

6 March 2019

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

Chair: Sir Ian Diamond
Members: Bruce Calderwood
Carl Emmerson
Chris Goulden
Philip Jones
Jim McCormick
Grainne McKeever
Dominic Morris
Seyi Obakin
Liz Sayce

Apologies: David Chrimes
Charlotte Pickles
Victoria Todd

Secretariat: Denise Whitehead (Committee Secretary)
Paul Mackrell (Assistant Secretary)

1. Private Session

[RESERVED ITEM]

2. The National Audit Office: The Motability Scheme

2.1 The Chair welcomed the following members of the National Audit Office's (NAO) VFM team: Joshua Reddaway, Louise Bladen and Nigel Terrington. While the main purpose of the session was to consider the NAO's recent report on The Motability Scheme, in introducing the session, Joshua took the opportunity to set the wider context of their current and recent work of the NAO:

- overpayments within Carer's Allowance
- fraud and error in DWP which had increased over the past five years and which was very high in Universal Credit live service
- the Verify Project which DWP was continuing to use despite continuing concerns about the number of people not being able to use it.

2.2 Turning to the Motability Scheme, Joshua noted that the NAO had become involved at a time when concerns were being raised in the media over the pay and bonuses received by executives of Motability Operations Ltd and the high level of its financial reserves. The Commons' Treasury select committee and the Work and Pensions select committee had held a joint session where they had taken evidence

on this and wider issues such as the structures and governance of the scheme, but it was recognised that more needed to be done. The two committees jointly recommended that the NAO should conduct a review of the scheme. And at about the same time the Secretary of State requested an NAO review. It was then necessary to negotiate investigation powers at the outset of its inquiry which began in May/June 2018. The report itself had been published in early December 2018. This had been followed by a further session with the joint select committees.

2.3 The Motability scheme provided specific help to claimants entitled to benefits in respect of mobility needs – the higher rate mobility component in DLA, the enhanced rate mobility component in PIP, the War Pensioners' Mobility Supplement and the Armed Forces Independence Payment (although only one per cent of beneficiaries of the scheme were in receipt of benefits administered by the MoD). The scheme provided a vehicle on a three-year lease with a limit of 60,000 miles. Maintenance, servicing, repairs, breakdown assistance and insurance was also included. Cars made up 99 per cent of the take-up; scooters and powered wheel-chairs made up the remainder.

2.4 Motability was the charity responsible for overseeing and directing the scheme, whereas Motability Operations Limited was the company which was responsible for the operational side of the scheme. The operational company had a rolling seven-year contract with Motability, known as the scheme agreement.

2.5 The following main points were raised in discussion:

- (a) **The report indicated that there had been 614,000 Motability customers in September 2017 whereas there were 1.72m people eligible to participate. Did the 1.72m include those who would have been eligible for one of the qualifying benefits had they claimed?**

No, it was limited to those entitled to one of the qualifying benefits. It was difficult for the NAO to know how many people would qualify but who had not claimed. Little research was available on the issue, and data protection issues had been cited by DWP when it had been approached for any relevant information held.

- (b) **The proportion of those benefitting from the scheme was just under 36 per cent of those eligible for help. Did that represent a drop?**

No, the figure in 2008 had been 29 per cent. It was recognised that the nature of the DLA and PIP population had changed and the scheme was adapting to meet the different needs. For example, there had been an increasing number of adaptations to vehicles made available. The scheme continued to rate extremely highly on a customer satisfaction rating. That had been sustained over the past decade. Realistically, it was not possible to improve on this score.

- (c) **The report noted that the scheme benefitted from certain tax concessions which were worth a maximum of £888m in 2017. Was that a figure which the NAO had calculated?**

Yes, it was the NAO's figure. In fact, the Department had thought it was about £600m. It was widely acknowledged that this represented a substantial sum, in excess of the total amount that the Department spends on disability programmes each year (excluding disability benefits themselves)

(d) How did it work in practice for a person in receipt of a qualifying benefit?

