

Social Security Advisory Committee
Minutes of the meeting held on 22 June 2022

Chair: Dr Stephen Brien

Members: Seyi Obakin
Matthew Doyle
Carl Emmerson
Kayley Hignell
Grainne McKeever
Charlotte Pickles
Liz Sayce

Apologies: Chris Goulden
Bruce Calderwood
Phil Jones

1 & 2. Private sessions

[PARTIALLY RESERVED ITEMS]

Postal Regulations

1.3 The Committee agreed with the Postal Regulations Sub-group's recommendations that the following regulations were suitable candidates for clearance by correspondence:

- *The Social Fund Winter Fuel Payment (Temporary Increase) Regulations 2022*
- *The Social Fund (Child Funeral Fund) (No 2) Regulations (Northern Ireland) 2022.*

1.4 The Chair asked the Committee Secretary to notify the Department that the Committee was content for the above regulations to proceed.

3. The Housing Benefit and Universal Credit (Victims of Domestic Abuse and Modern Slavery) (Amendment) Regulations 2022

3.1 The Chair welcomed the following officials to the meeting: Lavinia Browne (G7), James Fuller (G7), Sinead Donnelly (SEO) and Tony Knight (HEO) of the Housing Policy Division.

3.2 Introducing the regulations, Tony Knight explained that the Shared Accommodation Rate (SAR) applies to Housing Benefit and Universal Credit

claimants who are aged under 35 and live on their own. These regulations introduce new exemptions for victims of domestic violence and modern slavery to ensure that rather than have the SAR applied to them they instead receive the higher one-bedroom rate. These changes were announced to be introduced in October 2023, however the Department has been able to bring these forward to October 2022.

3.3 The Committee raised the following main questions in discussion:

- (a) The definition for ‘modern slavery’ will appear for the first time in Social Security legislation. It is therefore important to understand how the Department came to this definition and the scope of it. With which stakeholders did the Department discuss this issue?**

There was engagement with a large number of stakeholders, such as the Salvation Army, Barnardo’s, the Human Trafficking Foundation, and the Home Office. The proposed policy was shared with them at a very early stage to test whether the exemption was fit for purpose and workable. There was universal approval of the exemption, without any negative feedback being received. On the legislative definition, DWP lawyers have checked the definition with their Home Office counterparts, who initially created the definition used. However, a difficulty with modern slavery is that the guidance is not in the legal definition of the Act, for example there is no reference to the National Referral Mechanism (NRM), which is the method by which someone is designated as having been a victim of ‘modern slavery’.

- (b) Was there any engagement on the statutory definition used? How did the consultation take place?**

No, the consultation was on the exemption, not on the legal definition. However, in that consultation the proposal was that the affected group of modern slavery victims would be designated in the same way as the Home Office was already doing. The consultation took place both by written communication and also in meetings. The list of stakeholders consulted shall be shared with the Committee (in confidence).

- (c) How many people are expected to fall into the two groups – victims of modern slavery and domestic violence?**

The expectation is that around 11,000 people will be affected and take advantage of the exemption. That number is made up of around 10,000 domestic violence victims and 1,000 modern slavery victims.

- (d) Are these claimants expected to self-identify, or will there be prompts in the claims process? How would a claimant know to raise it? How is this**

evidenced for modern slavery – does the DWP talk to the NRM register, or is the claimant expected to gather that evidence?

The claimant is expected to self-identify for either of the exemptions. There is work ongoing with stakeholders to advertise the change to as many people as possible, and the Department is training operational staff to ensure they know about the exemptions, but the onus is on the individual claimant to raise it. In terms of modern slavery evidence, a victim is issued a letter by the Home Office, so that letter is acceptable as evidence, and duplicates of that can be provided by the Home Office should the letter be misplaced.

(e) Is there a reason that prompts are not desired – would it be possible for Work Coaches to raise this in the first interview?

