Social Security Advisory Committee
Minutes of the meetings held on 15 and 17 July 2026

Chair:	Dr Stephen Brien
Members:	Les Allamby Fran Bennett[1] Bruce Calderwood Rachel Chiu Tom Clark Daphne Hall Richard Machin Owen McCloskey Jacob Meagher Dr Sam Royston Professor Sharon Wright
Apologies:	Joanne Cairns Dr Suzy Walton

1. Private Session

[RESERVED ITEM]

2. The Social Security (Persons Detained in Hospital) (Amendment) Regulations 2026

2.1 The Chair welcomed the following officials to the meeting: James Wolfe (Director, Universal Credit, Families and Poverty); Clare Brookes (Deputy Director, Poverty and Universal Credit Policy); Sophie Tidman (Grade 6, Universal Credit Policy); Dan Gatland (Grade 7, Universal Credit Policy); and Amy Trigg (SEO, Universal Credit Policy) to the scrutiny session.

2.2 James Wolfe introduced the session by explaining that the regulations were intended to remove benefit entitlement from certain individuals who had been convicted of serious offences and were detained in hospital under *section 37* of *the Mental Health Act*[2] (MHA). He clarified that the regulations were not intended to apply to every section 37 case, but to a narrower cohort of individuals who had been

[1] Not present on 17 July.
[2] Mental Health Act 1983

convicted of offences that would typically have resulted in a lengthy custodial sentence and who were physically detained in hospital. This would align the treatment of this cohort more closely with comparable offenders who would lose entitlement to benefit while serving a custodial sentence. He noted that further operational detail remained under development, including how the policy would be implemented in practice and how support arrangements would operate for affected individuals.

2.3 The Committee raised the following main questions in discussion:

(a) Could the Department provide a clear articulation of the policy intent, including who the policy applies to, and whether that relates to those who have committed and been convicted of an offence? Will the operationalisation of the policy intent be a bespoke interpretation?

The regulations would apply following conviction. This would be an important distinction and references to an individual having "committed" an offence would be shorthand.

The relevant offence would typically have resulted in a lengthy custodial sentence. The high-level policy intent was directed at those convicted of such offences who were physically detained in hospital under section 37. Some of the operational elements would still have to be decided. Individuals who were subject to Community Treatment Orders (CTO), who were no longer detained in hospital and were responsible for their own living costs, would not be in scope of the change.

(b) What does "detained in hospital" mean for the purpose of these regulations and has this been defined in the regulations? Are the concepts of physical residence, bed and board and the hospital meeting living costs sufficiently clear?

The intended cohort would be those detained in hospital, where living costs, bed and board would be met by the hospital and where the person would not be at home. The intended position would be that a person would have to be convicted, subject to section 37, within the relevant offence scope, and physically resident in hospital.[3]

It was noted that the word "detained" would be doing significant work but there would be a lot of detail behind it as to how these elements would be expressed and defined.

[3] It was subsequently confirmed by the Department that an affected individual who became subject to section 17 leave would still not receive benefit payments.

(c) Does the policy apply to people who remain subject to section 37 or section 37/41 arrangements but are living in the community under conditional discharge or a CTO? At what point in the process is a person classified as discharged?

Those living in the community would be outside the scope of the regulations. A person who was an outpatient or living in the community under conditional discharge or a CTO, while remaining subject to section 37 or section 37/41 arrangements, would remain able to claim Universal Credit (UC) and other relevant benefits.

(d) Will the regulations affect the full number of people subject to a section 37 order, which is estimated to be around 8,000 to 10,000 people, who may be living in the community and receiving DWP benefits, or will they only apply to those who are physically detained in hospital, which is estimated at around 4,000 to 5,000 people? Will this have an impact on how people are treated and how they are integrated back into the community if they no longer receive benefits?

The regulations would apply only to those section 37 patients who were physically detained in hospital and would not apply to those living in the community.

The regulations would not change how the NHS treated people or decided where treatment was suitable. They would not be intended to affect clinical decisions about whether an individual should be treated as an inpatient or outpatient.

(e) If people currently live in the community on doctors' orders and rely on UC and HB, what would the impact be on them? Can the Department confirm that the four criteria are conviction, section 37, a serious offence, and physical residence with a named bed in hospital?

Outpatients and individuals living in the community (i.e. those under CTOs) would not be within scope of the regulations and would remain able to claim UC. The intended position would be that the person would need to have been convicted, be subject to section 37, fall within the relevant serious offence scope, and be physically resident in hospital (i.e. detained in hospital – which is defined in the MHA legislation).

(f) How will the Department avoid differential treatment between people in similar factual circumstances, including people found unfit to plead,

people who have completed a prison sentence and are later in hospital, and people detained in hospital under section 37 following conviction?

This has been considered in policy development. Discontinuity already exists in the system, and this policy change is not intended to achieve total parity. The numbers are small and the proposal is to treat section 37 patients more like section 45a/47 patients, while accepting that some people would remain subject to different rules.

(g) What is the justification for a situation where one person in a hospital bed could receive benefit because they had completed a prison sentence, while another person in the next bed, who had done the same thing but remained within the section 37 route following conviction, would not receive benefit? Has the Department considered that changes over time in criminal justice and mental health disposal routes may create different social security outcomes for otherwise similar people?

The current and proposed policy involved difficult boundaries, and some people would be under different regimes. The presence of a conviction was significant, and the policy change was intended to address a disparity between people who would lose benefit in prison and people who would not lose benefit if detained in hospital. The policy involved trading one imperfection against another.

(h) What consideration has been given to the potential risk that the Secretary of State's intended cohort may be different from some of the cases that may actually be caught by these regulations, including people with treatable conditions who may recover relatively quickly, such as an Afghan veteran with untreated Post Traumatic Stress Disorder who kills someone while unwell but may respond to treatment and be released relatively quickly?

The presence of a conviction was significant. Victim statements had indicated that families regarded it as wrong that an individual would lose benefit in prison but not in hospital. The scenario where a person would otherwise have been in prison was clearer cut.

The difficulty of knowing how long someone would remain in hospital was part of the reason for focusing on the offence. Some people might be resistant to treatment while others might respond more quickly, and it would be difficult to define a period of treatment, and it would not be linked to the severity of the offence.

(i) How has the Department addressed the risk that the policy discriminates against a specific group of disabled, sick or unwell people; and has the Minister been fully advised that, under *section 4A of the Criminal Procedure and Insanity Act,*[4] there may be a finding that a person did the act or made the omission, but that the person may be sick and unwell rather than criminally culpable in the ordinary sense?

Ministers had received advice on this point, including advice relating to the United Nations international human rights conventions and the implications identified through the impact assessment. Ministers had noted those implications and decided to proceed.

(j) Can the Department provide the European Convention on Human Rights analysis of the policy, including the analysis relating to State Pension rights, property rights, contribution records and the possible deterioration of mental health if people leave hospital without pension entitlement or adequate support?

The Department would ask lawyers about sharing the analysis.

(k) What consideration has the Department given to people who become better and leave hospital to function if they have lost State Pension rights or contribution records and have nothing to fall back on? To what degree is an issue regarding the ongoing contribution record, given that removing UC may mean the person does not build up National Insurance credits?

The actual payment of State Pension, where the person was over State Pension age, would not be required while the hospital met the person's living costs. The payment would begin again on discharge, and the contributions would not be taken away.

The loss of contributions would be comparable to the position of someone in prison and would be a recognised outcome.

(l) This could have a significant impact on people when they come to claim their pension. Is the comparison with prisoners adequate, given that prisoners may be able to work, undertake work on release and build up National Insurance Contributions, whereas hospital patients cannot?[5] Is

[4] Criminal Procedure (Insanity) Act 1964

[5] The Department confirmed following the meeting that: "prisoners are able to work but the wage is very low. Minimum pay is £4p/w but on average is around £10 to £15p/w. The threshold where an employee starts paying class 1 National Insurance is £242 pw and the cost of voluntarily paying class 3 National Insurance cost is £18.40 pw. In addition, where prisoners do earn higher weekly rates, prisons levy a percentage that is paid towards victims of their crimes. Therefore, not all prisoners will be paying National Insurance Contributions.

the Department confident that its reliance on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)[6] obligations remains sufficient when the person is released and no longer has hospital support?

Noted. The withdrawal of some entitlements was intended as part of the policy, and it was recognised that the issue of building up State Pension entitlement was distinct from the payment of State Pension while detained.

(m) What is the legal test that has been applied, including the "manifestly without reasonable foundation" test, the treatment of discrimination grounds, and the difference between taking away UC and contributory benefits such as State Pension or ESA(NS)?

The "manifestly without reasonable foundation" test is a high bar for claimants to overcome. Where discrimination is one of the grounds, the justification would need to be weighty, and lawyers would need to make a judgement on that.

A person who had made contributions throughout their life would be in a different position if State Pension was removed, compared with a case involving UC. ESA(NS) might also be relevant to patients after they had left hospital.

(n) What gives the Department confidence that people affected by the regulations will not have other ongoing financial responsibilities, such as debt, which cannot be covered while being in hospital? Could there not be ambiguous situations involving conditional discharge, staged release, trial periods at home, which are not covered by a simple distinction between being in hospital and being in the community?

The Department was confident that those within scope of the regulations would not have housing costs and felt that had been covered, as had the element of the hospital covering their other "living costs". Apart from that, the Department was unsure what other costs the Committee might have in mind.

Section 37 orders could be complex and the circumstances raised by the Committee were noted.

[6] Convention on the Rights of Persons with Disabilities [A/RES/61/106]: Annex II Optional Protocol to the Convention on the Rights of Persons with Disabilities | Division for Inclusive Social Development (DISD)

(o) How will the Department deal with cases where a person is notionally detained in hospital but is not present on the ward all the time, including cases where the person may be at home, released during the day, approaching the end of treatment or where the hospital bed is being used by another patient?

It would be likely that there would be political consequences if someone within the scope of these regulations were allowed into the community due to there being no bed for them, and it would be an event that would be unlikely to occur.

The existence of pocket money recognised that there were needs beyond bed and board. The Department had heard from 160 individuals and groups of staff, clinicians, patients and carers in England and Wales to understand where those needs arose.

The principle remained that UC was payable only where bed and board and living costs were not being met by the hospital. Pocket money was intended to provide some flexible support beyond bed and board for those detained in hospital, but the Department outlined that a strict regulated system would not match every circumstance perfectly.

(p) If "bed and board" is shorthand for most needs being met, how will the Department define what that means in practice, including where someone is in hospital every night and receives most meals there but also spends time outside hospital?

"Bed and board" were being referred to as shorthand for most needs being met. The Department noted the need for clarity in public communications on the boundary.

(q) What consideration has been given to public and private hospital provision, including cases where the NHS pays for a private placement, board is paid for by the NHS, but personal costs remain the responsibility of the patient and support differs from NHS hospital provision?

The Department agreed that it would consider this scenario and come back to the Committee.

(r) Why is it proposed to apply the policy to the existing stock of patients rather than using transitional protection or grandfathering rights and allowing a reduction over time, or another staged approach? Will there

be a lead-in time before entitlement is removed, and what factors will be put to Ministers when deciding the length of any transition?
A proposal on how the Department would implement the change had not yet been made to Ministers, so it had not been finalised. The change covers both existing and future claimants in scope of the regulations. The affected cohort would be a small group and would not require a fully automated solution.

There would be an expected proposal of a lead-in time to allow for a transition of people off benefit with alternative financial support being an important mitigation. Several factors would need to be balanced, including the needs of the individual and the position of the hospital. The Department would not want to give a duration period before receiving NHS advice, but advice to Ministers would be based not only on the DWP view but also on the views of hospitals and relevant organisations.

The Department agreed that it would provide further information on implementation arrangements outside the meeting.

(s) Does applying the policy to the existing stock effectively mean that there will be an instant cut-off of their benefit, without a transitional element or period of implementation? What support will be provided to individuals affected?

Those affected would already have their needs met, so the consequences would be less severe. However, it was recognised that alternative financial support (pocket money proposal) would need to be in place before benefit was withdrawn.

Charities were prepared to help with information and support and expected that implementation would not simply involve issuing a letter and leaving individuals to manage the consequences. The intention was that there would be ‘handholding', with operational details to be worked through.

(t) What assessment has been made of homelessness, destitution and reoffending risks? Is there agreement that there could be a higher risk of these occurring and has that been assessed in the context of public concern?

There had been engagement with the Department of Health and Social Care (DHSC), and discharge was the area where there might be a greater need for support. NHS England had acknowledged broad powers and responsibilities in relation to aftercare and discharge, and the expectation was that this would continue.

The Department would listen closely to the DHSC and the Ministry of Justice and other relevant assessments on reoffending.

(u) Has the Department highlighted to the NHS the pressure that may arise from these regulations? And how will section 117 aftercare, NHS obligations and replacement support interact with the regulations?

This had been discussed with NHS England, and those conversations had also covered aftercare, discharge arrangements and the varying levels of support. Departments would continue to work with NHS England to ensure guidance was provided and they were made aware of their obligations.

(v) How will the Integrated Care Board (ICB) funding, pocket money and any savings interact? How much support will be available and how will ICBs under financial pressure be supported to handle replacement financial support in practice?

The pocket money system is devolved to the ICBs. The Department understands there is an average rate of weekly support within existing pocket money arrangements; however, this would not be a definitive figure because there would be no set rate and support arrangements would vary. The precise level of support, the interaction with NHS arrangements and any associated funding implications would remain under discussion.

The intent of the policy would not be to create savings. Any savings would be a consequence of withdrawing benefits. The intent would be about the public credibility of the benefit system, given what victims' families had said.

The Department could not say at this stage how replacement financial support would operate in practice. Discussions with NHS England and other relevant bodies were ongoing, support arrangements had not been finalised, and a number of operational and funding questions still needed to be worked through. The objective was to achieve the intended policy outcome whilst ensuring that individuals received appropriate support.

(w) How confident is the Department that support will be in place before the regulations come into force?

This would be essential. The regulations could not be implemented without that element of the policy being in place.

(x) What is the trigger point for re-entitlement to UC when a person moves back into the community? Are the criteria and operational arrangements

for reintroducing entitlement comparable between standard prisoners and sectioned hospital patients?

The trigger would be that the person was no longer detained.
There would be differences between prison and hospital. People released from prison might be offered a prison Work Coach meeting, 12 weeks before release. Hospital patients would not have the same repeatable and obvious timeline because they would not have a defined sentence length, and there would be more uncertainty around hospital discharge.

(y) Does the greater uncertainty in hospital discharge justify not planning in advance, given that there would usually still be an anticipated discharge pathway? Can advance claims not be taken for those in hospital in the same way as for prisoners?

Planning would need to connect with the wider discharge process. Access to housing would often be the most critical issue on release, and UC would need to be synchronised with housing and local authority arrangements. The DWP would want to be part of the process.

(z) Could section 37 patients be added to the relevant list for advance claims, without requiring amendment to the regulations, to help preserve parity of effect with prisoners?

The Department indicated that this was a helpful point to raise and would consider it further; while noting that it did not yet know whether it was possible and could make no immediate promise.

(aa) What is the rationale for creating a bespoke serious offence list rather than using an existing statutory definition of serious offending; and what existing definitions were considered?

Existing definitions, including a lengthy sentence list in the 2020 legislation covering 191 offences,[7] was considered; however, that list served a different purpose, relating to the period that must be served before parole eligibility, and was applied at sentencing, which does not take place for Section 37 cases. This list would miss some offences and criteria that the Department wanted to include. A bespoke list was therefore used, while noting that there could be further iterations.

[7] Sentencing Act 2020

(ab) How would the policy treat people who had done dangerous things, or had been prevented from doing dangerous things, such as planning to kill people, but whose offences were not included on the list? How would the Department respond to victims of serious property or financial crimes where people have been left bankrupt if those offences were not treated as serious for the purpose of the list?

The Secretary of State considered the current line to be wrong, and the policy was intended to move that line. The line was being drawn high and there was a risk in doing so, but there was confidence that it was at a level where Ministers were comfortable.

The point on victims of serious property or financial crimes was noted.

(ac) Can the Department explain why an existing statutory definition of serious crime was not used, including provisions referred to in discussion which cover violence, financial gain, large numbers of people and offences where a custodial sentence of three years or more could reasonably be expected? Is this not more suitable than a list?

The Secretary of State had made a decision, and legal advice had informed the approach. The intent was to capture the most serious violent and sexual offences.

(ad) The Committee needs to be clear on what offences are meant to be in scope because the Department has now introduced the term "serious violent and sexual offences" and this was not specified in the original documentation provided to the Committee. There needs to be specificity as to whether the Minister is trying to provide a broad rubric or is refined to crimes of serious violence and of a sexual nature, as listed.

Noted. The list is aligned with the Ministerial intent.

(ae) How does the Department justify using a closed offences list when, as a matter of statutory interpretation, the inclusion of a list actually excludes offences not on the list. The Committee is able to suggest other offences that may well be considered far more serious than the offences listed. Could the regulations not allow for an application to be made to exclude benefits where a court, or other decision-maker, considers the offence to be particularly serious or violent? It does not appear to reflect the Minister's intent.

The Department did not accept that it had a different intent. There was no intention to change the list regularly, although future Ministers could do so if

they chose. The guiding principles were seriousness and violent or sexual offences, and the list captured those offences which the Minister was concerned about. There were two discussions, one whether it captured the intent and the other as to whether it was the correct intent and whether other offences should be captured within the scope. Nothing had been missed.

(af) Has the Department checked whether including offences under *the Sexual Offences Act 1956*[8], including incest, could capture cases involving consenting adults, and how does that align with the policy intent?

Advice had been taken from Counsel, and the position had to reflect the legislation in force when the offence took place. The existing 'stock' cases would include people convicted under the 1956 Act and therefore this would cover both the older and newer legislation.

The Department agreed that it would check whether the inclusion of the 1956 Act could inadvertently capture cases involving incest between consenting adults.

(ag) How would the Department respond to a victim or victim's family where a serious financial offence resulted in a long sentence, but the offender was outside the list, while a violent offence with significant mitigation and a much shorter expected sentence was inside the list? Is the policy focused more on violent and/or sexual offences rather than serious offences more generally?

The Department did not wish to put words into the Secretary of State's mouth, but the reasoning would be linked to where someone had been physically injured or sexually assaulted, that would have a different impact from a financial impact.

The steer was to focus on violent and/or sexual offences and that was the reason for the approach.

(ah) How has the Department ensured that the policy works in Scotland, given Scotland's separate legal and health system and the differences in criminal justice procedure and health policy? What consultation has taken place with Scottish stakeholders, including NHS Scotland? Will further engagement take place?