The mobility element in their benefit went to the company who, in return, leased them a vehicle which might need adaptations. Paying an advance would enable a beneficiary to secure a better vehicle and most did. The average advance payment was £839 – possibly indicating that many beneficiaries were reasonably well-off and reflecting the fact that none of the qualifying benefits were means-tested. At the end of the lease period the company pay the beneficiary £500 if the vehicle is returned in good condition. In many cases this sum comprised, or was then put towards, the advance payment on the next vehicle.

(e) The report states that Motability Operations had generated £1.05 bn of unplanned profit since 2008. What was the NAO's assessment of whether or not such a level of profit had effectively come about by accident?

The team had questioned Motability and Motability Operations Ltd very hard on precisely that question. It was a matter of concern that the 'unplanned profit' had been repeated annually over a number of years without any attempt by the charity to put it right. The main reason for the unplanned profit was that customers were being over-charged for the cost of depreciation of the vehicle.

(f) Did the NAO challenge Motability on some of these issues?

The NAO found that the Motability entities were overly prudent and risk-averse, given their operating context, and considered that key aspects of the financial and operating model should be reviewed.

(g) What would be Motability's response if the tax concessions were no longer available?

They advise that they would need to increase lease prices. Motability Operations Ltd was of the view that they need to carry a high level of capital because of the nature of the business, although the NAO reported that Motability Operations Ltd has a proportionately higher level of capital than other car leasing companies.

(h) In September 2018 Motability Operations donated a further £400m to Motability. Did they receive any advice on how that money should be spent?

The figure of £400m represented 14 times the total annual spending of the charity. The Motability Tenth Anniversary Trust was a separate registered charity which is responsible for holding and disbursing funds to support Motability's charitable objectives. As an example of how donations have been spent, people who, on moving to PIP from DLA, lost access to the scheme through no longer receiving the higher rate mobility component but with the same impairments, were given the same privileges as before and could therefore keep their vehicle. The size of the recent donation, and the promise of substantial ongoing funds, had meant that Motability had had to develop a strategy for determining how such sums should be spent. That had been a challenge for Motability because it had not previously had a strategy.

- (i) **Rather than concentrating on the 36 per cent of eligible claimants who form Motability's customer base, should they not be looking to provide support for the 64 per cent where there may be unmet need?**

That was something that Motability should definitely consider. It would be helpful if a broader consultation could be conducted on spending the substantial sums donated for charitable purposes and the advice of stakeholders sought. It was recognised that there were claimants with mobility needs for whom a private vehicle may not be the answer. Residents in inner cities would be an example.

- (j) **What were the main recommendations of the NAO report?**

The report made a number of wide-ranging recommendations for Motability, Motability Operations Ltd and for the Government. There were recommendations about transparency with regard to executive pay, profits and the reasons for them, external bench-marking, the review of key performance indicators and governance generally where the average tenure of a governors was very long, and where issues as to diversity arose. There were lessons for the Government in its support for external organisations and about focusing publicity about the scheme on those currently outside it.

2.6 The Chair thanked Joshua, Louise and Nigel for attending the meeting and presenting their findings to the Committee.

3. Private Session

[RESERVED ITEM]

4. The Child Support (Miscellaneous Amendments) Regulations 2019

4.1 The Chair welcomed Sheena Taylor and Paul Ryder (SEO and HEO respectively in Strategy Children, Families and Disadvantage), Luke Staniland (G6, Strategy Analytical Services) and Hayley Goodwin (HEO UC Deductions Policy) to the meeting.

4.2 Introducing the item, Sheena Taylor noted that Child Support/Maintenance issues did not fall within the Committee's statutory remit for scrutinising draft

legislation, with one exception – deductions from benefit in respect of child maintenance. Other issues contained in these draft regulations such as changes covering entry powers, the power to require trustees/managers of occupational pension funds to provide information to the Secretary of State and a change in the rules regarding allowable expenses were out with the Committee's scope. The main change being put forward was to have a common approach of deducting £8.40 a week in respect of child maintenance, whether the deduction was for on-going maintenance or towards arrears. Different approaches towards deductions for ongoing support and arrears depending on which Child Maintenance scheme applied and which benefit the non-resident parent had been receiving had led to a confusing system of collection. In particular, the amount being deducted for arrears had not increased for many years and, because it was fixed at a very low weekly amount, there were some cases where there was little prospect that the non-resident parent would ever pay it off. The proposal was that the figure of £8.40 a week would be used as a common figure to be set against an ongoing child maintenance responsibility as well as against arrears when that responsibility expired.