There may be changes made to the available Information Technology in October 2023 at which point prompts could be added to the system. The Work Coach guidance does include the issues around domestic violence, and it shall be checked whether it also includes modern slavery guidance.

(f) Was there any consideration of other groups who would find the SAR exemption beneficial? Also, what of those victims of modern slavery who have not been able to get on the NRM register?

Since 2020 there were four groups that were being considered for the exemption – care leavers, the homeless, and now domestic violence and modern slavery victims. There may be other groups of people who would benefit from a SAR exemption, and as with any policy, stakeholder feedback and correspondence is monitored to inform potential changes. It should be borne in mind that there are Discretionary Housing Payments (DHPs) available which could fund claimants in a similar scenario, and the DHP guidance takes into account people who have suffered trauma such that it is not suitable for them to share accommodation.

Regarding victims of modern slavery not on the register that issue was not raised in the consultation, and it is difficult to go further than what is currently there in this exemption.

(g) The definition of domestic violence states that the abuse must have occurred to the person after they reached the age of 16. Why is that limit in place?

If the victim is under the age of 16 then they would be defined as a victim of child abuse, rather than of domestic violence. The definition used is limited to

domestic violence victims. However, a victim of child abuse could apply for DHPs.

- (h) If a person had been a victim of child abuse, and were not in local authority (LA) care prior to their housing benefit claim, their only route to having an exemption would be the DHPs?**

If a person had been in LA care, they would be able to take advantage of the 'care leaver' SAR exemption. If not, and the claimant had been a victim of child abuse but not domestic abuse, then, yes, the DHPs would be the only recourse.

- (i) Was consideration given to extending the SAR exemption to child abuse victims?**

No, that is not a group the Department have had representations from.

- (j) Does the Department receive data on DHP payments and the reasons for refusal of a DHP application? That would seem to be a useful data source for identifying groups who might need an exemption and also monitor how the policy is working.**

The Department receives a high level DHP breakdown for each LA by their spend, but it is not broken down into categories or reasons. There has been an attempt to understand why DHPs are refused, but LAs collect their information in different ways. There is a broader review of the DHP system coming and the intention is to look at changes that involve data and information gathering.

- (k) Was it necessary to specify 'under the age of 35' in the regulations? If the SAR age limit changes, then you will have to amend these regulations.**

That is a fair point. This was raised with the lawyers when drafting the regulations and they preferred to specify the age. An explanation for that will be sought from the lawyers and shared with the Committee outside of the meeting.¹

3.4. The Chair thanked the officials for attending the meeting. He noted that the Committee would reflect further on the evidence provided, and requested the following further information regarding the consultations undertaken to help inform its decision:²

[UPDATE: Having considered the additional information provided by the Department, the Committee agreed that it would not take these regulations on formal reference].

¹ This information can be found at annex B

² The additional information has been provided and is attached at annex B

4 & 5. Private sessions

RESERVED ITEMS

Date of next meeting

The next Committee meeting is scheduled to take place on 20 July.

Attendees

Guests and Officials

Item 4: Lavinia Browne (G7, Housing Policy Division)
James Fuller (G7, Housing Policy Division)
Sinead Donnelly (SEO, Housing Policy Division)
Tony Knight (HEO, Housing Policy Division)

Secretariat: Denise Whitehead (Committee Secretary)
Dale Cullum (Assistant Secretary)
Gabriel Ferros (SSAC Researcher)
Richard Whitaker (Assistant Secretary)

The Housing Benefit and Universal Credit (Victims of Domestic Abuse and Modern Slavery) (Amendment) Regulations 2022

Additional information provided by the Department outside of the meeting in response to Committee's questions

(a) Please provide an explanation of the process and method of consultation, the format used, the timescales involved.

Our stakeholder engagement helped to design and develop the modern slavery exemption. It started before the 2020 Spring Budget when the new exemption for victims of modern slavery was announced. We engaged with the Home Office modern slavery policy team to gain an initial understanding of the National Referral Mechanism process for determining when someone is a victim of modern slavery.