[8] Sexual Offences Act 1956

Engagement had taken place through Scottish Government routes, and Scottish Justice and Scottish Health had been consulted. NHS Scotland had also been approached. Payment arrangements, support arrangements and operational processes are broadly similar to those in England and Wales, and further work was underway to work through the practical implications of the policy within the Scottish system.

Further engagement with those mentioned and other relevant stakeholders was planned. Further information would be provided to the Committee outside the meeting.

(ai) How will the Scottish Government's views on the range of offences, including equivalent Scottish offences, be handled? How will the policy land in the Scottish environment and with reserved benefits, to ensure the same intent is achieved in Scotland as it is in England and Wales?

Decisions on entitlement to reserved UK benefits were a matter for the UK Government. Scottish Government views were considered through ongoing engagement, but decisions on eligibility for benefit payments remained a decision for the UK Government.

The policy was intended to operate within Scotland's distinct criminal justice, health and support systems while achieving the same broad policy intent as in England and Wales. The Department agreed to provide further reassurance that Scottish offences, support arrangements and operational processes would produce equivalent outcomes in practice. Further information would be provided outside the meeting.

(aj) Has the Department identified the correct legal hooks in Scotland, including the equivalents to section 37, the correct Scottish offences list, the relevant Scottish judicial process and the right practical implications on the ground to achieve adequate parity?

The draft regulations referred to section 57A of *the Criminal Procedure (Scotland) Act 1995*[9], the Scottish compulsion order, as the equivalent of a section 37 order in England and Wales. The existing regulations, for example in Regulation 19 of *the UC Regulations 2013*[10], include the Scots law equivalents of Section 45A and Section 37.

The Department agreed to provide any additional information to help

[9] Criminal Procedure (Scotland) Act 1995
[10] The Universal Credit Regulations 2013

demonstrate that the policy would capture the intended Scottish cohort and would operate consistently across jurisdictions. This included providing assurance that the correct Scottish offences had been identified and that practical support arrangements, community arrangements, discharge processes and the definition of detention would achieve adequate parity with England and Wales. Further information would be provided outside the meeting.

(ak) How will money, discharge and transition work in Scotland, and will any transferred funding be conditional or simply passed into devolved arrangements? What is the equivalent position in Northern Ireland, and what regulations or arrangements are being considered?

The Department could converse with the Scottish Government but could not speak for it or require a specific devolved decision.

Equivalent circumstances had been discussed in Northern Ireland and the regulations had been shared with counterparts. Choices would then be for the Northern Ireland authorities.

(al) How will the Department manage variable local arrangements for pocket money and support, including the risk of different ICBs implementing support at different times or paying different amounts? Could this create a postcode lottery and could an ICB decide not to implement support until a later financial year? And could there be concerns that an ICB may offer support of a non-financial nature?

The structure was delegated, but a significant amount of work had been done, by the Department, on the level of need and on what happened then. The policy was built on an existing structure. The concerns raised were noted.

Whether an ICB could delay implementation would depend on the letter of any agreement, but the policy intent was clear and ICBs would do what they considered right in their areas. The Department was speaking to the right people to ensure arrangements would be in place.

2.4 The Chair thanked officials for their attendance and for the evidence provided. He noted that the Committee would require further clarification on a number of issues before concluding its scrutiny, including the definition of “detained in hospital”, discharge arrangements, replacement support arrangements, the offences list and the operation of the policy in Scotland.

2.5 In a private session subsequent to the scrutiny, the Committee agreed that scrutiny could not be completed until further information had been received from the

Department. The Chair would write seeking further information through correspondence before making a decision on whether or not formal reference was necessary.[11] Further assurance, information and clarification would be sought in the following areas:

- policy intent and definition of the affected cohort;
- meaning of "detained in hospital";
- discharge, re-entitlement and transitional arrangements;
- replacement support and wider impacts;
- offences list and rationale;
- stakeholder engagement and operational delivery; and
- operation of the policy in Scotland.

3. The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) (Amendment) (No. 2) Regulations 2026

3.1 The Chair welcomed the following officials to the meeting: Matthew Bayliss (Senior Policy Advisor for the Jobs Guarantee Scheme) and Jack Farnhill-Bain (Policy Advisor for the Jobs Guarantee Scheme) to the meeting.

3.2 Matthew Bayliss introduced the regulations, which would amend the existing Universal Credit (UC) rapid reclaim arrangements for participants in the Jobs Guarantee Scheme (JGS). The purpose of the amendment was to ensure that participants whose UC award had reduced to nil because of earnings during a Jobs Guarantee placement would be able to return automatically to UC if they did not move directly into further employment at the end of the placement, without needing to make a new claim.

3.3 The existing UC rapid reclaim arrangements would allow a claimant whose award had reduced to nil because of earnings to be treated as making a further claim for up to five assessment periods, enabling entitlement to resume automatically where earnings subsequently fell. However, Jobs Guarantee placements would last for up to six months. As a result, a participant might remain on the scheme beyond the point at which the existing rapid reclaim provisions ceased to apply. Where entitlement had reduced to nil throughout that period, the claim might close before the participant completed the placement. If the participant did not move directly into further employment when the placement ended, they would need to make a fresh UC claim rather than benefiting from the existing automatic reclaim arrangements.

[11] Following further engagement with the Department, the Committee subsequently decided that it would not take the regulations on formal reference under the powers conferred by section 173(1)(b) of the Social Security Administration Act 1992. An exchange of correspondence between the Committee Chair and the Department is at Annex B.

The regulations would extend the automatic reclaim provisions for participants in the JGS, and future equivalent funded employment schemes, to address that gap.

3.4 The intention was to avoid a poor claimant experience where a participant completed a Government-supported placement, did not move directly into further employment, and then needed to make a fresh claim for UC. The change was also intended to reduce the risk of hardship, prevent participants drifting away from support after the investment made through funded employment and wraparound support, and enable DWP to continue employment support promptly where a participant returned to UC.

3.5 The Committee raised the following main questions in discussion:

(a) What are the rationale and policy intent for the existing rapid return arrangements? Why do those arrangements last for five assessment periods, and what was the original basis for that period? If the original period was arbitrary, should the Department consider whether the wider rapid reclaim framework needs amending, rather than creating a specific exception for JGS participants? In addition, do those arrangements also apply to circumstances involving fluctuating earnings, such as through overtime, rather than moving in and out of employment?

The existing return arrangements were intended to provide for scenarios where an individual entered employment, earned enough to reduce their UC award to nil, and then left employment or saw earnings reduce again within a short period. In those circumstances, the claimant could automatically return to UC without making a new claim. This would help prevent a claimant drifting away from Jobcentre support and reduce the risk of hardship where employment did not continue.

Fluctuating earnings could also be relevant. The arrangements could assist where a claimant remained in work but earnings varied, for example because of overtime, and entitlement moved above and below the level at which UC was payable.

The original rationale for the five-assessment-period rule was not known with certainty. The working assumption was that the original policy may have reflected a view that, where someone remained in employment for around six months, they were more likely either to remain in employment or to be able to secure alternative work. However, the Department agreed that it would check the original policy intent behind the rule and respond outside the meeting.

The reason for the amendment was that the JGS would provide temporary employment opportunities for up to six months, with no requirement for

employers to retain participants at the end of the placement. Under the existing rules, a participant could complete the placement, have their UC award reduced to nil for long enough that the claim closed, and then need to make a fresh claim if they did not move directly into further employment. That was not considered a good claimant experience. It would also be counter-intuitive for someone to drift away from support after the Department had funded wages for six months and provided wraparound support. The amendment was intended to minimise the risk of hardship, avoid a gap in support where a participant did not realise that a new claim was required and help DWP build on the participant's experience on the scheme.

(b) If a rapid return to UC is beneficial after a job ends, why is the extension limited to Government-sponsored employment schemes? If the benefit of the policy is recognised, why put operational effort into restricting it to one group through markers and exceptions, rather than considering whether the wider rapid reclaim framework should be amended and apply to people in other temporary or fixed-term employment arrangements? What consideration has been given to extending the approach to those groups?

A key distinction was that participants in the JGS would be mandated into a Government-supported employment scheme. Participation in that scheme could result in entitlement reducing to nil and the claim closing. It was therefore considered reasonable to provide additional protection to a cohort that the Department had required to participate, rather than to claimants who had independently moved into employment.

The question of whether a wider approach would be appropriate depended in part on the original policy intent for the existing rapid reclaim arrangements. If the original five-assessment-period rule was not based on a strong policy rationale, that might raise a broader question about whether the framework itself should be reconsidered, rather than a specific exception being created for JGS participants. The Department agreed that it would reflect further on the wider point raised.

(c) Are there any other schemes currently covered by section 2 of the Employment and Training Act 1973[12] that this measure would apply to? Have alternative mechanisms or schemes funded through other routes been considered? Why has the legislation been drafted so that it can apply to future schemes?

[12] Employment And Training Act 1973

There were not believed to be other current schemes in scope beyond the JGS. The provision had been drafted deliberately to cover future equivalent schemes. Given the level of interest in this policy area and the pace at which employment support policy could develop, the intention was to avoid having to bring forward a new set of regulations each time a comparable Government-funded employment scheme was introduced.

Kickstart was probably the closest comparator. The approach taken for Kickstart had relied on the breadth of flexibilities available under Covid legislation. Those powers were no longer available in the same way. The intention was to provide a statutory mechanism that was fit for purpose and targeted at the schemes then being considered.

(d) Has consideration been given to apprenticeships and other similar fixed-term arrangements where participants may face the same issue once the rapid reclaim period expires?

Apprenticeships had not been considered specifically in that way. Apprenticeships could be funded through the JGS for six months, but the broader question of whether apprenticeships should be considered in relation to rapid reclaim had not been examined in detail. The Department noted the point made and agreed to consider it further.

(e) Has the risk of inconsistent treatment between UC and Housing Benefit (HB) claimants been considered? Why is there no equivalent automatic reclaim mechanism for HB, particularly given that some of those affected may be vulnerable claimants, including care leavers, people in supported accommodation, and those with chaotic lives? Could there be parity issues across claimant groups?

The regulations would not amend HB and there was not understood to be any equivalent automatic reclaim mechanism within HB, with it sitting outside the scope of these regulations.

Approximately eight per cent of JGS participants were expected to receive HB alongside UC and, in a worst-case scenario, around one per cent were expected to see HB entitlement reduce to nil if they worked the standard 25 hours per week at the minimum wage. The risk was therefore considered relatively low, although it was recognised that some affected claimants might have more complex circumstances.

Operational mitigations were being considered. Delivery partners would be made aware where individuals received HB and alternative approaches, including reduced hours, could be considered. HB taper arrangements were

also relevant to ongoing policy work. There was no equivalent mechanism to the UC rapid reclaim provision, but the Department was seeking to manage the risk through operational means.

The point about parity across claimant groups was recognised. Different groups had different needs, and issues involving HB, easements, local authority processes and the potential use of markers might need further consideration.

(f) What consideration has been given to the unintended consequences for claimants with housing support needs if they reduce hours to protect HB entitlement? Could this make the JGS less attractive, create difficulties managing rent shortfalls, or undermine the objective of moving young people into work? How do the regulations interact with HB easements and earnings disregards?

The issue had been considered; but it was not possible to provide the same protection through these regulations for HB recipients as was being provided through UC. However, it was preferable to provide easements and allow claimants to benefit from participation in the scheme, rather than exclude HB recipients altogether.

Guidance was intended to support discussions with claimants about the impact of participation on their benefit award. The number of hours mandated could take into account an individual's circumstances if they were in receipt of HB. Where claimants wished to work additional hours voluntarily, they might do so, but the intention was not to require additional hours in a way that created avoidable financial difficulties. The aim was to allow people to benefit from the scheme while understanding the implications for their benefit entitlement and remaining in control of the hours that were appropriate in their circumstances.

The wider interaction between HB, taper arrangements, earnings disregards, supported accommodation and claimants with more complex circumstances was being considered as part of ongoing work, including consideration of the implications of wider HB changes and the design of the scheme in future years. The Department recognised the concern that a scheme designed to move young people into work could appear counter-intuitive if some claimants were encouraged to restrict hours to protect HB entitlement. The Department agreed that it would take the HB issues away and consider them further.

(g) If a claimant reduces their hours to avoid an adverse HB impact, could they be subject to conditionality requirements or face a sanction for not working as many hours as possible?

No. The claimant commitment would reflect participation in the JGS and guidance had been prepared accordingly. Where reduced hours were appropriate because of the claimant's HB position, a claimant participating in the scheme would not face a sanction on that basis.

(h) Could someone receiving Personal Independence Payment (PIP) also be within the Intensive Work Search (IWS) regime and therefore potentially participate in the JGS? How do these benefits and Right to Try (RTT) arrangements interact?

The JGS was intended for claimants within the IWS regime and was not intended to operate alongside RTT arrangements. However, it was possible for someone to receive PIP while also being subject to IWS requirements.

(i) As someone in receipt of PIP could also be within the IWS regime and therefore potentially be eligible for both RTT protections and the JGS, could the Department confirm how those arrangements interact?

The Department agreed that it would take the point away, examine how the schemes interact, and provide clarification outside of the meeting.

(j) The initial process relies on a manual marker. How robust will that process be, given that other markers, including markers for additional support needs, are not always reliably recorded? What assurance can be provided that the marker will be applied consistently, and what would the consequences be for claimants where this may not happen?

Initially, a work coach would apply a marker through the managing job opportunities system. That would reflect standard practice, although it was acknowledged that the process was not foolproof and there remained a risk of human error.

Compliance activity would be used as a mitigation while a fully digital process was being developed. Checks could be undertaken to ensure that markers were being applied correctly to the appropriate people. Those checks would form part of the wider compliance activity associated with the scheme.

The intention was to have a full end-to-end digital process from April the following year, although further confirmation with digital colleagues was still required.

Where it was not applied a risk would exist and the full extent of that was not yet known. However, the claimant would still be expected to notify DWP when

the job ended. Compliance reviews should also identify participants who had completed six-month placements and information on onward destinations would be collected from delivery partners. Information from those sources, together with handover arrangements back to Jobcentre services, should help to mitigate the risk. The Department agreed that further fail-safes might be required and also agreed that it would provide further information on the customer journey outside the meeting.

(k) Will there always be a work coach meeting or another point in the customer journey where claimants could be identified before they lose that support?

There would be a requirement for an engagement with a work coach after participation in the scheme. They should help the claimant remain in employment where possible and the delivery partner should also contact DWP. The handover from the delivery partner back to the Jobcentre was intended to provide an additional opportunity to identify where support was required.

(l) How will the scheme operate in Scotland given that employability services are devolved and the Scottish Government takes a different approach to conditionality and sanctions? What steps will the Department take to ensure that claimants in Scotland understand that this scheme is mandatory where other Scottish employability provision may not have been?

There was a difference of view between the UK and Scottish Governments. The UK Government considered that it could introduce Great Britain-wide employment schemes and the JGS was being introduced on that basis.

Early testing had shown differences in claimant understanding in Scotland. Communications were therefore being used to make clear that participation would be mandatory for eligible UC claimants. Claimants in Scotland might have experienced other employability provision that was not mandatory and therefore the nature of this scheme needed to be communicated clearly.

(m) Are there any specific implications for claimants in Scotland arising from the regulations? How do the regulations interact with Scotland's UC flexibilities, including more frequent payments and direct landlord payments? Will claimants understand how those arrangements change during and after participation in the JGS?

There were no specific implications for claimants in Scotland but the interaction with Scottish payment flexibilities required further consideration.

Some claimants might have chosen more frequent payment arrangements or direct payment of housing support to landlords and might be accustomed to those arrangements. The Department agreed that it would discuss the issue with operational colleagues, consider how those arrangements would operate during and after participation in the scheme and write back to the Committee.

(n) How do the arrangements interact with unemployment benefits and Statutory Sick Pay (SSP)? Is there any possibility that someone could take advantage of the arrangements by moving from SSP into the JGS?

A claimant would need to have been unemployed and subject to IWS requirements before participating in the JGS. On that basis, no obvious route was identified by which a claimant could move directly from SSP into the scheme in order to benefit from the rapid reclaim arrangements.

(o) If the underlying principle of automatic reclaim is beneficial for JGS participants, should the Department consider whether it ought to apply more broadly, rather than creating a narrowly defined exception which requires additional markers and administrative complexity? Could applying the principle more generally simplify administration and remove the need for the marker process altogether?

The Department was implementing a specific provision for claimants mandated into a Government-supported employment scheme but accepted that there was a wider question about whether the principle could apply more broadly. A broader approach could reduce operational complexity and remove the need for additional markers, although that would require consideration of the original policy intent and the wider policy implications. The Department agreed that it would reflect on the issue further.

3.6 The Chair thanked officials for attending and indicated that the Committee would welcome further clarification on the following:

- the original rationale for the five-assessment-period rapid reclaim rule,
- the treatment of apprenticeships and comparable cohorts,
- the interaction with HB,
- the position of claimants receiving PIP,
- the robustness of the marker and digital processes, and the specific implications for Scottish claimants.

3.7 The Chair also asked the Department to give further thought to whether the beneficial principle underpinning the amendment could apply more widely, rather than being restricted only to JGS participants. In addition, the Chair indicated that the

Committee would welcome a separate briefing session on the wider JGS, including its legislative basis and broader policy framework.

3.8 In a private session subsequent to the scrutiny, the Committee agreed that the regulations would not be taken on formal reference; however, it agreed to write to the Department regarding a number of issues raised during the scrutiny and subsequent discussion,[13] specifically:

- the interaction between the JGS and HB,
- operational delivery and implementation issues,
- the interaction with other employment support arrangements,
- lessons emerging from implementation and testing activity, and
- whether the principles underpinning the amendment might have wider application beyond participants in Government-sponsored employment schemes.

3.9 The Committee also agreed that it would continue to monitor developments relating to the JGS and associated policy areas.

4. The Social Security (Miscellaneous Amendments) Regulations 2026

4.1 The Chair welcomed the following officials to the meeting: Jackie Oatway (Director, Fraud and Error Policy), Clare Brookes (Deputy Director, Poverty and UC Policy), Natalie Keogh (Deputy Director, Health and Disability Directorate), Chris Gray (Deputy Director, Welfare Delivery Policy), Samantha Leech (Head of Debt Policy), Nic Vaughan (Senior Policy Official, Welfare Delivery Policy), Gary Godolphin (Senior Policy Team Leader, Health and Disability Directorate), Richard Poureshagh (Senior Policy Official, Pension Credit), James Calverley (Senior Policy Official, UC Policy) and Blanche Potter (Senior Policy Official, Poverty and UC Policy).