4.3 Sheena Taylor explained that the current legislation was complicated and outdated. Under the Child Support Scheme of 1993 some people had been subject to arrears deductions of around £25.00 a week from their benefit. It was not therefore a case of increasing deductions across the board – more a matter of establishing a consistent, reasonable and predictable amount that would be easier to administer and, for those affected, to understand. Deductions for arrears would start when the obligation to pay ongoing maintenance ended. The non-resident parent would therefore experience no change in the net amount of benefit received, and the Department had a more realistic prospect of recovering the amount owed.

4.4 The following main questions were raised in discussion:

(a) Did the proposals mean that the Department would no longer be chasing historic arrears?

The collection of historic arrears was subject to the principles established by Child Maintenance Compliance and Arrears strategy. Where the arrears were above a certain amount and the parent with care said that they wanted arrears to be collected, the Child Maintenance Service would look to collect them. These provisions offered a better chance of eventually recouping the full amount.

(b) What if the child in question had left the home?

Whatever the question of ongoing responsibility for paying child maintenance, that would not affect an obligation to pay past arrears.

(c) What was the position for non-resident parents not on benefit?

The Child Maintenance Service would attempt to trace any non-resident parent not on benefit. If it proved impossible to trace them, any historic debt would may be written off.

(d) Were there any plans to uprate the figure of £8.40 going forward?

No. Any proposed increase would mean that there would be a need to consult on it.

(e) But would that be necessary if there was an annual uprating of the figure? Since the rationale for the proposed sum of £8.40 was largely based on the fact that the existing sum was out of date, would the same rationale not apply to a proposal to have an annual increase?

Annual increases would need a change in primary legislation. There would also be an impact on other deductions that sat below child maintenance in the priority order of deductions that the Department could make from a claimant's benefit.

The sum of £8.40 already existed within the scheme of deductions for child maintenance. This change effectively established the £8.40 figure more consistently across the scheme and made for a seamless transition when a non-resident parent moved from paying ongoing maintenance to paying arrears. It was probably for that reason that the public consultation elicited little criticism from stakeholders.

(f) How much was the average amount of arrears?

Officials undertook to obtain and communicate that figure.

(g) Would the same change be made in Northern Ireland?

It was understood that the same change would follow in Northern Ireland. That was the intention.

(h) What would be the overall impact on claimants on benefit?

Where a claimant was subject to other deductions there would be no impact since the overall amount of deduction for child maintenance would remain the same.

(i) The Equality Analysis for these proposals advised that there was a commitment to monitoring the impacts of policies and procedures and that evidence would be taken from a number of sources to see whether there would be any unintended consequences. The indication was that reliance would be placed on management information rather than properly monitoring and evaluating the policy in order to determine its impact.

Management information gathered by the Child Maintenance Service was used to monitor changes over time. It was of a sufficiently good quality to support effective monitoring. More widely analysis was undertaken in the Department to understand and develop policy, and wider issues such as affordability would be considered as part of this. A detailed analytical impact

plan had not been devised for this change. Instead reliance was being placed on extending what already existed. Consideration was currently given to what impact the level of deduction might have on the child. If, for example, the level of deduction meant that any contact between the child and the non-resident parent would have to cease, that would certainly be taken into account. Any hardship likely to be incurred by the non-resident parent would also be taken into account. Additionally, there were regular catch-up sessions with the main stakeholders such as Gingerbread. Any issues which were emerging would normally be raised in one of those sessions.

(j) How did that work in a situation where a couple were both in receipt of benefit and shared the care of their child(ren)?

If a non-resident parent was in receipt of benefit and had more than one night's care a week for their child, no deduction would be taken. If the non-resident parent was not in receipt of benefit the maintenance calculation would be reduced on the basis of the amount of care they undertook.

