**Professor Robert Walker** is Professor of Social Policy, University of Oxford and Fellow of Green Templeton College. He has devoted his career to informing policy advance on issues related to social security, poverty and social exclusion in Britain and elsewhere through the assembly and dissemination of evidence and by direct engagement in the policy process. After a spell in the civil service, he worked at the Universities of Kent and York before directing the Centre for Research in Social Policy at Loughborough University and becoming Professor of Social Policy, University of Nottingham. He has undertaken over 60 research projects and published 18 books including *'Social Security and Welfare'* (OUP-McGraw-Hill, 2005). He is a Fellow of the Royal Society of Arts.

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## **Annex G**

### ***Financial statement***

The Committee's expenditure in the financial year ending 31 March 2008 was £390,683. Running costs totalled £111,816 and staffing costs £278,867.