4.2 Prior to the scrutiny session, the Committee decided that the following measures relating to this package were suitable candidates for clearance by correspondence:

- Payment of Mileage Allowance Relief and Universal Credit (UC)
- Temporary Absence Abroad: Pension Credit
- Amendment of *the Universal Credit, Personal Independence Payment and Employment and Support Allowance (Amendment) Regulations 2026*

Deductions from Pension Credit to recover Fraud Overpayments

[13] Correspondence between the Chair and the Department can be found at Annex C

4.3 Samantha Leech introduced the session by explaining that the measure corrected an omission in *Regulation 14 of the Social Security (Overpayments and Recovery) Regulations 2013*. *The Social Security (Overpayments and Recovery) Amendment Regulations 2015* had increased the maximum deduction rate for recovery of fraud-related overpayments from 25 per cent to 40 per cent, but the corresponding Pension Credit (PC) provision for certain Universal Credit (UC), New Style Employment and Support Allowance (ESA(NS)) and New Style Jobseeker's Allowance (JSA(NS)) fraud overpayments had not been amended. The amendment therefore aligned the legislation with the Department's longstanding policy intention, operational practice and the wider fraud recovery framework. It did not introduce a new policy, power or entitlement change, but failure to correct the omission would leave ambiguity and create a risk of legal challenge.

4.4 For DWP debt recovery purposes, fraud overpayments were treated as falling within three categories: cases where an individual had been convicted following prosecution, cases where an individual had accepted an administrative penalty following a criminal investigation as an alternative to prosecution, and cases where an individual had admitted fraud during an Interview Under Caution (IUC). [Redacted text].[14] The 40 per cent rate was a maximum deduction rate rather than a default rate, with many affected customers repaying at rates below the 40 per cent maximum. Lower repayment rates, temporary suspension of recovery action and other hardship considerations remained available where appropriate. Future cases could arise where individuals incurred fraud overpayments whilst receiving, for example, UC and subsequently moved onto PC, with recovery continuing through deductions from PC.

4.5 The Committee raised the following main questions in discussion:

(a) How was fraud defined for the purposes of these Regulations where there has been no trial, and what assurance could be provided that individuals accepting an Administrative Penalty understood the implications of being treated as having committed fraud for recovery purposes?

For DWP debt recovery purposes, fraud overpayments were classified through the three routes highlighted: conviction following prosecution, acceptance of an Administrative Penalty as an alternative to prosecution following a criminal investigation and admission of fraud during an IUC. Accepting an Administrative Penalty involved accepting fault and avoiding prosecution and would ordinarily be explained to the individual in those terms.

[14] This text, relating to unpublished data shared with the Committee in confidence, has been redacted at the request of DWP.

Cases in that category were treated as fraud for departmental statistics and recovery purposes.

This represented a technical classification used for recovery purposes and was distinct from broader legal or moral interpretations of fraud. The Department was unable to confirm during the meeting whether the individual was advised of the higher recovery rate prior to acceptance of an Administrative Penalty and agreed to provide further information on that point outside of the meeting.

(b) Is the Department applying a technical definition of fraud for recovery purposes that differs from the wider legal understanding of fraud? How is fraud distinguished from error in cases where there had been no conviction following trial? Does a relevant conviction need to be a fraud conviction?

The classification applied for recovery purposes was a technical one based on the categories used for fraud recovery. The Department was unable to provide a definitive response during the meeting on how fraud was distinguished from error where there had been no trial, or on whether the relevant conviction needed to be a fraud conviction and agreed to provide further information on both matters outside the meeting.

(c) What constituted an admission of fraud during an IUC, and what threshold was applied when determining whether an individual should be treated as having committed fraud in those circumstances?

The Department was unable to provide a detailed explanation during the meeting and agreed to obtain clarification from the teams responsible for conducting IUC. Further information would be provided outside the meeting.

(d) What safeguards exist for individuals who cannot contact the Department, as opposed to those who will not contact the Department? Would affected claimants be contacted proactively? Has the Department considered whether people should be informed directly about the legislative omission and its consequences?

Claimants were advised to contact the Department if they experienced hardship in meeting repayment terms. PC customers received information about planned deductions and were given an opportunity to make contact before recovery proceeded. Caring responsibilities, hardship and the presence of children could be taken into account, and repayment rates could be reduced or recovery action suspended where circumstances warranted this.

Affected individuals would generally have incurred or admitted the fraud overpayment whilst receiving UC and would subsequently have moved onto PC, at which point recovery continued through PC deductions. There were no current plans to contact affected customers proactively, although the small size of the cohort was acknowledged.

(e) As this issue has arisen as a result of legislation not being amended as intended, should responsibility rest with claimants to contact the Department, or should the Department contact affected individuals directly to explain the position and discuss affordability, hardship or alternative repayment arrangements?

Existing communications already advised customers that they could contact the Department to discuss alternative repayment arrangements where required.

(f) How many people may have been affected over time by the legislative omission? Could affected claimants be identified and offered a choice about whether any additional amount recovered should be returned? What consideration has been given to people who may have repaid debts more quickly than they otherwise would have done, and has the Department considered its approach and whether it aligns with the emerging duty of candour and notification of affected individuals?

[Redacted text].[15] Many were repaying at rates below the 40 per cent maximum.

Operational practice had reflected the intended policy position and some affected customers had therefore already been repaying at the 40 per cent rate despite the omission in the legislation. No plans existed to undertake retrospective repayment exercises, refund deductions or revisit historic recovery decisions. The recoverability of the debts was unaffected, and the amendment corrected a legislative omission rather than introducing a new policy.

A retrospective exercise would present substantial operational difficulties. Historic cases would be difficult to identify, some debts may have been recovered through other methods and some individuals may no longer be receiving benefits, with some debts already having been repaid in full. Revisiting such cases could place people back into debt, restart recovery

[15] This text, relating to unpublished data shared with the Committee in confidence, has been redacted at the request of DWP.

processes and create further hardship. Changing the position retrospectively could create confusion, particularly where recovery had already been completed or where existing operational processes had already been applied.

Recovery had been undertaken in line with the Department's longstanding policy intention and some affected customers had therefore been repaying at the higher rate despite the legislative omission. The Department agreed to consider further the issues raised regarding duty of candour, whether affected individuals should be notified, whether any further communication should be provided and whether some form of notification, rather than financial remedy, might be appropriate.

(g) In light of previous Committee discussions on debt recovery, including discussions on driving licence powers and Robodebt, how does the Department distinguish between fraud and error, and how does it ensure recovery remained proportionate and consistent, particularly in cases involving official error or where people who could not afford to repay?

Fraud and error could be distinguished for recovery purposes and it was not the Department's intention to suggest otherwise in previous discussions. Cases meeting the specified fraud criteria were identified as fraud overpayments and attracted the higher recovery rate.

When considering affordability, the principal consideration was an individual's ability to repay rather than the cause of the overpayment. Where evidence showed that a person could not pay, recovery action would not proceed in the same way. The Department referred to earlier discussions of individuals who were not engaging with the process and noted that a number of safeguards and opportunities for engagement existed before further recovery action was taken, including before deductions from bank accounts or removal of a driving licence.

The Department's systems distinguished between fraud and error but did not distinguish between different categories of error. There was no separate model under which UC and New Style benefit overpayments arising from official error were treated differently from claimant error for recovery purposes.

Republic of Ireland Mother and Baby Institutions Payment Scheme

4.6 Richard Poureshagh introduced this measure by outlining the proposed disregard for payments made under the Republic of Ireland Mother and Baby Institutions Payment Scheme. The measure would disregard payments made under the scheme for benefit purposes and would align the treatment of those payments

with existing compensation payment disregard provisions within the social security system.

4.7 The Committee raised the following main questions in discussion:

(h) Has consideration been given to allowing an amount equal to a payment received under the scheme to be disregarded rather than only the payment itself, and why should compensation payments under the scheme be treated differently from personal injury payments where recipients might otherwise receive greater protection through pursuing a personal injury claim?

The scheme would be aligned with the treatment of other compensation schemes, including Windrush and Grenfell. Legal advice was that payments made under the scheme would constitute compensation payments rather than personal injury payments and therefore would fall within a different legislative framework. The relevant provisions for compensation and personal injury payments had historically operated differently, with personal injury provisions applying to an amount equivalent to the payment and compensation provisions generally applying to the payment itself.

The distinction dated back to the PC regulations introduced in 2002. With working age income related benefits, personal injury payments had historically been required to be placed into a Trust, so that capital could be treated differently. PC had adopted a different, less prescriptive approach. Similar issues had been identified within UC and wider work was under way to examine the broader issue in the UC regulations.

(i) Has the consultation with Local Authority Associations identified any concerns and could communications be strengthened, potentially through a standard letter issued with awards to help claimants understand that receipt of the payment would not affect entitlement which could be evidenced in future PC claims?

Consultation with Local Authority Associations formed part of the Department's standard engagement process and no concerns had been raised. Further engagement would continue once the regulations came into force.

The Department did not normally advertise disregard provisions proactively and generally relied upon scheme administrators and other organisations connected with a scheme to inform recipients of their position. The concern regarding communications and take-up was acknowledged and it agreed that it would take the suggestion away for further consideration.

The Irish Government had undertaken significant promotional activity in relation to the scheme, while guidance had also been provided to staff and relevant community organisations. The Department was only aware of three known cases of compensation payments made to benefit recipients. These related to Housing Benefit (HB), where individuals were either considering or had received a payment through the scheme. Two of these had been highlighted in the media prior to the disregard being announced, specifically because of concerns around the impact that accepting a payment could have on the HB award.

The Department indicated that take-up of the scheme had been considerably lower than originally anticipated, with only around 500 applicants in Great Britain having received a payment but did not consider that this could be attributed solely to communications activity, given the similarly low take-up in the Republic of Ireland. It was also confirmed that, in the longer term, if required, the Department would rely on the customer informing it that capital relating to the payment was separate from other capital held.

(j) As the first known non-UK compensation scheme to receive a disregard, would the measure create a precedent for future schemes established by other countries, and what principles were applied when deciding whether the scheme merited a disregard?

The decision balanced the risk of creating a precedent against what were considered exceptional circumstances. The close historical, constitutional and community links between Ireland and Great Britain were relevant factors in the Ministerial decision, alongside the nature of the scheme itself. It was not considered that the decision would open the way for all future overseas schemes to qualify for a disregard.

Requests for compensation disregards were regularly received, and Ministers considered a range of factors when determining whether a disregard should apply. These included whether existing personal injury provisions could apply, the significance of the event giving rise to the scheme, whether it related to a national tragedy or widespread public distress and whether public authorities had established mechanisms to address the issue. Requests relating to schemes in Australia and the Netherlands had previously been refused.

(k) Is the Department working towards a more coherent and consistent framework for compensation disregards, and is the logical conclusion of the Department's approach the development of a consolidated framework that could be applied consistently to future schemes?

Work was under way across government, involving the Cabinet Office, to consider how greater consistency could be achieved in the treatment of redress payments and compensation schemes. The National Audit Office had also commented on this issue and the Department was awaiting the government's response to its recommendations. Requests for compensation disregards continued to arise and the current arrangements could appear piecemeal. The Committee's previous comments and concerns regarding the current arrangements have been acknowledged and a comprehensive legislative framework would provide consistency and avoid the need for repeated changes to benefit regulations.

The Department was not yet close to a settled cross-government framework. Given that existing arrangements had developed incrementally over time, previous decisions might need to be revisited and further work would be needed before a coherent framework could be established.

(l) How did the treatment of the scheme compare with the Vaccine Damage Compensation Scheme and why did one scheme appear to receive a permanent disregard while another was subject to a time-limited disregard?

The disregard under the Mother and Baby Institutions Payment Scheme was indefinite and not subject to a 12-month limit.

Differences existed across individual schemes and between the rules applying in HB, UC and PC. The Department sought to apply the rules applicable to the relevant scheme but acknowledged that greater consistency across disregard provisions would be beneficial.

(m) Has the UK Government considered the broader treatment of payments under the scheme, including tax implications, and how would payments be treated where local discretion applied, particularly in relation to the Crisis and Resilience Fund, Discretionary Support payments in Northern Ireland and Council Tax Reduction schemes?

Discussions with the Irish Government had extended beyond benefit treatment and HM Revenue and Customs and the Department of Health and Social Care had been made aware of the scheme. Decisions regarding tax treatment and related matters sat with those departments and their Ministers. As far as officials were aware, no equivalent action had been taken elsewhere in government.

The Crisis and Resilience Fund operated through local discretion and local authorities determined what resources should be taken into account when

assessing applications. The Department was unable to confirm how payments received under the scheme would be treated for such purposes and noted that approaches could vary between authorities. The position in relation to Council Tax Reduction schemes could not be confirmed during the meeting and the Department agreed that it would check the position and respond outside the meeting.

Personal Independence Payment (PIP) Transitional Provisions Amendment

4.8 Gary Godolphin introduced this measure by outlining proposed amendments to the Personal Independence Payment (PIP) transitional provisions following the decisions in the OM[16] and SR[17] cases concerning Disability Living Allowance (DLA) to PIP transfers. The amendments would provide that, where a claimant's entitlement to DLA had ended following a negative determination during the transfer process and that determination was later overturned because good reason was accepted, DLA would be reinstated and the claimant would return to the ordinary DLA-to-PIP transfer process pending a valid determination of entitlement to PIP. The amendments were intended to clarify the operation of the transfer process in those circumstances and to address what was regarded as inconsistency in the effect of the existing provisions following the OM and SR judgments.

4.9 The Committee raised the following main questions in discussion:

(n) What was the original policy intent behind regulation 17(2)(b)[18], and is the current interpretation consistent with that original intent?

The original policy intent might have become less clear over time. When the transfer arrangements were introduced in 2013, DLA was not reinstated following a negative determination and claimants could be left without benefit while awaiting a substantive entitlement decision. The provision might originally have operated against that background. The decision in the OM case altered the practical position because DLA would be reinstated where good reason was accepted. Once DLA was reinstated, there would be considered to be no basis for returning to the earlier negative determination date because DLA had been put back into payment. The amendment would be intended to provide clarity regarding what would happen to DLA and PIP where a negative determination had been overturned.

[16] OM v Secretary of State for Work and Pensions (PIP): [2017] UKUT 458 (AAC) - GOV.UK
[17] SR v Secretary of State for Work & Pensions (PIP): [2024] UKUT 308 (AAC) - GOV.UK
[18] The Personal Independence Payment (Transitional Provisions) Regulations 2013

(o) Why was the decision in the OM case considered to be inconsistent with SR when SR appeared to conclude that the two decisions were not in conflict? As SR treated the OM case as the general position and itself as an exception, why is a legislative amendment required?

SR provided for PIP to be paid from the earlier negative determination date, whereas the OM case required DLA to be reinstated. DLA and PIP could not be paid for the same period because they were overlapping and mutually exclusive benefits. The position was considered to have been muddied because, in SR, DLA had not been reinstated when good reason was accepted. SR was not considered to deal with the OM case in the correct way, and the two judgments were regarded as producing different outcomes following acceptance of good reason. Legislative amendment was therefore considered necessary to address that inconsistency and clarify how the transfer process should operate once good reason had been accepted.

(p) If the amendment was intended to address the position established by the OM case, how did the proposed amendment differ from that judgment and why was legislative amendment necessary?

The amendment was intended to provide a statutory footing for the approach that followed from reinstatement of DLA where good reason was accepted. Legislative amendment was considered necessary because the effect of accepting good reason had not been expressed clearly in the existing provisions and the case law had generated different interpretations. The amendment was intended to provide greater clarity regarding the operation of the transfer process once a negative determination ceased to have effect.

(q) Why was a distinction drawn between cases where a tribunal determined good reason and entitlement simultaneously and cases where entitlement was determined later?

Cases where a tribunal determined both good reason and entitlement at the same time were expected to be rare. Good reason decisions were normally made at an earlier stage of proceedings when the evidence required to determine entitlement was not yet available. Entitlement and good reason decisions were ordinarily separate decisions. Some of the scenarios discussed could resemble SR-type cases where entitlement was determined as part of the same appeal process.

(r) How would regulation 17(2)(b) apply where a tribunal accepted good reason and then proceeded, either immediately or later within the same proceedings, to determine entitlement to PIP?

It was considered unusual for tribunals to determine entitlement at the same stage as a good reason decision because the necessary evidence would rarely be available. The key issue was whether entitlement to PIP had been determined as part of the same appeal process. Where entitlement remained unresolved, good reason only addressed the compliance issue and entitlement still had to be assessed.

(s) Could claimants receive different financial outcomes depending on whether entitlement was determined immediately or later in proceedings, and could representatives seek to pursue entitlement issues at the same time as good reason arguments, in order to avoid financial disadvantage?

The amendment was intended to provide consistency through reinstatement of DLA where good reason was accepted. There would inevitably be people who were financially better off under PIP and others who were financially worse off. In most cases, tribunals would not have sufficient evidence available to determine entitlement immediately because the negative determination had arisen where information had not been provided, an assessment had not been attended or the claimant had not otherwise participated in the process. The tribunal would usually be considering the information available at the date of the decision under appeal and, while further information could be requested, entitlement decisions were often reached months or years later. Reinstatement of DLA was intended to provide financial security while entitlement remained unresolved and to provide a consistent position for claimants moving through the transfer process. The Department agreed that it would take away the scenarios raised and seek legal advice on how regulation 17(2)(b) would operate in those circumstances.

(t) Should tribunals and claimants be informed that pursuing entitlement issues at the same time could affect the financial outcome, and how would the position of unrepresented claimants be addressed?

It was not considered appropriate to advise tribunals to pursue cases in a particular way. Consistency between claimant groups remained the central objective. Reinstatement of DLA could benefit claimants whose eventual PIP entitlement was lower and provided continuing support while entitlement remained unresolved. It was acknowledged that there were winners and losers under different interpretations and that parity and equity between claimant groups formed part of the reasoning. It was noted that informed representatives might identify arguments that could result in a more advantageous financial outcome where entitlement issues were considered alongside good reason, whereas unrepresented claimants might be less likely to recognise those possibilities.

(u) As different groups could be advantaged or disadvantaged by the amendment, depending on whether they receive a higher PIP award, or on when decisions are made on good reason or their entitlement, could those differences give rise to further legal challenge?

Different claimant groups could be affected differently depending on the timing of decisions and the outcome of entitlement assessments. Reinstatement of DLA was intended to provide parity, equity and consistency while entitlement remained unresolved. Some claimants would be financially better off under PIP and others financially worse off, but the amendment was intended to provide a single framework for handling cases where good reason had been accepted.