(k) Had any consideration been given to the shadow effect of writing off historic debt? If non-resident parents became aware that the Child Maintenance Service followed a process which, in certain, circumstances, led to the debt being written off, it would be likely to generate behaviour and steps from other non-resident parents that would lead to a similar write-off.

The Child Support Agency and the schemes it administered generated a large back-log of arrears that proved difficult, and sometimes impossible, to recover. The Child Maintenance Service was anxious to prevent mistakes of the past being repeated. The Compliance and Arrears Strategy team had devised a process which was being followed closely. Analysis was also being done on case closure, and new collections measures had been introduced. At the same time the Service was keen to encourage families to work out their own financial arrangements for themselves. The best outcome was where couples collaborate on working out a solution.

(l) How did this fit with the DWP principle of trying to get people off benefit and into self-sufficiency?

In the first instance the Service would encourage the parents to work together to secure an acceptable agreement between them. Where that was not possible it might be appropriate to apply for an Deduction from Earnings Order in respect of the non-resident parent.

(m) Would the changes apply to Scotland?

Yes, unless specific steps were taken by the Scottish Government to do something different. The Child Maintenance Service was also negotiating with Scottish Government to encourage them to make corresponding changes to Carers Allowance in Scotland.

- (n) **The provisions covering deductions from benefit were contained in the Social Security (Claims and Payments) Regulations 1997 which covered legacy benefits and in the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 which covered UC, PIP and new style ESA and JSA. However, deductions from Universal Credit in respect of child maintenance was referred to in both sets of regulations. Could a person incur double deductions as a result?**¹

The Department's view was that this would not be an issue in practice. Officials agreed to provide a note which explained this issue in more detail and which gave an assurance that the regulations could not be used to take more deductions from a non-resident parent than had been set out in the explanatory memorandum as the policy intention.

4.5 The Chair thanked the officials for presenting the proposals and answering the Committee's questions. He advised them that the Committee was content that the draft regulations could proceed without the requirement for their formal reference.

5. Office for Budget Responsibility – Welfare Trends Report 2019 – Disability benefits spending

5.1 The Chair welcomed Andy King and Shaun Butcher from the Office for Budget Responsibility (OBR). Setting the context Andy explained that the role of the OBR was to take the 'politics' out of forecasting and make it objective and independent. The role of OBR was not to take a view on the effectiveness or otherwise of any particular policy – merely to look at the projected spending of the Government in defined areas in a way that was transparent. A report of Welfare Trends was produced annually. The 2019 report had focused on spending on disability benefits.

5.2 In presenting his material Andy referred to slides he had prepared using charts from the welfare trends report which demonstrated the expenditure on disability benefits from 1971/72 to the present and projected to 2023/24². The slides consisted of graphs showing changes in expenditure according to benefit, categories of children, adults of working age and adults of pension age, gender, ages and, in the case of children, whether the benefit related to a learning/behavioural disability or another disability. The following main points emerged from the presentation or in discussion.

¹ In the amended version of paragraph 3(1) of Schedule 9B to the Claims and Payments Regulations 1987 "specified benefit" replaced Income Support, State Pension Credit, Jobseekers Allowance (income-based) and Employment Support Allowance (income-related), but the definition of "specified benefit" included Universal Credit. Also the definition of "specified benefit" in paragraph 1 of Schedule 7 to the Claims and Payments Regulations 2013 referred simply to Employment Support Allowance and Jobseekers Allowance without specifying that it was the new-style contributory sides of these two benefits.

² The data covered this period, as the labels were at ten-year intervals.

5.3 In defining 'disability benefit' the OBR had limited themselves to extra costs benefits such as PIP and DLA. The historical background to the report was that DLA had initially been introduced in 1992 to fill certain gaps in welfare provision for the disabled. It was therefore anticipated that the benefit would cost more than the benefits it replaced, but the extent of the increased spending had not been foreseen. The work demonstrated that the upward trend in spending had existed over most of the period since DLA was introduced. Although there had been a relatively sharp increase in DLA spending relative to GDP in 2009, this had been primarily due to the recession reducing GDP, rather than there being any particularly large increase in DLA spending in that year.

