

14 September 2016

**Social Security Advisory Committee**

**Minutes of the meeting held in room 5.21/5.22  
Caxton House, Tothill Street, London, SW1H 9NA**

Members: Paul Gray (Chair)  
Rachael Badger  
Carl Emmerson  
Colin Godbold  
Chris Goulden  
Jim McCormick  
Gráinne McKeever  
Dominic Morris  
Judith Paterson  
Charlotte Pickles  
Liz Sayce  
Victoria Todd

Apologies: Seyi Obakin

Guests and Officials: See Annex A

**1 - 4**

*[RESERVED ITEMS]*

**5. The Tax Credits (Definition and Calculation of Income) (Amendment) Regulations 2016**

5.1 The Chair thanked Mick Ney from HMRC's Benefits and Credits, Strategy and Policy Section for attending the meeting to present the draft regulations, and for providing additional information to the secretariat before the meeting.

5.2 These draft regulations represented a specific response to new types of payments that had been introduced by the Department for Communities, Northern Ireland, and called welfare supplementary payments (WSPs). WSPs were designed to mitigate hardships faced by claimants who would lose benefit as a result of the introduction in Northern Ireland of the benefit cap, the time-limiting of a contribution-based Employment and Support Allowance (ESA) for those in the work-related activity group or by the replacement of DLA by the Personal Independent Payment for adults with a physical or mental disability. Provision for WSPs has been made by four different sets of statutory rules: the Welfare Supplementary Payments Regulations (Northern Ireland) 2016 (SR 2016 No 178) which came into force on 31 May 2016; the Welfare Supplementary Payment (Loss of Disability Living Allowance)

Regulations (Northern Ireland) 2016 (SR 2016 No 250); the Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016 (SR 2016 No 253); and the Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016 (SR 2016 No 254). The latter three sets of regulations came into force on 20 July 2016.

5.3 Introducing the item, Mick Ney noted that the intention of HMRC had been to set out a rule by which the WSPs were treated for tax credit purposes – namely that the same rule which applied in respect of the original benefit (for which entitlement had been lost, or reduced) would apply to the WSP. Thus, for example, contribution-based ESA was included as ‘social security income’ for tax credit purposes and taken into account. The draft regulations sought to ensure that WSP paid where a claimant loses contribution-based ESA as a result of the new time-limiting rules would similarly be taken into account for tax credit purposes. By the same token WSPs paid where a claimant had, for example, incurred a reduction in Housing Benefit because of the application of the benefit cap would be disregarded as income for tax credit purposes, on the grounds that the housing benefit which the WSPs replaced would also have been disregarded.

5.4 The Committee raised the following main questions in discussion:

- (a) **The legislation making provision for WSPs was already in place. Yet the draft regulations being presented were not due to come into force until 31 October 2016. Could a WSP be treated as social security income or disregarded for tax credit purposes, contrary to the policy intention, as a result of the time-lag before these regulations had effect?**

No, with the exception of the Benefit Cap HMRC understood that WSPs would not be paid until the end of October at the earliest. Pending introduction of the regulation HMRC had used its discretionary powers to disregard the WSP paid in respect of the Benefit Cap.

- (b) **How would HMRC address the challenge of communicating the relevant messages to claimants?**

HMRC would update its guidance on GOV.UK and look to amend notices where appropriate. It would also seek confirmation from the Department for Communities in Northern Ireland that it would amend its own products instructing recipients of WSPs to notify HMRC if the claimant also received tax credits.

- (c) **In the same vein it would be helpful if HMRC could consider lightening the burden on claimants in situations where overpayments had arisen but where the issues around reporting a change and what constituted a change, might be particularly difficult to grasp.**

In line with its Code of Practice 26 – ‘*What happens if we’ve paid you too much tax credits*’ - HMRC had the discretion not to seek recovery of an overpayment when it was not appropriate to do so. Each case was considered on its own merits.

- (d) It was important that the care should be taken around the language used in announcing and describing such policy changes. In the Budget 2016 announcement, for example, WSPs were described as ‘topping up’ benefits, when in fact they replace certain benefits which have been lost. That could cause confusion.**

Noted.

5.5 The Chair thanked Mick Ney for attending and addressing the questions raised by the Committee. He noted that, following written exchanges with the secretariat, there was still an unresolved technical issue which would be pursued separately and subsequent to the meeting. He asked for a response to be provided as soon as possible.

## **6 Current issues/AOB**

### *Postal regulations*

6.1 The Committee agreed that, as recommended by the Postal Regulations sub-Committee, the *Housing Benefit (Abolition of the Family Premium and Date of Claim) (Amendment) Regulations (Northern Ireland) 2016* could be cleared by post and proceed without the need for presentation at a plenary session of the Committee.

6.2 The regulations mirrored the GB legislation (on which SSAC reported), but added a further provision, albeit a non-contentious one, that meant that the regulations became subject to scrutiny by SSAC. However, the regulations had already been laid, although yet to come into force, at the point at which they were shared with the Committee. Technically urgency should have been invoked by the Department for Communities, Northern Ireland. However the Committee recognised that the legislative team in the Department for Communities had been under a great deal of pressure of late and that any oversight on this occasion was understandable. It was agreed that the secretariat should discuss this further with colleagues in Northern Ireland.

### *Date of next meeting*

6.3 The next meeting was scheduled to take place on Wednesday 12 October.

**Attendees**

Guests and Officials

Item 5: Mick Ney (HMRC, Benefits and Credits)

Secretariat: Denise Whitehead (Committee Secretary)  
Will Farbrother (Researcher)  
Michael Coombs (Assistant Secretary)  
Paul Mackrell (Assistant Secretary)