(v) How does the proposed approach align with the forthcoming duty of candour, and should claimants be informed where pursuing entitlement issues could lead to a more advantageous outcome?

It was not possible, at the point a good reason decision was made, to know which claimants would ultimately be financially better or worse off because a PIP assessment had not yet taken place. A higher rate of DLA did not necessarily indicate a higher award of PIP. Claimants retained a right of appeal regarding entitlement decisions. The Department agreed that it would consider further the examples raised regarding financial disadvantage, claimant awareness, claimant information and the implications of the duty of candour.

(w) How did the amendment interact with the wider DLA-to-PIP transfer cohort, including the approximately 153,000 claimants expected to move through the programme? Could circumstances similar to those identified through the Legal Entitlements and Administrative Practice (LEAP) activity affect a materially larger claimant group? Has consideration been given to claimants with conditions such as psychosis, learning disability and arthritis who may find it more difficult to navigate the process without support?

A test cohort of approximately 3,000 DLA claimants was being used to inform the wider rollout. Letters were expected to be issued from 31 August and during the first week of September. If the amendment came into force at the end of October, most claimants in that cohort were expected to fall under the amended provisions rather than the SR position. The amendment only became relevant much later in the claimant journey where good reason issues arose.

The purpose of the test activity was to understand claimant characteristics, vulnerabilities and support needs and not simply to stop benefit where claimants failed to engage. Understanding the nature of the cohort and identifying where additional support might be required formed part of the exercise. Where circumstances similar to those arising through LEAP activity did arise, affected claimants would form part of that wider activity.

(x) Was the amendment likely to influence claimant behaviour or have wider practical consequences, even if it was not intended as a fiscal savings measure?

The amendment was not a fiscal savings measure. Whether the numbers affected were in the thousands, hundreds or single figures, the claimants involved might have vulnerabilities requiring care and support. The principal objective of the test activity was to understand how to support those claimants and to avoid circumstances in which benefits were stopped and later restored following acceptance of good reason.

Earlier wording suggesting that SR might create an incentive for claimants to delay participation in the transfer process had been reconsidered. The earlier wording was acknowledged to have been loose and SR was no longer considered to create such an incentive. Lessons from the OM and SR cases were feeding into future rollout planning and were intended to reduce the likelihood of similar cases arising.

(y) How would concerns be addressed if the amendment does not achieve its intended policy objective and created further ambiguity, leaving some claimants worse off? Will the Department consider additional scenarios, figures and impact analysis?

The Department agreed that it would take away the specific tribunal scenarios discussed, work through the claimant groups identified during the scrutiny, seek legal advice on the operation of regulation 17(2)(b) in the circumstances explored during the meeting and consider further the Committee's questions regarding claimant information, duty of candour and the policy intent underpinning the amendment.

4.10 Before concluding the discussion, the Chair indicated that the Committee would welcome clarification in those areas; highlighting specifically the policy intent, the interaction between the *OM* and *SR* judgments, the circumstances in which claimants could experience differing outcomes, the likely number of individuals affected and the proportionality and practical impact of the proposed approach.

Transitional Protection erosion and the interaction between Carer's Element, Limited Capability for Work and Limited Capability for Work- and Work-Related Activity

4.11 Chris Gray introduced the measure by explaining that, in January 2025, the Department had lost an Upper Tribunal case concerning the interaction between Transitional Protection (TP), Limited Capability for Work and Work-Related Activity (LCWRA) and the Carer's Element. The case found that carers who themselves became disabled were treated unfavourably compared with other disabled people. The issue arose where carers who became entitled to LCWRA lost the Carer's Element and also saw their TP eroded, leaving them worse off. Cases arising from the judgment would be corrected where they had been identified. The regulations would be intended to fix the position going forward, allow the UC build to be updated, apply the judgment correctly from the date of judgment and protect claimants in similar circumstances involving interactions between the Carer's Element, health elements and TP. The approach would also extend to analogous cases involving Limited Capability for Work (LCW), LCWRA, the ending of a health element and the bringing into payment of an underlying Carer's Element, where the same type of interaction would otherwise result in a similar loss.

4.12 The Committee raised the following main questions in discussion:

(z) Could the Department explain whether the judgment has forced it to rethink its policy objective and how the rules work, or is it looking to make the amendment to apply the original policy objective on TP? Therefore, has there been a shift of the policy objective in light of the judgment?

The regulations were intended to fix the position going forward because the Tribunal had found that the previous approach was discriminatory. The measure addressed the specific problem identified by the Tribunal and closely analogous cases where the same principle applied. Wider policy was not being changed.

(aa) Could there be other similar circumstances where people have lost out in the move from legacy benefits to UC, and would the Department only seek to remedy those cases where the claimant is disabled due to a potential risk of a discriminatory judgment?

The change addressed the specific discriminatory outcome identified by the Tribunal. The extension was limited to a small cohort of similar cases where the same principle applied. The principle was being applied to cases involving similar interactions between the Carer's Element, LCW or LCWRA, and TP, including reverse scenarios where a health element ended and an underlying entitlement to the Carer's Element came into payment.

(ab) Was the unfairness deliberate or unintended? Was the system operating as intended until the Tribunal judgment? Did the Department appeal because it wished to maintain the broader policy of trimming TP and is the broader policy still to erode TP over time except where that is prevented by discrimination obligations?

The system had operated as intended until the Tribunal judgment, and that approach had been defended through the litigation. TP would continue to be paid where claimants were eligible for it. Those moving to UC would not have the same terms and conditions as those who remained on legacy benefits, and TP could continue to erode in accordance with the wider framework.

The particular unfairness identified by the judgment was not simply the erosion of TP. The affected claimant was a disabled person whose health condition had worsened and who had become entitled to LCWRA. This had then left them in a worse position because the Carer's Element was also lost. That outcome was considered unacceptable relative to claimants who were not carers, and it was that interaction which was being addressed.

A wider issue concerning discrimination was recognised and needed to be addressed in these circumstances and in analogous cases. However, the wider approach to erosion of TP was not being changed. The broader policy remained that TP would erode over time, but it could not operate in these circumstances in a way that breached discrimination obligations. The judgment was therefore being implemented in the affected and analogous cases, while the wider policy of TP erosion remained unchanged elsewhere.

(ac) Could the Department confirm whether it is only considering cases from the court date rather than cases before January 2025? What would happen to someone who receives LCWRA before January 2025 and is worse off?

Only cases from the court date were being picked up. Section 27 precluded application of the judgment at an earlier date. Guidance for decision makers on handling the different scenarios had been published. The Department agreed that it could share that guidance. The legislative underpinning for that approach had been tested previously.

Cases falling within the judgment would be corrected from the date of the judgment. Other similar scenarios covered by the regulations would apply from the date the regulations came into force.

(ad) Has consideration been given to making extra-statutory, ex gratia or compensatory payments to people before January 2025 who lost out, particularly carers who became sick and ended up with less money? This would not be on the basis of maladministration but in recognition of the loss they experienced, even if section 27 prevents formal backdating?

Making such payments would, in principle, circumvent section 27, which applied across a wide range of cases. The statutory framework was therefore applied as it stood rather than through a workaround. It was recognised that this was difficult for people who were not captured by the judgment, but the judgment could not be backdated and payments outside the framework created by section 27 were not intended.

The law was applied as it stood up to the point of judgment and was then applied as interpreted by the courts following that judgment. Moving outside that approach would raise wider questions. The argument about recognising the loss experienced by carers who became sick and ended up with less money was understood, but discussion of what could or could not qualify as an ex-gratia payment was not a position being considered by the Department.

(ae) Does the approach create a disparity between claimants who know how to seek a Mandatory Reconsideration and/or appeal and those who do not? Could a tribunal apply the law as it now stands and overturn a pre-January 2025 case? Does advice from the Child Poverty Action Group indicate that some pre-2025 cases cannot be changed through Mandatory Reconsideration but could be overturned on appeal?

The published guidance reflected that position and unusual outcomes could arise. Claimants who had lost out from January 2025 could submit a Mandatory Reconsideration or appeal and those cases could be considered. Earlier cases could still seek to argue that claimants after the judgment received more favourable treatment and such cases could be heard.

It was acknowledged that this could create a disparity between claimants who had advice, or who knew to appeal, and those who did not.

(**af) Is an Equality Impact Assessment (EIA) the means by which the Department assesses whether a policy is discriminatory? Has consideration been given to reviewing this case and other instances to determine whether similar issues could have been identified earlier and is this particularly relevant given that the Department defended the case on appeal?**

An EIA was one tool, but not the only tool. Legal advice also played a role. The position advanced in the Upper Tribunal proceedings would have been considered consistent with the EIA as understood at the time. Until the Tribunal found against the Department, the view would have remained that the policy was consistent with that assessment. The case nevertheless raised a question about what the EIA had considered and what it had missed.

Something had probably been missed. The case illustrated how hard and fast rules governing TP erosion interacted with the rule preventing payment of both the Carer's Element and LCWRA at the same time. The claimant not only had TP eroded but also lost a substantive element and was left worse off. The wider principle that loss of one element and gain of another should adjust the UC award accordingly was defended, but the court held the Department to account and found against that position.

If similar issues had been missed elsewhere, they could be examined; however, identifying similar outcomes and challenges was considered more productive than reviewing an EIA drafted many years earlier. With hindsight, more impacts could have been considered, including the interaction between regulation 29, the hard lines in the TP rules and the loss of a substantive element alongside erosion of TP.

(ag) Could EIA and section 15[19] analysis provide greater protection going forward by helping to establish whether a policy is reasonable and proportionate and by identifying similar issues earlier?

The point was recognised. Equality assessments were normally undertaken when Ministers required advice on decisions and while relevant policy work was active. Where a programme had concluded and no further advice was due to Ministers, the position was different. The Department agreed that it would take the point away, raise it internally and consult analysts regarding whether further equality analysis was appropriate.

4.13 The Chair thanked officials for their attendance and for their time and insight.

The Social Security (Miscellaneous Amendments) Regulations 2026: conclusions and next steps

4.14 In a private session subsequent to the scrutiny, the Committee reflected on the measures considered, observing that there were a number of recurring themes arising across the package, including:

19 Equality Act 2010

- the relationship between policy intent, legislative drafting and operational delivery,
- the treatment of individuals affected by legal judgments or regulatory ambiguity, and
- the importance of ensuring that claimants were able to understand the implications of decisions affecting their entitlement and the routes available to challenge those decisions.

4.15 Considering the individual measures, the Committee identified a number of issues and concerns that warranted further attention, as follows:

Fraud recovery provisions:

- the discrepancy between the legislative position and the operational recovery regime;
- whether affected individuals should be informed of the position;
- whether a letter of apology, together with signposting to support, advice and benefit take-up services, should be considered;
- the extent to which some individuals may have experienced detriment as a consequence of the approach, including impacts on their ability to meet other financial commitments;
- whether failure to notify affected individuals could give rise to allegations of maladministration where loss had occurred; and
- whether the Department's approach to the classification of fraud for recovery purposes was sufficiently clear.

Compensation payment disregard provisions:

- the treatment of compensation payments within locally administered schemes, including the Crisis and Resilience Fund;
- whether communications issued in connection with compensation schemes could further support awareness amongst potential recipients;
- continuing differences in the treatment of compensation and personal injury payments across benefit systems; and
- the desirability of clearer and more consistent principles governing compensation payment disregards.

PIP transitional provisions amendment:

- whether the amendment achieved the policy objective stated by the Department;

- whether the amendment resolved or perpetuated issues arising from the SR judgment;
- the extent to which the proposal was driven by legal considerations rather than a clearly articulated policy rationale;
- whether the existing case law already provided an adequate mechanism for resolving the underlying issues;
- the need for additional worked examples, figures and impact analysis; and
- whether the Joint Committee on Statutory Instruments might take an interest if the Regulations did not appear to achieve their stated purpose.

Transitional Protection provisions:

- the position of individuals who had lost out before the Upper Tribunal judgment and who would not benefit from the changes;
- the extent to which the Department's wider approach to the erosion of Transitional Protection appeared unchanged;
- the Department's decision not to apply the judgment retrospectively beyond the limits imposed by section 27;
- the view that the Department's position on retrospective application was clear and that further correspondence on that specific issue was unlikely to alter that position;
- the operation of anti-test-case provisions and the different legislative position in Northern Ireland; and
- whether wider issues concerning claimant awareness, challenge routes and future duty of candour expectations had implications beyond the specific measure under scrutiny.

4.16 The Committee agreed that these issues would be more appropriately pursued through subsequent correspondence to the Department rather than taking the Regulations on formal reference.[20] In particular, members indicated that future engagement should include requests for additional evidence, worked examples and clarification of policy rationale where appropriate, together with further consideration of claimant awareness and the development of clearer and more coherent policy frameworks where similar issues arise across different benefit systems.

5. Private Session

[RESERVED ITEM]

[20] Copies of correspondence between the Committee Chair and the Department are provided at Annex D.

6. Next Meeting

6.1 The next meeting was scheduled to take place on 9 September.

Annex A: Attendees

Guests and Officials

Item 2: James Wolfe, Director, Universal Credit, Families and Poverty
Clare Brookes, Deputy Director, Strategy, Poverty and UC Policy Sophie Tidman, Grade 6, Universal Credit Policy
Dan Gatland, Grade 7, Universal Credit Policy
Amy Trigg, SEO, Universal Credit Policy

Item 3: Matthew Bayliss (Senior Policy Advisor for the Jobs Guarantee Scheme)
Jack Farnhill-Bain (Policy Advisor for the Jobs Guarantee Scheme)

Item 4: Jackie Oatway (Director, Fraud and Error Policy)
Clare Brookes (Deputy Director, Strategy, Poverty and UC Policy)
Chris Gray (Deputy Director, Welfare Delivery Policy)
Samantha Leech (Head of Debt Policy)
Nic Vaughan (Senior Policy Official, Welfare Delivery Policy)
Gary Godolphin (Senior Policy Team Leader, Health and Disability Directorate)
Richard Poureshagh (Senior Policy Official, Pension Credit)
James Calverley (Senior Policy Official, UC Policy)
Blanche Potter (Senior Policy Official, Strategy, Poverty and UC Policy)
Azadeh Goodarzi (Legal Advisor).

Secretariat: Denise Whitehead (Committee Secretary)
Kenneth Ashworth (Secretariat)
Robert Cooper (Secretariat)
Edward Munn (Secretariat)
Indica Francis (Analyst)
Alice Perkins (Analyst)

Annex B

The Rt Hon Pat McFadden MP
Secretary of State for Work and Pensions
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

11 August 2026

Dear Secretary of State,

The Social Security (Persons Detained in Hospital) (Amendment) Regulations 2026

I am writing to you about the above-named regulations which were subject to statutory scrutiny by this Committee at our meeting on 15 July.

The Committee appreciates the additional information provided by your officials during the course of its scrutiny of these regulations, including the further clarification subsequently provided by your officials on 29 July and 6 August.

I am particularly grateful to James Wolfe for taking the time to discuss with me the Committee's questions and areas of concern. His personal engagement, and that of his team, has helped the Committee to reach a clearer understanding of both your policy intent and the Department's intended approach to implementation.

Having given careful consideration to all of the evidence provided to us, I can confirm that the Committee does not intend to take these regulations on formal reference.[21]

Policy intent

The Committee welcomes the additional information and clarification provided during the course of scrutiny, which has assisted members in reaching a clearer understanding of both the intended policy cohort and the operation of the proposed arrangements.

The Committee was initially told that the regulations will:

- in England and Wales, remove entitlement to specified social security benefits where an individual is subject to a section 37 order under the Mental Health Act 1983 and has been convicted of one of the stipulated offences; and
- in Scotland, remove entitlement to specified social security benefits where an individual is subject to a compulsion order under section 57A of the Criminal

[21] Under the powers conferred by section 173(1)(b) of the Social Security Administration Act 1992.

Procedure (Scotland) Act 1995 and has been convicted of one of the stipulated Scottish offences.

Having sought clarification of the underlying policy intent against which we could scrutinise these regulations, we were subsequently advised that the policy is intended to apply to those individuals convicted of the most serious violent and sexual offences, involving or presenting a clear risk of death, serious physical injury or sexual harm, who would ordinarily be expected to receive lengthy custodial sentences.

We were also advised that the regulations are intended to apply to individuals whose primary status is that they are being detained in hospital rather than prison, even where they may be temporarily absent from hospital or spend limited periods in the community as part of their clinical management, and have not yet been discharged and returned to living independently in the community.

The Department subsequently clarified that this means individuals undertaking periods of section 17 leave remain within scope of the policy because their continued detention in hospital remains the determining factor for entitlement purposes, whereas those subject to Community Treatment Orders fall outside the scope of the policy.

We were further advised that the unusual step of enumerating in the regulations a specific list of offences was necessary, as alternative approaches, including reliance on existing statutory definitions of serious offending and broader sentencing-based offence lists, were judged not to provide an adequate means of identifying the cohort envisaged by the policy intent.

Policy and implementation

During scrutiny, the Department acknowledged both the importance of ensuring that the policy is implemented in a way that reflects your intentions and the need to resolve various complex operational and implementation issues before the policy could be brought into force. In particular, it recognised that replacement financial support, transition and discharge arrangements would be critical to successful implementation. So also would be stakeholder engagement and consideration of the policy's operation within Scotland's distinct legal, health and justice systems.

The Committee also noted that important elements remained under development, including aspects of the delivery plan, implementation and transition arrangements, and the detailed operation of the policy in practice. Of these, replacement financial support arrangements[22] were consistently identified by the Department as a critical dependency, with your officials making clear that implementation could not proceed until appropriate arrangements had been established.

Against that background, the Committee is grateful for the additional information that was subsequently provided. It has helped address many of the questions that arose during scrutiny and has enabled members to reach a clearer understanding of how the policy is intended to operate in practice. In particular, we note the Department's confirmation that:

[22] For both in term and transition arrangements.

- commencement of the policy will be contingent upon replacement funding arrangements being fully agreed and operational;
- engagement is continuing with DHSC, NHS partners and other stakeholders to finalise the arrangements;
- agreement in principle has been secured with the Department of Health and Social Care (DHSC) regarding the extension of replacement "pocket money" arrangements to this cohort;
- affected individuals will retain access to the wider package of discharge planning and support arrangements provided through health and local authority systems;
- it is considering whether arrangements analogous to advance claims for prisoners could be made available to this cohort.
- further engagement will take place with stakeholders in Scotland, including discussions with the Scottish Government and NHS Scotland; and
- the Secretary of State has now agreed the final offence lists, including the Scottish provisions.