5.4 As a result of the longer-term upward trend in spending, work began on introducing PIP to replace DLA with the intention that the rise in expenditure would be checked and that the benefit would be better targeted at those with significant functional impairments which either affected their ability to live independently or their mobility. The main finding of the report however was that costs had not been contained under PIP and that expenditure had continued to rise and to rise as a proportion of GDP. This had occurred at a time when income-related benefits had been subject to a freeze. Not only had PIP cost more than expected but it was costing more than DLA would have done. Whereas the expectation had been that many on the lower care component rates of DLA would not be entitled to PIP under the more functional testing regime, the reality had been that most had moved on to the standard daily living rate of PIP. Those getting the enhanced daily living rate of PIP were 40 per cent more than expected, whilst those getting the standard daily living rate of PIP were 90 per cent more than expected.

5.5 It may be the case that a further increase in PIP expenditure could be anticipated over the next few years. It was possible that the migration of existing claimants of working age tax credits and means-tested benefits to Universal Credit, together with the combining of assessments for UC/ESA and PIP, would result in increased take-up of PIP. If so, it would mean that longer-term claimants who might not have had little or no recent contact with the income-related benefits would be coming back into contact with that system.

5.6 A notable trend since 1971 had been the rise in disability spending on children. Over the past 15 years, the rise had been more marked in older children and pointed to an increase in mental health issues and learning/behavioural difficulties. The trend had also affected boys more than girls. Amongst working-age adults the rise in expenditure had been both absolute and proportionately. Again the trend of increasing mental health problems had been noted in this cohort.

5.7 The pensioner cohort probably reflected the fact that many older people tended to down-play their limitations in any kind of self-assessment. The OBR were aware that there were an unknown but probably large number of older people who would be eligible for disability benefits but for a failure to make a claim, either through reluctance or ignorance.

5.8 A number of lessons emerged from these findings. It demonstrated that the sample size of 900 used for testing PIP at the initial stage had been inadequate. The fact that participants had been volunteers and had no money at stake was a

further factor. In practice those denied PIP might decide to appeal the decision and make every effort to provide the evidence to support their contention that they should be entitled. As a result of what happened with PIP, the OBR now recommend that further and more searching questions be put to new policies before being endorsed.

5.9 The Chair thanked the Andy and Shaun for attending the meeting and presenting their findings to the Committee.

6. Postal Regulations

6.1 The Committee agreed that the following draft regulations could proceed without a requirement for formal reference:

- The Social Security Benefits Up-rating Regulations 2019 (the increase in the Carer's Allowance earnings threshold); and
- The Tax Credits and Child Trust Fund (Amendment) (EU Exit) Regulations 2019.

6.2 The Committee requested that the following points relating to the Tax Credits and Child Trust Fund (Amendment) (EU Exit) Regulations 2019 be relayed to the responsible HMRC official:

- The definition of "relevant authority" in the Claims and Notifications Regulations still carried a reference to the Department for Social Development in Northern Ireland at para (b) and needed to be replaced with "the Department for Communities";
- Could the Committee receive clarification on the means by which a dispute is to be resolved over which country is competent to pay family benefits. Paragraph 7.2 of the Explanatory Memorandum noted that there would be provisional arrangements in the event of a dispute, but it would help to have confirmation on what the dispute resolution mechanism would be.

Attendees

Guests and Officials

- Item 2: Joshua Reddaway (National Audit Office)
Louise Bladen (National Audit Office)
Nigel Terrington (National Audit Office)
- Item 4: Sheena Taylor (SEO Strategy Children, Families and Disadvantage)
Paul Ryder (HEO Strategy Children, Families and Disadvantage)
Luke Staniland (G7 Strategy Analytical Services)
Hayley Goodwin (HEO Strategy Universal Credit).
- Item 5: Andy King (Office for Budget Responsibility)
Shaun Butcher (Office for Budget Responsibility)

Observers:

- Item 4: Philip Cooper (HEO Legislative Strategy Team)
Alice Buhaenko (EO Strategy Children, Families and Disadvantage)

- Secretariat: Denise Whitehead (Committee Secretary)
Paul Mackrell (Assistant Secretary)