Our engagement with stakeholders continued in June 2021 until April 2022 initially engaging with the DWP and Home Office modern slavery policy teams and then extending further to external stakeholder groups, as detailed in the attached list, to understand more about this cohort, and the challenges that they face. These meetings helped to develop and define the initial scope of the exemption and evidence requirement over that time testing out our approach, listening to feedback from stakeholders and acting on it to ensure the exemption was fit for purpose. The formats were a mixture of virtual meetings and emails.

The Home Office regularly consult with their modern slavery stakeholder group, and they suggested the most effective way to engage with the group would be to share an overview of our policy, how the changes would likely affect victims of modern slavery and to give proposals on how we expect the exemption to work. We adopted this approach.

As the policy became more settled, we shared our proposals in February 2022 with the Home Offices modern slavery stakeholder group giving them a month to respond inviting comments and challenge to raise any issues they may have with the proposed policy.

Once we had a settled policy position, we worked with DWP lawyers to draft the regulations. Our legal team tested our regulations including definitions capturing all elements that encompass the definition of modern slavery with the Home Office legal team with responsibility for victims of modern slavery to ensure the regulations held a robust legislative footing.

(b) What was learnt from the consultation? In what way did the consultation shape the regulations and the administrative processes put in place to implement the regulations?

Our stakeholder engagement was a useful exercise to gain an insight into the experiences of victims of modern slavery. We gained an understanding of how victims of modern slavery are referred into the National Referral Mechanism and supported through the process to the decision to determine when someone is a victim of modern slavery.

An example of how our engagement with stakeholders helped to shape the regulations was in relation to finding the appropriate evidence requirement. Barnardo's gave us some useful insight into the process of notifying a confirmed victim of modern slavery once they had received a positive Conclusive Grounds (CG) determination and highlighted that victims will not always retain the decision letter as they may move accommodation quickly. We fed this information back to the Home Office and established a process for requesting duplicate letters. Stakeholders that were involved in providing victim support also agreed to provide confirmation of a positive CG decision where they had that information.

(c) Were there any concerns or risks raised that did not change the actions of the Department? If so, why did the Department feel these risks were not significant or justified?

Stakeholders highlighted that in some circumstances National Referral Mechanism decisions were taking longer than expected. Although outside of the scope of this exemption we took the opportunity to raise these concerns with the modern slavery team at the Home Office.

We established that, while someone is going through the assessment process, the Home Office provide accommodation where needed to keep someone safe as part of the Modern Slavery Victim Care Contract. The Home Office were unable to quantify if anyone at this stage would require additional housing support at this stage, but we drew their attention to availability of Discretionary Housing Payments in case they could be of use to victims already renting during that time.

Latest data shows that the Home Office have recruited additional decision makers and waiting times have reduced as a result.

Examples of Stakeholder comments:

“We would be very happy to support this welcome change and share targeted communications across our supply chain and wider network. We look forward to hearing more from you about the change in due course” - Anne-Marie at The Salvation Army (the main provider of support for adult victims of modern slavery in England and Wales)

“Many thanks for flagging this. We know this has been an issue in the past so it’s a positive development” - Ellie from the Local Government Association.

(d) What was the reasoning for why the regulations explicitly stated the claimant needed to be under 35 years of age, rather than referring to a

person who is of an age to have the Shared Accommodation Rate applied to them?

The current amendments have been drafted to align with the general approach and drafting style found within the relevant provisions. The proposed legislative amendments add sub paragraphs (9B) and (9C) to Schedule 4, paragraph 29 of the Universal Credit Regulations 2013 and each of these sub paragraphs make reference to E being “under 35”. This continues the approach already established by sub paragraphs (2) – (9A) of paragraph 29, which also specify an age requirement. It is useful to have the age requirement set out separately within each limb to allow for variances in approach in respect of each limb, both now and in the future: see for example sub paragraph (2) where E is required to be “under 25” rather than “under 35”.