These clarifications have assisted the Committee in reaching a clearer understanding of both the policy intent, the Department's intended approach to implementation, and the degree to which they deliver your objective.

Outstanding issues

The Committee nevertheless considers that a number of important implementation and operational issues merit continued attention as the policy is developed and brought into force, and welcomes the Department’s commitment to continued engagement on these matters. While these issues do not alter the Committee's decision not to take the regulations on formal reference, we consider that further assurance would assist in demonstrating that the policy can be implemented in a manner that is consistent with its intended objectives.

Replacement funding arrangements

The Department's assurance that replacement funding arrangements must be fully operational before commencement of the policy is welcome. The Committee recognises that the core policy concept of ‘pocket money’ for patient offenders has already been established for Section 45A and Section 47 cases.

In the Committee’s view, the effectiveness of extending these arrangements to a wider group will be central to the successful implementation of the policy and to ensuring that individuals can progress safely through rehabilitation, discharge and reintegration without avoidable financial hardship or disruption.

Given the reliance placed on these arrangements throughout scrutiny, members consider it particularly important that the framework provides adequate and reliable support in practice, with clear accountability for delivery, effective coordination between DWP, DHSC, NHS bodies, local authorities and other partners, and a sufficiently robust approach to implementation across Great Britain.

We would therefore welcome assurance that these extended arrangements are capable of supporting the policy's objectives, whilst mitigating the risks of

financial vulnerability, and unwarranted materially different outcomes arising in practice.

We would also welcome assurance that health bodies have clear responsibilities for ensuring that such financial support is available in practice.

Section 17 leave and rehabilitation

The Committee notes the Department's clarification that individuals undertaking periods of section 17 leave remain within scope of the policy because they continue to be regarded as detained in hospital for the purposes of entitlement. During scrutiny, members heard that section 17 leave can play an important role in rehabilitation and preparation for discharge, with periods of leave often increasing progressively over time. The successful operation of the policy will depend upon the replacement of benefit entitlement with pocket money not creating an unintended financial barrier to rehabilitation, family contact, preparation for discharge or successful reintegration into the community.

The analogue and track record of established policy and practice for Section 45A/Section 47cases does not apply in these circumstances.[23] Hence, the adequacy of the pocket money approach for these purposes is inferred rather than tested. A concern is the risk that individuals undertaking extended periods in the community may lack access to sufficient financial support to meet ordinary day-to-day costs, thereby adversely affecting rehabilitation, progression towards discharge or successful resettlement.

The Committee would welcome assurance that the replacement funding arrangements are capable of adequately supporting individuals undertaking clinically appropriate periods of leave, including where they incur ordinary costs associated with spending time in the community.

In particular, the Committee would welcome assurance that neither a patient's lack of access to funds nor pressures on local budgets create unintended barriers to rehabilitation, progression towards discharge or successful reintegration.

Discharge and transition into the community

The Committee remains concerned about the position of individuals approaching discharge from hospital, a process that the Department acknowledged can be significantly less predictable than release from prison. In the Committee's view, this creates a particular risk that individuals may experience financial insecurity at a vulnerable point in their recovery, with potential consequences for successful reintegration, homelessness and reoffending. Effective discharge and transition arrangements will therefore be critical to the successful operation of the policy.

The Committee would welcome assurance that the financial support available under the proposed arrangements will be sufficient to ensure that individuals approaching discharge are not left without access to appropriate financial support and assistance at this critical stage.

[23] These sets of patient offenders have ordinarily returned to prison before the end of their sentence.

In particular, we would welcome assurance that individuals are supported to establish any benefit entitlement at the earliest opportunity, including through the Department's consideration of arrangements analogous to advance claims for prisoners and other measures designed to reduce gaps in support at the point of discharge.

More broadly, the Committee would welcome assurance that the wider discharge framework is capable of supporting a successful transition into the community and mitigating the risks of financial vulnerability, homelessness and reoffending.

Evaluation

The Committee remains mindful that the policy relies heavily on locally delivered support arrangements and recognises that approaches may vary across Great Britain reflecting different health and administrative systems. However, the successful operation of the policy will depend upon individuals having access to an adequate level of financial support irrespective of where they are detained. Members are concerned to ensure that gaps in local preparedness or delivery do not create unintended risks for rehabilitation, discharge planning or successful reintegration into the community.

We would also welcome assurance that the Department has plans in place to monitor and evaluate the practical effects of the policy following implementation, particularly in relation to financial resilience, discharge outcomes, homelessness, reintegration and reoffending.

Thank you again for the Department's constructive engagement with the Committee throughout this scrutiny process.

I am copying this letter to the Minister for Social Security and Disability, the Baroness Sherlock OBE, Sophie Dean and James Wolfe.

Yours sincerely,



Dr Stephen Brien
Chair, Social Security Advisory Committee

Department for Work & Pensions

Caxton House

THE RT HON PAT MCFADDEN
MP Secretary of State for Work & Pensions

6-12 Tothill Street
London, SW1H 9NA

Dr Stephen Brien
Chair, Social Security Advisory Committee

20 August 2026

Dear Stephen,

The Social Security (Persons Detained in Hospital) (Amendment) Regulations 2026

Thank you for your letter regarding the Social Security (Persons Detained in Hospital) (Amendment) Regulations 2026 and for the Committee's consideration of these Regulations.

This policy addresses a longstanding issue in the benefits system. It cannot be right that individuals convicted of the most serious violent and sexual offences who are detained in hospital in place of prison continue to receive benefit payments.

I announced my commitment to make these changes in January this year and these Regulations deliver on that commitment through a fair and proportionate approach which reflects the seriousness of the offences involved, while ensuring that individuals detained under hospital orders continue to receive the appropriate mental health support.

I agree that implementation must be undertaken carefully. While entitlement to benefits will be removed for the affected cohort, I recognise that individuals will require some ongoing financial support while they are receiving treatment in hospital once benefit entitlement is removed. Accordingly, I welcomed the agreement in principle reached with the Department of Health and Social Care (DHSC) to extend existing NHS pocket money arrangements in England to this group. My officials are working closely with DHSC, NHS, the Welsh Government and the Scottish Government to ensure equivalent arrangements are available across all jurisdictions before the policy is introduced. This includes establishing processes to identify affected individuals and providing clear communications to them about the changes. I am clear that these need to be in place before benefit payments are removed.

I am confident that extending the existing pocket money scheme is the most appropriate approach. These arrangements are already used to support other

offender groups detained in hospital, including those subject to sections 45A and 47 of the Mental Health Act 1983. Building on this long-standing system is both practical and avoids creating a new system for the affected cohort. Providing some alternative support was noted by stakeholders as being needed, with many assuming pocket money would be the position.

The Committee also raised questions regarding section 17 leave, discharge and reintegration. I agree that these arrangements should not create unintended barriers to rehabilitation or recovery. As I have said, my department has been working across Government and I am confident that sufficient arrangements will be in place and that systems will be ready when the change comes into force.

I also recognise the importance of ensuring that individuals can access any benefit entitlement promptly on discharge and my officials are considering how existing processes can best support this. Of course, responsibility for clinical care, rehabilitation, discharge planning and wider reintegration sits with the health service, justice system and local authorities. These systems are best placed to support individuals through those stages, and my department will continue to work closely with them.

Finally, I agree that monitoring implementation will be important. Given the small and tightly defined nature of the cohort, my officials will keep the operation of the policy under review.

Thank you again for the Committee's consideration of this important policy. Yours sincerely,



The Rt Hon Pat McFadden MP
Secretary of State for Work and Pensions

Annex C

SOCIAL SECURITY ADVISORY COMMITTEE

Lorenzo Peri
Deputy Director, Young People Policy
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

28 July 2026

Dear Lorenzo,

The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) (Amendment) (No. 2) Regulations 2026

The Social Security Advisory Committee considered the *Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) (Amendment) (No. 2) Regulations 2026* at its meeting on 15 July.

The Committee welcomes the policy objective underpinning these regulations. We recognise the Department's intention to ensure that participants in the Jobs Guarantee Scheme who see their Universal Credit award reduced to nil during a six-month placement can return seamlessly to Universal Credit if they do not move directly into further employment when the placement ends. We recognise the Department's intention to reduce the risk of gaps in financial support and to facilitate a smoother transition back to Universal Credit for participants who do not move directly into further employment at the end of the scheme.

This letter confirms that the Committee has decided that, under the powers conferred by Section 173(1)(b) of the Social Security Administration Act 1992, it does not wish to take these regulations on formal reference and that they may proceed accordingly.

However, our scrutiny has identified several issues on which we would welcome further clarification and reflection by the Department. I set these out below.

Wider policy rationale for extending the rapid return provisions

During scrutiny, officials explained that the purpose of the amendment is to address a specific issue arising from the design of the Jobs Guarantee Scheme. Participants may spend long enough in employment under the scheme for their Universal Credit claim to close. Consequently, if they do not move directly into further employment when the

placement ends, some could face avoidable delays or hardship while reapplying for Universal Credit. Under such circumstances, the regulations would be beneficial to those claimants by making such return automatic.

The Committee acknowledges that rationale and recognises the benefits of the proposed approach for participants in the scheme. Officials also explained that Jobs Guarantee participants are required to take part in the scheme and that this was an important consideration in developing the policy limited to them. However, our discussion also raised a broader question about whether the underlying issue is unique to the Jobs Guarantee Scheme. Temporary employment, fixed-term work and other forms of supported employment may give rise to similar circumstances in which claimants move into work for a period before experiencing a subsequent drop in earnings.

We are keen to understand the extent to which the Department has considered whether the current five-assessment-period rapid return framework remains appropriate more generally, rather than creating an exception for particular funded employment schemes. We recognise that the Department has sought to future-proof the regulations by extending them to similar schemes delivered under section 2 of the *Employment and Training Act 1973*. Nevertheless, it remains unclear whether the issue being addressed is, in practice, wider than this particular category of scheme.

Interaction with Right to Try

The Committee also explored the interaction between the Jobs Guarantee Scheme, Personal Independence Payment and the Right to Try arrangements. The Department explained that the Jobs Guarantee Scheme is intended to operate separately from Right to Try, but acknowledged that some claimants in receipt of Personal Independence Payment may nevertheless fall within the Intensive Work Search regime and could therefore potentially be affected by both sets of arrangements. We would welcome a more detailed explanation of how these provisions interact in practice and whether any operational or claimant-understanding issues have been identified.

The Committee would therefore welcome further information on the Department's assessment of the wider policy landscape, including whether alternative approaches were considered, the reasons why a scheme-specific extension was judged preferable to a broader amendment to the rapid return provisions, and clarification of the interaction between the Jobs Guarantee Scheme and Right to Try arrangements for affected claimants.

Interaction with Housing Benefit and supported accommodation

The Committee is grateful for the additional information provided by your team regarding the interaction between these regulations and Housing Benefit. We note the Department's assessment that only a relatively small proportion of Jobs Guarantee

participants are expected to be affected and that guidance and operational flexibilities are being considered to mitigate potential difficulties.

Nevertheless, the Committee considers this issue important because those who receive both Universal Credit and Housing Benefit are likely to include some of the more vulnerable young people participating in the scheme, including those living in temporary, supported or sheltered accommodation. The Department has recognised that automatic reclaim arrangements are not available for Housing Benefit in the same way as they are for Universal Credit. Consequently, while these regulations provide an additional safeguard for one aspect of an individual's support, some claimants may remain exposed to difficulties in re-establishing their housing support at the end of the scheme.

We are particularly concerned about the potential for unequal outcomes between claimant groups. During scrutiny, officials explained that some Housing Benefit recipients may be permitted to work fewer than the standard number of hours in order to avoid adverse consequences arising from the interaction of earnings, Housing Benefit and rent liabilities. While we recognise the pragmatic intent behind this approach, it appears to create a situation in which some participants may be less able than others to benefit fully from the opportunities afforded by the scheme, despite being amongst the very claimants the policy is intended to support. The Committee is also concerned that the complexity of these arrangements may deter participation or progression into work among the very individuals the scheme is designed to support.

The Committee notes that the rationale for these regulations is to reduce the risk of claimants experiencing a gap in support when their participation in the Jobs Guarantee Scheme ends. However, it is not immediately apparent why an equivalent concern does not arise in relation to Housing Benefit claimants facing similar risks when their participation in the scheme comes to an end. The Committee would welcome further explanation of how the Department has satisfied itself that this cohort, which may include some particularly vulnerable young people, is adequately protected from similar risks.

We would therefore welcome further information on the Department's ongoing discussions regarding Housing Benefit, including any consideration being given to whether additional safeguards, guidance or legislative changes may be required to protect affected claimants and ensure that participation in the Jobs Guarantee Scheme does not create unintended barriers or disincentives.

Operational safeguards and claim protection

Your team explained that the effectiveness of the regulations will depend upon participants in the Jobs Guarantee Scheme being correctly identified and recorded within Departmental systems. We were informed that compliance activity, staff guidance and a developing digital solution are intended to support this process and reduce the risk of administrative error.

The Committee recognises the work that has been undertaken in this area. However, the regulations are intended to protect claimants from gaps in support at a potentially vulnerable point in their transition from the scheme. That objective can only be achieved if the relevant operational processes work consistently and reliably in practice.

During our scrutiny session last week, it was acknowledged by the Department that there remains a risk that claimants could be adversely affected if markers are not applied correctly or if individuals move through the process in an unexpected way. While the likelihood of such occurrences may be low, the consequences for affected claimants could be significant.

The Committee would therefore welcome further reassurance regarding the safeguards that will be in place during implementation, including how the Department will monitor operational performance, identify errors and protect claimants where the intended automatic reclaim process does not operate as expected.

Implications for Scotland

The Committee also examined the operation of the policy in Scotland. The Department confirmed that Universal Credit remains a reserved benefit and that the regulations will apply across Great Britain. We also note the Department's explanation that the Jobs Guarantee Scheme will operate on a mandatory basis throughout Great Britain notwithstanding differences in the wider employability landscape.

The Committee nevertheless considers it important to understand how the policy will interact with devolved arrangements and existing claimant expectations, particularly where Scottish flexibilities or differing approaches to employability support may influence claimant understanding and experience. The Department has indicated that it would reflect further on some of these issues and write to the Committee.

It would be helpful if, when providing that additional material, any specific considerations identified in relation to Scottish claimants, communications and operational delivery.

Conclusion

The Committee supports the overall objective of the regulations and is content that they should proceed. The issues outlined above are intended to assist the Department in ensuring that the policy operates as effectively, fairly and consistently as possible.

We would therefore welcome a response to the points raised in this letter and look forward to continuing our constructive engagement with the Department on these matters.

In closing, I would like to warmly thank Matthew Bayliss and Jack Farnhill-Bain who stepped up at short notice to cover your unavoidable absence, and who did an excellent job in addressing the Committee's questions.

Yours sincerely,



Dr Stephen Brien
Chair, Social Security Advisory Committee

Annex D

SOCIAL SECURITY ADVISORY COMMITTEE

Jackie Oatway
Director, Fraud, Error and Debt
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

28 July 2026

Dear Jackie,

The Social Security (Miscellaneous Amendments) Regulations 2026: Pension Credit Fraud

The Committee is grateful to you and Samantha Leech for presenting the above regulations to the Social Security Advisory Committee for scrutiny at its meeting on 15 July 2026.

The provisions under consideration amend the Pension Credit recovery regime to correct a legislative omission dating from 2015. The amendment aligns the maximum deduction rate for the recovery of certain fraud-related overpayments from Pension Credit with the Department's longstanding policy intention and operational practice, under which a maximum deduction rate of 40 per cent has been applied in relevant cases. The Department confirmed that the amendment is intended to resolve an inconsistency between the legislation and the approach that has operated in practice since 2015.

The Committee has decided, under powers conferred by section 173(1)(b) of the Social Security Administration Act 1992, that it will not take these Regulations on formal reference and is content for them to proceed.

However, during the scrutiny session Committee members explored a number of issues arising from the provisions concerning deductions from Pension Credit to recover fraud-related overpayments. While we recognise that these provisions are intended to correct a legislative omission and align the relevant regulations with the Department's longstanding policy intent and operational practice, a number of wider questions emerged concerning transparency, claimant communication and the treatment of vulnerable individuals. We set these out below.

Consequences of the legislative omission

The Department has explained that the discrepancy arose because Regulation 14 of the *Social Security (Overpayments and Recovery) Regulations 2013* was not amended when the maximum recovery rate for fraud-related overpayments was increased from 25 per cent to 40 per cent in 2015. The Committee also notes that the Department's operational practice has nevertheless reflected the intended 40 per cent rate since that time.

While appreciating that this amendment is intended to bring the legislation into line with established policy rather than introduce a new recovery power, this does leave historic inconsistencies between practice and legal authority.

The Committee considers it important that the practical consequences of a situation in which the legislation and operational practice were not aligned over an extended period are fully understood, including any hardship or other impacts experienced by affected individuals.

During scrutiny, it was indicated that around 38 to 40 Pension Credit recipients currently fall within the scope of the amendment. There was less clarity, however, about the number of individuals who may have been affected historically, the extent to which deductions may have been applied at rates above those specified in the regulations as drafted, and the Department's assessment of any consequences there may have been for those individuals.

We would therefore welcome further information on the Department's assessment of the impact of the omission, including the number of individuals who may have been affected over time, the extent of any financial consequences arising from the discrepancy, and any lessons identified regarding legislative quality assurance including the alignment of legislation, policy intent and operational delivery.

Transparency and communication with affected individuals

A significant part of our discussion focused on whether individuals affected by the legislative omission should be informed of the position. The Committee considers that transparency is particularly important where an identified legislative omission has affected the basis on which decisions were taken. Even where the Department concludes that no further financial action is appropriate, individuals may reasonably expect to be informed of circumstances that affected their liabilities and the operation of the recovery process.

The Committee notes the Department's explanation that there are currently no plans to undertake a retrospective review, revisit historic deductions or issue refunds. The Committee also notes the practical difficulties that the Department identified in tracing historic cases and the risk that reopening settled matters could in some circumstances create additional confusion or hardship.

Nevertheless, we are of the firm view that the question of communication is distinct from the question of financial remedy. The Committee recognises that reasonable arguments may exist against retrospective adjustment of historic cases. However, it is less clear

why individuals who may have been affected by the discrepancy should not be informed that it occurred.

More broadly, these issues should be considered in the context of evolving expectations regarding openness, accountability and the duty of candour in public administration. The Committee considers that such principles are relevant when departments become aware of errors or omissions that may have affected citizens.

The Committee would therefore welcome further advice from the Department on what consideration it has given to notifying affected individuals of the omission and its implications. If the Department has concluded that notification is not appropriate, we would welcome an explanation of the factors that informed that decision. The Committee would also welcome an explanation of the Department's broader view of how considerations of candour and transparency should be applied when legislative errors or omissions are identified.

Safeguards for vulnerable Pension Credit recipients

The Committee was grateful for the Department's explanation that the 40 per cent rate represents a maximum deduction rate rather than a standard rate, and that existing safeguards remain available where affordability concerns arise. We also welcomed confirmation that repayment rates can be reduced and recovery activity modified where individual circumstances warrant such action.

However, we note that the individuals affected by these provisions are Pension Credit recipients and may include people who are particularly vulnerable because of age, ill-health, disability or caring responsibilities. Where recovery is pursued from individuals on low and often fixed incomes, there is a heightened risk that deductions may affect their ability to meet essential living costs or other financial commitments.

In considering the consequences of the legislative omission, members were particularly concerned to understand whether some individuals may have experienced hardship or difficulty meeting other financial commitments as a result of deductions applied during the period in question. The Committee recognises that affordability assessments and hardship provisions exist, but considers it important that appropriate safeguards are consistently applied, particularly where recovery action affects older claimants.

We would therefore welcome further information on the safeguards available to vulnerable Pension Credit recipients in this context, including how vulnerability is identified, how affordability considerations are taken into account, and what discretion is available where recovery at the maximum rate would create hardship.

Definition and classification of fraud

The Department provided a helpful explanation regarding the categories of cases treated as fraud-related overpayments for recovery purposes. The Department explained that

fraud-related overpayments may include cases involving the acceptance of an administrative penalty or an admission made during an Interview Under Caution. However, the Committee remains unclear about the evidential threshold applied in such cases.

The distinction between fraud and error is important because it affects both the recovery framework applied by the Department and the basis upon which claimants are labelled as having committed fraud. The term "fraud" carries a significance that extends beyond its use as an administrative classification. The Committee therefore considers it essential that the criteria for such classifications are clear, transparent and consistently applied.

It is the Committee's view that further clarification would be helpful. In particular, the Committee requires further clarification of the circumstances in which an overpayment is classified as fraud where there has been no prosecution or conviction.

The Committee would also welcome clarification of the Department's definition of fraud for the purposes of these provisions, including the evidential threshold applied in cases where there has been no prosecution or conviction, how fraud is distinguished from error in practice, and how the Department ensures that individuals fully understand the implications of accepting an administrative penalty or making admissions during an Interview Under Caution.

We would be grateful for an early written response addressing the issues outlined above.

Yours sincerely,



Dr Stephen Brien
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Dear Stephen,

The Social Security (Miscellaneous Amendments) Regulations 2026: Pension Credit Fraud

Thank you for your letter of 28 July 2026 regarding the Social Security (Miscellaneous Amendments) Regulations 2026 and for the Committee's consideration of these provisions.

I am grateful to the Committee for its scrutiny of the regulations and for the opportunity to respond to the points raised during the Committee's discussion.

I have considered carefully the issues raised by the Committee and respond below.

Consequences of the legislative omission

The Department has considered the impact of the omission to amend Regulation 14 of the Social Security (Overpayments and Recovery) Regulations 2013 when the maximum recovery rate for fraud-related overpayments was increased in 2015, and the extent to which individuals may have been affected over time. As indicated during scrutiny, a small number of Pension Credit customers currently fall within scope of the amendment. However, the Department is unable to establish with certainty the full number of individuals who may have been affected historically since 2015. Given the passage of time, some debts will have been repaid in full, some individuals will no longer be receiving Pension Credit, and recovery may have been completed under different circumstances than those that currently apply. As a result, historic cases cannot be readily identified and, in many instances, it is not possible to determine retrospectively how recovery was applied in individual cases.

Many individuals who may have fallen within scope of the higher maximum deduction rate will have repaid their fraud-related overpayment at a rate below 40 per cent. In addition, where repayment has been completed, it would be administratively difficult to determine with certainty which individuals had deductions applied at the maximum

rate and for what period. The Department's ability to retrospectively assess the impact on individual customers is therefore limited.

The Department's assessment is that the omission to amend Regulation 14 did not affect the underlying recoverability of the overpayments concerned. The debts were owed to the Department, and recovery action was taken against the relevant individuals. Whilst it is not possible to retrospectively assess the circumstances of every potentially affected customer, the Department has not identified evidence of systemic detriment arising specifically from the discrepancy between the legislation and operational practice. Throughout the period in question, existing safeguards remained available, including the ability for customers to contact DWP where recovery would cause financial hardship and for recovery arrangements to be reviewed having regard to individual circumstances where appropriate.

The Department has reflected on the circumstances that gave rise to the omission of Regulation 14 when the maximum recovery rate for fraud-related overpayments in 2015 and will continue to consider how legislative assurance processes can support the effective alignment of legislation, policy intent and operational delivery, particularly where changes require consequential amendments across multiple provisions.

Transparency and communication with affected individuals

The Department recognises the importance of transparency where legislative errors or omissions are identified and has carefully considered whether a retrospective exercise to notify affected individuals would be appropriate in this case.

In considering this issue, account has been taken of the Committee's views on transparency and accountability, alongside the practical implications, risks as well as any benefits of a notification exercise.

As recovery has been undertaken consistent with the Department's longstanding policy intention, and the Department considers that the underlying recoverability of the debts was unaffected, there are no plans to undertake retrospective repayment exercises, refund deductions or revisit historic recovery decisions. The amendment corrects a legislative omission rather than introducing a new policy. DWP had the power to make deductions at a higher rate to recover overpayments due to fraud; the monies recovered were owed to DWP and deducted from the correct individual, with existing affordability and hardship safeguards remaining available where appropriate.

Against that background, informing those who may have been affected since 2015 is not considered likely to provide a meaningful benefit either to the individuals concerned or to DWP. Given the practical difficulties involved and the limited benefit that notification would provide, the Department does not consider that a retrospective notification exercise would represent value for money or a proportionate use of public resources.

Many individuals who may have been affected will have repaid their fraud-related overpayment at below the maximum deduction rate of 40 per cent and, where repayment has been made in full, it would be administratively difficult to determine with certainty who repaid at the maximum rate and for what period.

Even if it were possible to identify individuals whose recoveries were made at the higher rate, contacting them would likely cause confusion. Recipients may not understand why DWP is making contact when no reimbursement or corrective action is being offered.

For the small number of individuals currently affected, the amendment will not alter the recovery of their fraud-related overpayment, as the 40 per cent provision operates as a maximum deduction rate rather than a prescribed rate.

Having considered the importance of transparency, alongside the nature of the omission, the absence of any impact on the underlying recoverability of the debts, the practical difficulties in identifying affected individuals and the likelihood that notification would create confusion without delivering a clear benefit, the conclusion reached was that a retrospective communication exercise would not be a proportionate response in this case.

Safeguards for vulnerable Pension Credit recipients

As outlined during the scrutiny session, the safeguards available to Pension Credit recipients are unchanged by this amendment. The amendment corrects a legislative omission relating to the maximum rate at which certain fraud-related overpayments may be recovered and does not alter existing arrangements for considering affordability, vulnerability or hardship.

We recognise the Committee's concern that some Pension Credit recipients may be particularly vulnerable due to age, ill health, disability, caring responsibilities or wider financial circumstances, and that some vulnerable individuals may be less likely to engage proactively with the recovery process.

To ensure customers have the opportunity to raise concerns before deductions commence, Pension Credit customers are notified in writing in advance of planned recovery action and advised to contact DWP if recovery would cause hardship or if they wish their circumstances to be considered. Customers are given notice before deductions begin providing time for customers to contact DWP before recovery starts.

Where a customer does make contact, Debt Management will work with them to understand their individual circumstances. Whilst the framework is more robust for the recovery of fraud overpayments consistent with the intent to deter individuals from future fraud, DWP can temporarily reduce or suspend recovery action depending on the circumstances. DWP can also refer individuals to the Money Advisor Network who offer free, impartial and independent money and debt advice.

While it is not possible to retrospectively assess the circumstances of every individual who may have been affected since 2015, robust safeguards have been available throughout the period with clear communications advising customers to make contact with DWP if they are experiencing hardship and the opportunity to do so before recovery action began. The amendment does not alter those protections, nor does it change the discretion available to consider individual circumstances where affordability concerns or hardship are identified.

Definition and classification of fraud

The Committee asked for clarification of the Department's definition of fraud for the purposes of these provisions.

For the purposes of overpayment recovery, the Department treats an overpayment as fraud-related where it arises as a result of a claimant knowingly misrepresenting, or knowingly failing to disclose, a material fact which affects entitlement to benefit. The distinguishing feature of fraud is therefore the presence of deliberate conduct on the part of the individual.

The term "fraud-related overpayment" is used within the Department's recovery framework to identify overpayments arising from such conduct and to determine the recovery provisions that apply. The Department recognises that the term "fraud" carries significance beyond its administrative use for recovery purposes. For that reason, classifications are based on the outcome of established investigation and decision-making processes and are not applied solely because an overpayment has arisen.

In practice, fraud-related overpayments have historically included cases resulting from a criminal conviction, the acceptance of an Administrative Penalty as an alternative to prosecution, and cases where there has been an admission after caution of deception or fraud (as set out in the Overpayment and Recovery regs at reg 14(3(a)(ii): The Social Security (Overpayments and Recovery) Regulations 2013).

This definition is applied consistently across the Department's fraud investigation and debt recovery processes and provides the basis upon which the enhanced fraud recovery provisions may apply.

The Committee requested further clarification on a number of matters relating to the definition and classification of fraud. These are addressed below:

• *the evidential threshold applied in cases* where *there has been no prosecution or conviction;*

The evidential threshold applied for Administrative Penalties (Ad Pen) is the same as for cases referred for consideration of prosecution, as set out in the Code for Crown Prosecutors (in England and Wales) and the Prosecution Code (in Scotland). To be able to offer an Administrative Penalty, all lines of enquiry must be investigated to a standard that would provide a realistic prospect of conviction. An offer of an Ad Pen as an alternative to prosecution can only be considered where there is evidence to show that the making of the overpayment was attributable to an act or omission on the part of that person; and there are grounds for instituting against them proceedings for an offence relating to the overpayment (or where no overpayment was incurred - if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person. This is because, if refused, the case should be ready to be submitted the case for prosecution.

The Code for Crown Prosecutors/Prosecution Code is referred to by investigators when making considerations on the evidential assessment and public interest test. These codes are the only evidential thresholds that exists for all benefit fraud investigations. If the conditions outlined in the codes are met, the Department can offer an Ad Pen in certain circumstances (as noted in the paragraph above) otherwise the case will be passed for prosecution through the Courts.

However, if the courts do not find the evidence sufficiently demonstrates fraud then the case is no longer considered to be fraud.

• the basis upon which acceptance of an administrative penalty or an admission during an Interview Under Caution is treated as sufficient to classify an overpayment as fraud-related;

The Police and Criminal Evidence (PACE) Act 1984 in England and Wales requires individuals, including investigators, who are responsible for investigating offences or charging offenders to comply with the appropriate provisions and its Codes of Practice.

For an overpayment to be classified as fraud and collected at the higher rate, a thorough investigation must have been conducted that meets the threshold for both the evidential test and public interest test. It also requires either a conviction through the courts or an acceptance of an Administrative Penalty. Additionally, if there is a clear admission of guilt in the Interview Under Caution (IUC) then the Department will usually refer to prosecution or offer an Ad Pen, meaning the higher recovery rate for fraud can also apply.
In 2025/26, the Department reported that 68 Administrative Penalties had been offered and accepted. An independent panel of senior regional investigators review all cases independent of the investigator and their team leader to determine if the decision to offer an Ad Pen is appropriate.

• how is fraud distinguished from error in practice;

When the Department receives a referral, the initial step of the process is to determine if the case will be investigated as fraud or considered as error. Two main factors drive this. First the Department looks at the possible overpayment value and if this is above a certain threshold it would automatically be considered for criminal investigation and considered as suspected fraud. The second factor that would warrant a case being considered for criminal investigation is if there are clear signs of fraud present from the outset, such as where somebody might be abusing a position of trust or power or where false documents are used. Where these aggravating factors are present, the case will always be routed to criminal investigation teams, irrespective of the overpayment value. If neither of these conditions are met, then cases are sent to compliance teams to conduct robust interviews to establish if there is an overpayment. If an overpayment is found, this will be classed as error.

In terms of making a clear determination that an overpayment arose from proven fraud; this can only be done where a case is successfully prosecuted in the courts.

If an individual decides to accept an Administrative Penalty as an alternative to prosecution for the offence, this is not an admission of guilt, by law, as a case can only ever be defined as fraud if there is a successful prosecution but in terms of how the overpayment can be recovered, it is at the higher rate. Although an overpayment can be established through an investigation, if it does not end in one of those outcomes it will be classified as error and recovered at the lower rate.

• how the Department ensures that individuals fully understand the implications of accepting an administrative penalty or making admissions during an Interview Under Caution;

To answer this question, the question must be split into two parts as the Interview Under Caution (IUC) and an Interview to offer an Administrative Penalty are separate interviews.

Interview Under Caution: The protocol for IUC's is set out in the PACE code of practice, Code C. When an individual is invited to attend an IUC (voluntary) they are advised that they are allowed to bring someone with them to support them. This individual could be a legal adviser, if no legal advisor is present, they are provided information on how to seek legal advice and informed they may stop the interview at any time and are free to leave at any time. At the start of the interview but before the IUC takes place, the interviewing officer must inform the interviewee of the offence they are suspected of, and the grounds and reason for the suspicion before checking their understanding and that they wish to proceed. To comply with the PACE Act 1984 in England and Wales a person suspected of committing a criminal offence must be cautioned before any questions about the offence are put to them. Once the IUC begins the official caution is given stating "You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence." The investigator must confirm with the interviewee that the information has been provided and seek their confirmation that they understand. The interviewee is also informed that the IUC is recorded and available if requested.

Administrative Penalty Interview: If after the IUC the offer of an Administrative Penalty (Ad Pen) is deemed appropriate, the individual must attend a further interview carried out by a different investigator that was not involved in the investigation. A letter and statutory notice are sent to the individual regarding this interview with a time and place and full details of what it means to accept an Ad Pen as an alternative to the possibility of prosecution. This is again explained during the interview, and the interviewee will be given a copy of the agreement to sign that contains a full description of the implications. Once signed, there is also a further 14-day cooling off period should they wish to change their mind. The interviewee is fully informed that doing so (withdrawing or not accepting) will mean they may be considered for prosecution.

For completeness, the Committee also asked during the scrutiny session whether the relevant conviction must be a fraud conviction.

Regulation 14(3)(a) of the Social Security (Overpayments and Recovery) Regulations 2013 refers to an overpayment in respect of which the liable person *"has been found guilty of an offence whether under statute or otherwise"*. The provision does not expressly specify that the conviction must be for a fraud offence or arise under a particular statute.

However, the offence must relate to the overpayment concerned and, in practice, be connected to benefit-related fraud. This is consistent with the other circumstances captured by Regulation 14, namely the acceptance of an Administrative Penalty or an admission made during an Interview Under Caution, both of which require fraud-related conduct.

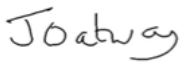
Whilst many convictions will arise under the Social Security Administration Act 1992, relevant convictions may also arise under other legislation used to prosecute benefit-related fraud, including the Fraud Act 2006. The same recovery provisions apply regardless of the legislative basis of the offence.

I hope this response provides the further clarification sought by the Committee.

I would like to thank the Committee for its consideration of these regulations and for the constructive discussion during scrutiny. The Department has reflected carefully on the issues raised and remains committed to ensuring that legislation, policy intent and operational delivery remain appropriately aligned.

We are grateful for the Committee's ongoing scrutiny and engagement.

Yours sincerely,



Jackie Oatway
Director for Fraud, Error, Debt & Housing, DWP

SOCIAL SECURITY ADVISORY COMMITTEE

Andrew Latto
Deputy Director, Devolution, Pensioners' Benefits and Carer's Allowance
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28 July 2026

Dear Andrew,

The Social Security (Miscellaneous Amendments) Regulations 2026: Republic of Ireland Mother and Baby Institutions Payment Scheme

Thank you for presenting the above regulations to the Social Security Advisory Committee for scrutiny at its meeting on 17 July 2026.

The Committee notes that the Regulations are intended to ensure that payments made under the Republic of Ireland Mother and Baby Institutions Payment Scheme are disregarded for the purposes of means-tested social security benefits. The Committee recognises that these payments form part of a programme of acknowledgement and redress for individuals who experienced significant harm and hardship, and notes the policy intention that recipients should not face a reduction in their social security entitlement as a consequence of receiving compensation intended for that purpose.

Having scrutinised the proposals and the evidence provided by the Department, the Committee is satisfied that the Regulations give effect to that stated policy intent. Accordingly, the Committee has decided, under powers conferred by section 173(1)(b) of the Social Security Administration Act 1992, not to take these Regulations on formal reference and is content for them to proceed.

However, during the scrutiny session a small number of points arose on which the Committee agreed to seek further clarification. These are set out below.

Communications and claimant awareness

The Committee considers it important that individuals receiving payments are aware both that the payment should be reported to the Department and that receipt of the payment will not affect entitlement to the relevant benefits. This is particularly important given that the disregard may need to be recognised in benefit assessments many years after the original payment was received.

The Committee observes that, unlike many compensation schemes for which disregard provisions have been introduced, this scheme originates outside the United Kingdom.

Recipients may therefore need, potentially many years after receiving an award, to demonstrate both the source and nature of the payment when engaging with the benefits system. Members considered that there is a risk that claimants, advisers or decision-makers may be less familiar with the scheme than with more established domestic compensation arrangements, increasing the importance of clear and accessible information at the point an award is made.

The Committee notes the Department's explanation that it does not generally undertake proactive communications regarding compensation payment disregards and instead relies primarily on scheme administrators and other organisations connected with the scheme to inform recipients of their position. While recognising the rationale for this approach, we consider there may be merit in exploring whether recipients could be provided with standardised information confirming the treatment of these payments for social security purposes and encouraging them to retain that information for future reference.

The Committee would therefore encourage the Department to consider whether additional communications or standardised supporting information might assist recipients in understanding the treatment of these payments and the evidence they may be required to retain for future benefit claims.

Locally administered support schemes

Our scrutiny of these Regulations also explored the interaction between the proposals and locally administered forms of support.

The Department explained that no concerns had been raised through engagement with the Local Government Association. The Committee nevertheless notes that uncertainty remains regarding the treatment of these payments within some locally administered schemes, including areas where local authorities exercise discretion.

This is important because the policy intention underpinning these Regulations could be weakened if individuals who receive a payment under the Scheme are treated differently across different forms of support. While the payment may be disregarded for the purposes of social security benefits, recipients may reasonably expect a similar approach to apply where they subsequently interact with other forms of publicly funded assistance. Inconsistent treatment could create confusion for recipients and lead to differing outcomes depending on where they live or which locally administered schemes they access. This is particularly important given the intention that these payments should provide redress to those affected, rather than creating uncertainty about entitlement to support.

The Committee would therefore welcome further clarification regarding the Department's understanding of how payments under the Scheme are expected to be treated within local support arrangements and whether any further engagement with local authorities is planned to help promote consistency and reduce the risk of confusion for recipients.

A clearer framework for compensation payment disregards

More broadly, the Committee notes that this is one of a growing number of compensation and redress schemes for which specific social security disregard provisions have been introduced. During scrutiny, officials explained that requests for compensation payment disregards continue to arise and acknowledged that the current arrangements can appear piecemeal. The Committee also noted the continuing differences between the treatment of compensation payments and personal injury payments within the social security system, including the differing approaches taken to the disregard of payments themselves and amounts derived from those payments.

While individual schemes inevitably differ in their circumstances and policy objectives, the Committee considers that a clearer and more transparent framework for considering compensation payment disregards would assist claimants, administrators and decision-makers alike, and help ensure that future decisions are taken on a coherent and principled basis. In the Committee's view, such a framework should also provide a clearer articulation of the principles that underpin distinctions between different categories of payment and explain how those principles are applied in practice.

The Committee has raised this issue, and recommended the development of a legislative framework, on several occasions in recent years. We therefore welcome the Department's ongoing work with the Cabinet Office to consider how greater consistency can be achieved in the treatment of compensation schemes. Given the increasing number of requests for bespoke disregards, we consider this work to be an important priority and would welcome updates on progress as the Department's thinking develops.

I am copying this letter to Clare Brookes, Deputy Director for Poverty and Universal Credit, given her wider responsibility for the Department's work in this area. We recognise that this is a complex area of policy and, in view of its growing importance, welcome the Department's ongoing work to develop a more coherent framework for compensation payment disregards.

Yours sincerely,



Dr Stephen Brien
Chair, Social Security Advisory Committee

Dr Stephen Brien Social Security Advisory Committee Caxton House 6-12 Tothill Street London SW1H 9NA	

04 September 2026

Dear Stephen,

The Social Security (Miscellaneous Amendments) Regulations 2026: Republic of Ireland Mother and Baby Institutions Payment Scheme

Thank you for your letter of 28 July 2026 following the Social Security Advisory Committee's scrutiny of the Social Security (Miscellaneous Amendments) Regulations 2026.

We are grateful to the Committee for its careful consideration of the regulations and for the opportunity to respond to the specific points which the Committee raised about the proposed disregard of payments made under the Republic of Ireland Mother and Baby Institutions Payment Scheme.

The Committee requested further clarification on a number of points and responses to these are set out below.

Communications and claimant awareness

The Department acknowledges the unique and very particular circumstances surrounding the Republic of Ireland Mother and Baby Institutions Payment Scheme and notes the Committee's concerns that because the scheme originates outside the United Kingdom, there may be a risk that individuals receiving payments or welfare advisers may not be fully aware that payments would not affect entitlement to the income-related benefits.

The most effective way of ensuring that compensation payments can be accurately reported, verified and disregarded in the benefit assessment is for individuals to have documentary evidence from the Scheme itself. Although the Mother and Baby Institutions Payment Scheme has been open since March 2024 and more than 500 payments have already been made to individuals in Great Britain, we agree with the Committee that there is merit in ongoing engagement with the Irish Government department responsible for administering the Scheme to consider what further information can be provided at this stage to both existing and prospective recipients of compensation payments so that the

proposed disregard can operate effectively in future – even in cases where the benefit assessment takes place many years after the compensation payment was received. The Department will discuss this issue with Irish Government officials.

In addition, the Department will engage with the Northern Ireland Executive as it starts work on the redress scheme following the passage of the Inquiry (Mother and Baby Institutions, Magdalene Laundries and Workhouses) and Redress Scheme Act (Northern Ireland) 2026. This will help ensure that appropriate communications and supporting information for recipients of the Northern Ireland scheme are considered right at the outset.

In respect of information and guidance for Decision Makers, the Department has systems in place to ensure that staff can correctly identify disregarded compensation payments as part of any benefit assessment. In line with normal practice, the Decision Makers' Guide and Advice for Decision Makers will be updated to reflect this measure and guidance will also be issued to local authority staff for the changes to Housing Benefit regulations. These will be available on Gov.uk.

The Department also publishes *A detailed guide to Pension Credit for advisers and others* on Gov.UK. This provides technical guidance about how Pension Credit is worked out, the eligibility rules and the application process, and is intended for use by professional and voluntary welfare advisers and members of the public. It contains a specific section on 'Capital disregards' as well as information about those compensation payments that are fully disregarded. This has already been updated to include payments from the Republic of Ireland's Mother and Baby Institutions Payment Scheme.

Locally administered support schemes

The Committee requested further clarification regarding the Department's understanding of how payments made under the Scheme are expected to be treated within local support schemes.

It is usual practice for the Department to inform the Ministry of Housing, Communities and Local Government (MHCLG) and the Devolved Governments of changes to Housing Benefit legislation so that they can decide whether to make corresponding changes to their Council Tax support schemes. Although the Department is not responsible for Council Tax support policy, MHCLG and the Devolved Governments normally decide to mirror the Housing Benefit regulations.

Responsibility for other locally administered provision rests with the relevant authority or administration, and arrangements may differ across England, Scotland and Wales. Decisions relating to eligibility, financial assessments and the treatment of resources within such provision are generally matters for the relevant authority or scheme operator. The Department therefore does not determine how payments made under the Scheme are treated within those arrangements.

A clearer framework for compensation payment disregards

The Department notes the Committee’s previous recommendation that a clear legislative framework should be developed for the treatment of compensation payments and social security provisions. The Department agrees, in principle, that such a framework could allow for new compensation and support schemes to be considered without necessarily requiring new legislation on every occasion where a disregard would be appropriate, particularly where schemes share common characteristics or policy objectives.

The Department also recognises that such an approach could help ensure greater clarity and a more consistent treatment of compensation payments, as well as a more streamlined and timely mechanism for responding to new schemes – so that recipients are effectively protected from any unintended effects on their benefit entitlement.

There have already been some developments in this area. In certain circumstances, it has been possible to extend existing disregard provisions to new compensation schemes without the need for further legislative amendment. This has been achieved through Ministerial agreement and HM Treasury approval of the associated expenditure where the scheme in question could be accommodated within an existing legislative category. Recent examples include the Post Office Capture Compensation Scheme and a Scottish Government compensation scheme. The Department is also considering whether a similar approach could be applied to the Post Office Family Redress Scheme. However, the Department recognises that these arrangements do not fully address the Committee's recommendation for a comprehensive legislative framework.

The Department has already undertaken some initial scoping work to explore whether legislative changes could deliver a more enduring and flexible approach. That work remains at an early stage. As discussed during the Committee meeting, there is also work taking place across government, led by the Cabinet Office, on the wider range of related issues and we are awaiting the Government's response to recommendations made by the National Audit Office concerning the future design and governance of compensation arrangements.

Depending on the outcome of that work, there may be broader cross-government mechanisms for recognising and administering future compensation schemes and the Department will update the Committee on progress and developments in this area as it continues to consider future options.

We trust this provides the further clarification which the Committee requested.

We would like to thank the Committee once again for its consideration of these regulations and for the constructive discussions on this particular measure.

Yours sincerely,

Andrew Latto

Deputy Director
Devolution, Pensioner Benefits
and Carer's Allowance

Clare Brookes

Deputy Director
Poverty and Universal Credit

SOCIAL SECURITY ADVISORY COMMITTEE

Natalie Keogh
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28 July 2026

Dear Natalie,

Proposed amendment to the Personal Independence Payment (Transitional Provisions) Regulations 2013

We were grateful to Joel Weston and Gary Godolphin for attending the Committee's meeting on 17 July to discuss the proposed amendment to the *Personal Independence Payment (Transitional Provisions) Regulations 2013* contained within the *Social Security (Miscellaneous Amendments) Regulations 2026*. The Committee found the discussion helpful and acknowledges the Department's intention to address uncertainty arising from the Upper Tribunal decisions in the *OM*[24] and *SR*[25] judgments.

However, before reaching a final decision on this aspect of the regulations, the Committee would welcome further information and assurance in a number of areas as set out below.

Policy objective

The Committee's principal concern is that, while the Department has explained the policy and legal rationale underpinning the proposed amendment, both the policy objective and the means by which the amendment is intended to achieve that objective remain insufficiently clear.

Throughout the scrutiny process, the Department has emphasised that the amendment is intended to provide clarity, restore Disability Living Allowance (DLA) where good reason is subsequently accepted, and avoid gaps in payment. While the Committee understands these as the intended outcomes of the amendment, it found less clarity regarding the underlying policy problem the Department is seeking to address and the basis on which it has concluded that the proposed amendment is the most appropriate means of achieving those outcomes.

[24] OM v Secretary of State for Work and Pensions (PIP) [2017] UKUT 458 (AAC)

[25] SR v Secretary of State for Work & Pensions (PIP) [2024] UKUT 308 (AAC)

It remains unclear to the Committee whether the amendment is primarily intended to restore an original policy intention, respond to operational concerns arising from the case law, provide a preferred policy outcome, or simply to resolve a legal ambiguity between the *OM* and *SR* judgments.

This distinction matters because the Committee's assessment of the proposed amendment necessarily depends on a clear understanding of the outcome the Department is seeking to achieve. As the Committee discussed during the scrutiny session, a clear understanding of the policy objective is necessary both to assess whether legislative amendment is required and to determine whether the proposed amendment is capable of delivering the outcome intended. Without a clearly articulated policy objective, it is difficult to assess whether the proposed drafting is proportionate, to what extent alternative approaches have been considered, or whether the amendment successfully delivers its intended outcome.

The Committee would therefore welcome a fuller explanation of:

- the policy intent of the original regulations;
- how the Department considers that intent to have been affected by the *OM* and *SR* judgments;
- the policy objective now being pursued through the proposed amendment; and
- why legislation is required in addition to, or instead of, reliance upon the existing case law.

Practical operation of the proposed amendment

During scrutiny, members explored a number of scenarios in which the timing of good reason decisions, entitlement determinations, tribunal proceedings and subsequent PIP awards could affect outcomes for claimants. The Committee was concerned that the practical effect of the amendment may vary depending on the sequence of events in an individual case, with different consequences for claimants' entitlements and overall financial position, including whether they are financially better or worse off under the proposed approach.

While the Department suggested that some of these scenarios are likely to arise only rarely, there was less certainty about how all cases would be treated under the amended framework. The Committee considers this important because much of the discussion during scrutiny centred not on the broad effect of the amendment, but on how it would operate in specific circumstances. Without a clearer understanding of how the proposed provisions are intended to operate in these circumstances, the Committee is unable to assess whether the amendment delivers the stated policy objective consistently, proportionately and fairly.

The Committee would therefore welcome a series of worked examples illustrating how the amended provisions would operate in practice. In particular, the Committee would

welcome worked examples illustrating the practical effect of the proposed amendment in a range of scenarios. These should include examples where: [26]

- DLA is stopped in January 2027, PIP at a higher rate is awarded in July 2027, DLA appeal is won December 2027.
- DLA is stopped in January 2027, PIP at a lower rate is awarded in July 2027, DLA appeal is won December 2027.
- DLA is stopped in January 2027, DLA appeal is won in July 2027, PIP at a higher rate is awarded in December 2027.
- DLA is stopped in January 2027, DLA appeal is won in July 2027, PIP at a lower rate is awarded in December 2027

For each scenario, the Committee would find it helpful if the Department could set out the claimant's overall financial position under the proposed approach, and whether any overpayments or underpayments would arise and, if so, how they would be addressed.

Claimant impacts

The Department's memorandum acknowledges that adopting the *OM* approach rather than the *SR* approach means that some claimants who ultimately receive a higher rate of PIP may not receive that higher award for the period between the negative determination and the eventual PIP entitlement decision. Officials similarly acknowledged during scrutiny that the proposed approach may result in some claimants being financially better off and others being financially worse off, depending on the facts of their case. It remains unclear whether the Department has fully assessed the scale, distribution and proportionality of those impacts under the approach now proposed.

The Committee recognises that differential outcomes could arise under any approach. Therefore, understanding the scale and distribution of those outcomes is important both in assessing the proportionality of the proposed amendment and in understanding whether particular groups of claimants may be disadvantaged relative to others. It is important that the Department itself has a clear understanding of these impacts, both to inform the policy rationale for the amendment and to ensure that any operational consequences for claimants are properly anticipated, understood and appropriately managed.

Accordingly, the Committee would welcome further analysis of claimant impacts on:

- the Department's assessment of the proportionality of those outcomes;
- the number and proportion of claimants within the pre-pause DLA-to-PIP migration exercise who failed to make a PIP claim, or to participate in the assessment process post application, within the required period and consequently had DLA entitlement terminated;
- of those claimants, the number and proportion whose DLA entitlement was subsequently reinstated following acceptance of good reason; and

[26] Assume in all cases decision to stop DLA has been challenged and that subsequently a PIP claim has been submitted.

- where available, a breakdown of those cohorts by primary disabling condition or other relevant claimant characteristics.

Clarity, consistency and legal certainty

During scrutiny, members questioned whether circumstances might remain in which tribunals, advisers or claimants could continue to rely upon differing interpretations of the legislation, particularly where questions arise regarding the interaction between the amended provisions and regulation 17(2)(b), or where procedural circumstances differ from those considered in either *OM* or *SR*. The Committee considers this important because its understanding is that the principal purpose of the amendment is to provide legal certainty following the judgments in *OM* and *SR*. The Committee therefore wishes to satisfy itself that the proposed amendment resolves existing uncertainty and does not inadvertently create scope for further ambiguity, challenge or inconsistent outcomes in future cases.

In light of these concerns, the Committee would welcome the Department's assessment of:

- whether any material ambiguity remains following the amendment;
- how the proposed drafting addresses the issues arising from both *OM* and *SR*, including the Department's assessment of the relationship between those judgments and the reasons why the proposed amendment is considered necessary;
- whether there are circumstances in which further challenge or differing interpretation might still arise; and
- how the Department has satisfied itself that the amendment fully achieves the policy outcome it is intended to deliver;
- the basis on which the Department is satisfied that the proposed amendment removes, rather than reproduces or creates, ambiguity in the operation of the legislation.

The Committee would be grateful for an early written response to the issues outlined above, and will complete its scrutiny of the regulations once it has had the opportunity to consider the additional information provided.

Yours sincerely,



Dr Stephen Brien
Chair, Social Security Advisory Committee

Department for Work & Pensions

Stephen Brien
Social Security Advisory Committee

Disability and Health Support DWP, Policy Group
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Our Ref:

13 August 2026

Proposed amendment to the Personal Independence Payment (Transitional Provisions) Regulations 2013

Dear Stephen

Thank you for your letter of 28 July 2026 regarding the proposed amendment to the Personal Independence Payment (Transitional Provisions) Regulations 2013, as set out in the draft Social Security (Miscellaneous Amendments) Regulations 2026. I was pleased to attend the scrutiny session on 17 July and am grateful to the Committee for its helpful comments and suggestions, both during the session and in its subsequent letter. We have carefully considered the issues and concerns raised by the Committee and address them in this response. The Committee may wish to note in particular that its scrutiny has been helpful in identifying opportunities to further clarify the drafting and ensure that it fully reflects the Department's intended policy outcome

Policy Objective

The Committee asked whether the proposed amendment is intended to restore the original policy intention, respond to the OM and SR judgments, deliver the Department's preferred policy outcome, or resolve a legal ambiguity. It may therefore be helpful to set out the original policy intent, the effect of OM, and the current policy objective before explaining why legislative amendment is required and outlining the further changes proposed in light of the Committee's questions and scrutiny.

This amendment addresses ambiguity in the transfer from Disability Living Allowance (DLA) to Personal Independence Payment (PIP) following two Upper Tribunal decisions. It applies to a cohort of claimants whose negative determination, made because they failed to provide requested information or attend or participate in an assessment, is later overturned by the Secretary of State at Mandatory Reconsideration or by a tribunal on the basis that good reason has been shown.

The policy intent of the original regulations

Under the original policy intention, where a negative determination was later overturned because good reason had been established, the claimant's claim for PIP proceeded to consideration and determination, but DLA was not reinstated. If PIP was subsequently awarded, PIP entitlement would begin from the day after DLA ended. The underlying policy rationale was to ensure that claimants were not disadvantaged by the period between the termination of DLA and the eventual determination of PIP entitlement following acceptance of good reason.

How the Department considers that intent to have been affected by the OM and SR judgments:

The Department considers that the original policy position behind regulations 13(2) and 17(2)(b) could no longer apply following the OM decision in 2017. The difficulty arises because OM requires the regulation 13(1) negative determination to be treated as though it had never been made and DLA to be reinstated as if entitlement had never ceased. If regulation 13(2) is then applied, it leads to the application of regulation 17(2)(b). This governs the commencement of PIP entitlement by reference to when entitlement to DLA ends. But there is no longer anything to determine when entitlement to DLA ends, because OM states that the original decision is to be treated as never having been made. That is the gap which gives rise to the current uncertainty about when DLA ends and PIP begins. The ordinary DLA run-on provisions in regulation 17(1) cannot be relied upon because it expressly states that it does not apply where regulation 13(2) applies. As a result, the regulations do not provide a coherent mechanism for determining both the end of DLA entitlement and the commencement of PIP entitlement in those circumstances.

Apart from that drafting difficulty, the Department also considers that regulation 17(2)(b) can no longer operate in the manner originally intended because the claimant has their DLA reinstated and is no longer left without disability benefit support pending determination of PIP entitlement. Once DLA has been reinstated, any subsequent award of PIP can begin only after entitlement to DLA has ended. Applying OM alongside regulation 17(2)(b) risks creating overlapping periods of entitlement because DLA is treated as having continued throughout the period while regulation 17(2)(b) directs PIP entitlement to commence from an earlier date. OM therefore fundamentally altered the context in which regulation 17(2)(b) operates. The claimant is no longer in the position that provision was originally intended to address, namely a claimant who had ceased to receive disability benefit following a negative determination.

As a result, entitlement cannot simply be backdated to the date on which good reason was accepted which was what was decided in SR. Instead, where DLA has been reinstated, PIP entitlement can commence only after DLA entitlement has ended. Under the ordinary transfer rules, this means PIP begins following the DLA run-on period after the assessment determination, rather than from the date of the good reason decision.

The policy objective now being pursued through the proposed amendment:

The Department concluded that, once DLA is reinstated following acceptance of good reason, the claimant is no longer suffering the disadvantage that regulation 17(2)(b) was originally designed to address. The claimant continues to receive disability benefit support, experiences no gap in entitlement, and remains within the ordinary transfer process pending a valid determination of PIP entitlement.

The Department considers that treating the negative determination as never having been made, and reinstating DLA, as decided in the OM case, promotes consistency and equity. The Department's policy objective is to ensure that claimants who successfully establish good reason are restored to the ordinary DLA to PIP transfer process and do not experience a gap in disability benefit entitlement arising from the determination under regulation 13(1).
Reinstatement ensures that claimants remain on an equal footing within the DLA-to-PIP transfer process by continuing to receive a disability benefit pending the PIP assessment determination. PIP entitlement can begin only from the day after DLA ends following the later PIP determination. DLA and PIP cannot be paid for the same period, which explains why regulation 17(2)(b) was drafted as it was; at the time, neither policy officials nor the drafters could have anticipated the OM decision. The Department's position is that acceptance of good reason

should remove the consequences of an incorrect procedural determination rather than create either a more advantageous or less advantageous entitlement outcome.

Why legislation is required in addition to, or instead of, reliance upon the existing case law:

The caselaw has led to an incoherence within the regulations, which only an amendment can rectify. The amendment is intended to balance the position of transfer claimants who may receive a more favourable PIP award with the interests of the transfer cohort as a whole. Relying on case law alone would not achieve the policy objective or remove the ambiguity. The Department originally considered that the amendment, as drafted, would provide consistency and clarity for all transfer claimants, regardless of the outcome of their PIP assessment. However, following the Committee's constructive scrutiny and analysis, we consider that the drafting can be further clarified to ensure that it delivers the policy intention as clearly and consistently as possible.

Practical operation of the proposed amendment

For the vast majority of the DLA to PIP transfer cohort, the amendment means that, where good reason is later accepted, DLA is reinstated from the original termination date and the claimant returns to the transfer process. Once an assessment determination is made, DLA will end from the DLA payday 28 days after that decision, and PIP will begin from the following day. This will apply in all cases, regardless of whether the claimant receives a higher or lower PIP award than their DLA award. Claimants who previously benefited from having their PIP award backdated to the negative determination date under 17(2)(b) (and thus paid from an earlier date) will therefore be paid in line with other claimants. Those awarded a lower rate of PIP will continue to receive their higher DLA entitlement until 28 days after the PIP determination date. Worked scenarios showing the differential impacts have previously been provided to the Committee and are included in annex A to this letter.

During the scrutiny session, the Department explained that regulation 17(2)(b) might still apply in limited circumstances where a good reason decision and an assessment determination were made together. Following further consideration of the Committee's helpful scrutiny, the Department now considers that the clearer legislative approach is to remove regulations 13(2) and 17(2)(b) entirely and provide for all successful good reason cases to be dealt with through regulation 13(1A). This avoids the need for separate rules for exceptional cases and ensures a consistent outcome in all cases. As requested, the Department has considered the helpful scenarios provided by the Committee at Annex B, which engage with this specific issue, and has taken them into account in developing the further proposed amendments.

The Committee's helpful scenarios demonstrate that there may be circumstances in which a good reason decision and an assessment determination arise within the same revision, appeal or other proceedings.

The Department has carefully considered those scenarios and agrees that the legislation should address them expressly. However, following further consideration, the Department has concluded that the clearest and most consistent approach is not to retain a separate provision for those cases. Instead, regulation 13(1A) will be amended so that, where good reason is accepted, the regulation 13(1) determination is treated as not having been made and entitlement to DLA is reinstated as if it had never ceased, irrespective of whether entitlement to PIP has already been determined as part of the same revision, appeal or other proceedings. In light of that amendment, regulation 13(2) is no longer required and can be removed. The consequence is that all successful good reason claimants are treated under a single legislative framework, providing a simpler and more consistent outcome regardless of the procedural route by which entitlement is determined.

How the proposed amendments will change:

The Committee's helpful scenarios and questions have provided constructive challenge on the amendment as drafted. They have prompted us to consider whether a simpler and more consistent approach would be to address all successful good reason cases through regulation 13(1A), including cases where entitlement to PIP has already been determined as part of the same proceedings.

To address the issues identified by the Committee, we will make further amendments to:
amend regulation 13(1A) to make clear that, where good reason is accepted, the regulation 13(1) determination is treated as not having been made and entitlement to DLA is reinstated as if it had never ceased, regardless of whether entitlement to PIP has already been determined as part of the same revision, appeal or other proceedings;
remove regulation 13(2), which is no longer required because those cases are addressed through regulation 13(1A);
amend regulation 17(1) to remove the reference to claimants falling within regulation 13(2);
remove regulation 17(2)(b); and
amend regulation 17(3) to remove the reference to claimants falling within regulation 13(2).

The effect of these amendments is that all successful good reason claimants will ultimately receive the same DLA run on period and PIP start date outcome, regardless of the route by which entitlement is determined. This will resolve the ambiguity in the existing regulations by ensuring that all successful good reason cases, including those where entitlement to PIP has already been determined as part of the same revision, appeal or other proceedings, are treated under a single legislative framework.

The Department considers that these further amendments will reduce differing outcomes for comparable claimants based on how or when entitlement is determined, remove further ambiguity between OM and SR, and deliver a consistent outcome for all claimants who successfully establish good reason.

Claimant impacts

The Department is committed to ensuring that claimants receive the correct outcome and that the claims process includes safeguards to identify and respond to vulnerabilities. It has already considered the equality impacts on protected characteristics through the Equality Impact Assessment (EIA) previously provided. The Department is grateful for the opportunity to review that assessment further. In response to the Committee's questions regarding claimant impacts, proportionality and the scale of the affected cohorts, the Department has undertaken additional analysis, including consideration of the Full PIP Rollout (FPR) cohort

Pre-pause FPR impacts

The original EIA relied on current data and therefore could not show historical impacts for the FPR cohort: adults who were receiving DLA on 8 April 2013 and were invited to claim PIP. As the process has been paused since the COVID-19 pandemic, any available data would now be out of date and was not included. The EIA also needed to demonstrate the impacts on the ‘rising 16s’ cohort. The Committee asked about the scale and characteristics of affected claimants in the pre-pause FPR cohort. To respond to those questions and understand the full impacts, we have carried out further analysis.

We have undertaken high-level analysis of FPR claimants with a PIP decision in 2018 and 2019. As with the original EIA, the analysis identifies only the number of negative determinations; it does not show how many claimants subsequently established good reason and later made a successful PIP claim. The analysis indicates that this cohort historically had a higher rate of failure to provide information or attend an assessment, at around 6% compared with the 3% identified in the EIA (again we are unable to show how many later went on to demonstrate good reason). This information is included at Annex C. To assist the Committee further, I will also include in the body of the email the EIA completed for the forthcoming FPR test. I respectfully ask the Committee not to publish that EIA.

A brief comparison of this analysis with the EIA shows that 16–24-year-olds were most likely to receive a negative determination. This will no longer apply to the FPR cohort because, due to the passage of time since the pause, no claimants remain in that age group. However, the EIA remains accurate in stating that rising 16s are likely to be most affected by this policy, as the adult DLA caseload is finite.

The current FPR caseload contains slightly more males than females, and analysis of 2018/19 data suggests that males were more likely to receive a negative determination. By contrast, the EIA, which took account of the DLA child caseload, showed a more even split.

Finally, personality disorders remain among the most affected conditions, while hyperkinetic syndrome also appears in the data. However, hyperkinetic syndrome accounts for only 0.6% of the current FPR caseload. The Department has considered these characteristics when assessing the policy's impact and proportionality. Taking these findings together with the wider EIA, the Department remains satisfied that the policy approach is proportionate to its intended objective.

We cannot provide data on the number of claimants who were invited to claim PIP but did not respond. Those claimants are not affected by this policy, as the regulations address good reason only where a negative determination has been made because a claimant failed to engage with the process after making a PIP claim.

Data on cases subsequently awarded after good reason shown

As noted above, the analysis shows only the initial negative determinations and does not identify claimants who were later awarded PIP after establishing good reason. This is because the available data does not allow analysts to identify and track claims through the full PIP customer journey in this way. Doing so would require colleagues to manually review each case on the system to determine whether good reason had been established and to confirm the outcome of the claim.

However, the Department carried out limited high-level analysis of DLA-to-PIP transition cases between September 2024 and October 2025 where a negative determination had been made on this basis. A random sample of 370 cases from that scan was reviewed to assess whether good reason was later established, whether claimants subsequently made a successful PIP claim, and whether they were better off under PIP than DLA.

In that sample, 14 cases would benefit under SR, with a further 11 cases potentially better off. To ensure claimant impacts are fully reflected, those 11 potential cases have been treated as receiving more under PIP than DLA. On that basis, the Department estimates that approximately 38 negative determination cases each month, where good reason is established, involve claimants receiving more under PIP than DLA. The sample does not include FPR cases. Although the analysis is not statistically valid, the age, sex and main disability condition of these 25 cases are set out at Annex D.

Proportionality of claimant impacts

The Department has considered the equality and claimant impacts of the additional FPRspecific information alongside the analysis in the original EIA. The Department asks the Committee to note that both OM and SR were FPR cases, so it is appropriate that the impacts on this group have now been considered. However, the Department's view is that lessons have been learned from FPR and that, since the OM and SR decisions, further steps have been added to the transfer process to safeguard vulnerable claimants. We refer the Committee to the EIA for the FPR test, which sets out the additional safeguards intended to significantly reduce adverse impacts.

We acknowledge that not adopting SR may mean some claimants who receive a higher award
PIP than their original DLA award may lose out for the period of the transition period (i.e. from the date of the negative determination decision to the final PIP decision). The Department considers this approach proportionate because it maintains continuity of support through DLA reinstatement, ensures equal treatment across the transfer cohort, and prevents entitlement outcomes from depending on the procedural route by which good reason is established.

Clarity, consistency and legal certainty – why legislation is required

I am grateful to the Committee for its scrutiny of the proposed amendment. The Committee's questions and observations have been helpful in identifying opportunities to clarify the drafting and further strengthen the legislative framework.

Whether any material ambiguity remains following the amendment:

The Department considers that the amendment to regulation 13(1A), together with the removal of regulation 13(2) and regulation 17(2)(b), will remove ambiguity and clarify the position in DLA-to-PIP transfer cases where good reason is established.

How the proposed drafting addresses the issues arising from both OM and SR, including the Department's assessment of the relationship between those judgments and the reasons why the proposed amendment is considered necessary:

It is the Department's position that OM and SR take different approaches to the relationship between regulations 13 and 17, producing different outcomes in materially similar cases. Legislative amendment is therefore required to provide certainty.

However, we acknowledge the Committee's points and will make further drafting amendments to ensure that the legislation more clearly reflects the Department's intended policy outcome. In particular, the amendments are intended to provide a consistent DLA run on period and PIP start date for all successful good reason claimants, including cases where the good reason decision and assessment determination arise within the same revision, appeal or other proceedings.

Whether there are circumstances in which further challenge or differing interpretation might still arise:

The Department recognises that it is not possible to anticipate or legislate for every future scenario. However, we consider that the further amendments now proposed simplify the legislative framework by bringing all successful good reason cases within a single set of provisions. This reduces the scope for differing interpretations, lowers the risk of new ambiguity arising, and improves clarity, consistency and legal certainty.

How the Department has satisfied itself that the amendment fully achieves the policy outcome it is intended to deliver:

The Department considers that the proposed amendment, together with the further changes arising from the Committee's questions and analysis, resolves the ambiguity between the two decisions. It does so by confirming that the original negative determination falls away as though it had never been made and that DLA is reinstated. Regulation 13(1A), as amended, addresses all cases where good reason is subsequently accepted, including cases where entitlement to PIP has already been determined as part of the same revision, appeal or other proceedings. Consequently, regulation 13(2) is no longer required and can be removed. The effect is that all successful good reason claimants will ultimately be subject to the same DLA run on period and PIP start date rules, regardless of the route by which entitlement is determined. We hope the worked examples provided in response to the issues raised in the Committee's letter reassure the Committee that such cases are likely to be exceptional.

The basis on which the Department is satisfied that the proposed amendment removes, rather than reproduces or creates, ambiguity in the operation of the legislation

Following the Committee's helpful and constructive contributions, the Department is satisfied that the amendment now reduces the scope for differing interpretations and provides a significantly clearer framework than the current regulations. It gives transfer claimants greater clarity and financial security, while supporting claimants, decision makers and tribunals throughout the transfer process. In essence, the policy is intended to ensure equal treatment and consistent outcomes for all claimants who later establish good reason. This reflects the Department's policy objective that, so far as possible, claimants should be restored to the position they would have been in had the negative determination never occurred.

Yours sincerely,

Natalie Keogh
Deputy Director, Disability and Health Support, DWP
Annex A: Worked scenarios previously provided to the Committee:

Scenario1: PIP award higher than DLA Award:
Claimant in receipt of lowest rate DLA Care only
21/04/25 – Makes claim to PIP as needs increased
22/05/25 – booked face to face assessment which claimant fails to attend (FTA)

02/06/25 Negative determination made on PIP as FTA. Decision to end DLA 14 days later with effect from 18/06/25
23/06/25 – claimant requests Mandatory Reconsideration (MR)
18/07/25 – decision upheld
10/08/25 – claimant lodges appeal with HMCTS
29/01/26 – appeal held and Good Reason found
10/02/26 – appeal actioned by DWP and claimant put back on PIP journey and DLA reinstated as the negative determination is treated as not having been made. DLA is therefore reinstated as if it had never terminated, arrears are paid for the period 18/06/25 to 10/02/26 and DLA continues in payment thereafter until the PIP award is made.
04/03/26 – claimant attends new assessment
24/03/26 – PIP assessment decision made to award Enhanced DL and Enhanced Mobility. In accordance with regulation 17 DLA ends following the 28-day run-on period from the first DLA payday after the assessment determination, with PIP starting on the following day, so in this scenario DLA ends from 21/04/26 and PIP begins 22/04/26. PIP award (at 2026 rates) £114.60 DL and £80.00 Mobility. Paid DLA of £30.30 so a weekly difference of +£164.30.
Scenario 2: PIP award lower than DLA Award:
Claimant in receipt of the highest rate of DLA Child care and the highest rate of mobility. Claimant invited to claim PIP after turning 16.
14/10/25 – claimant makes claim to PIP
18/12/25 – claimant fails to attend telephony assessment
30/12/25 – negative determination made and PIP claim closed. DLA ends with effect from 14/01/26
08/01/26 – MR request received
28/01/26 – Good reason accepted at MR stage. Claimant put back on PIP journey. Following acceptance of good reason at MR, the negative determination is treated as not having been made under the OM interpretation. DLA is therefore reinstated as if it had never terminated, arrears are paid, and DLA continues in payment until PIP award is made. DLA is reinstated at previous rates and arrears paid for period 14/01/26-28/01/26
24/02/26 – claimant attends telephony assessment
17/03/26 – PIP assessment decision made and claimant entitled to Standard DL and Standard Mobility. In accordance with regulation 17 DLA ends following the 28-day run-on period from the first DLA payday after the assessment determination, with PIP starting on the following day. In this scenario DLA ends with effect from 15/04/26 and PIP begins 16/04/26. At 2026 rates weekly financial difference between PIP and DLA rates is -£80.60
Scenario 3: Not entitled to PIP
Claimant in receipt of DLA at the lowest rate of care and highest rate of mobility
22/04/25 – makes a claim to PIP as reports a change in circumstances. PIP2 issued
20/05/25 – PIP2 reminder letter issued as PIP2 not returned in timescale
04/06/25 Negative determination made to close PIP claim as failed to return the PIP2 form. DLA ends payday following 14 days after so 18/06/25

06/07/25 – MR requested and good reason shown. Claimant put back on PIP journey and PIP2 issued. DLA reinstated at previous rates
04/08/25 – PIP2 reminder letter issued
18/08/25 – negative determination made as failed to supply PIP2. DLA ends with effect from 03/09/25 (the payday following 14 days). The claimant did not lose DLA because of the first negative determination was treated as not made. DLA was restored and remained payable from 18/06/25 until the second negative determination eventually took effect on 03/09/25. Monetary difference at 2025 rates -£150.95

Annex B: Worked scenarios provided by the Committee

Scenario 1:
Claimant in receipt of middle rate care of £73.90 and lower rate mobility of £29.20 per week totalling £103.10 per week.
23/12/25 - negative determination for failing to attend made and DLA ends with effect from 07.01.26.
23/01/26 - mandatory reconsideration requested.
09/02/26 - claimant makes a new claim to PIP. This claim is not treated as a transfer claim as the DLA and previous PIP claim have ended.
08/07/26 - assessment decision to award PIP at the enhanced rate of both the daily living and mobility components backdated to 09.02.26.
09/12/26 - FTT find good cause and the negative determination made on 23.12.25 is treated as never being made. As the assessment determination was made on 08.07.26 and PIP was awarded with effect from 09.02.26 the FTT can only consider the period 07.1.26-08.02.26.
The disposal of the case would depend on the facts and that the tribunal is bound by section 12(8)(b)(b) of the Social Security Act 1998 which states a tribunal "shall not take into account any circumstances not obtaining at the time when the decision appealed against was made'. However, it is conceivable that the FTT can make both the good reason and assessment determination in this case. Following the further amendments now proposed, the claimant would fall within amended regulation 13(1A). The negative determination would therefore be treated as not having been made and entitlement to DLA would be reinstated as if it had never ceased. This will result in a financial difference of + £84.35 per week in comparison to their DLA award (payment of which ended in January so the claimant has not had the benefit of the DLA reinstatement).

Scenario 2:
Claimant in receipt of the highest rate of care at £110.40 and the higher rate mobility of £77.05 per week totalling £187.45 per week.
23/12/25 - negative determination for failing to attend and DLA ends with effect from
07.01.26.
23/01/26 - mandatory reconsideration requested
09/02/26 - makes a new claim to PIP. This claim is not treated as a transfer claim as the DLA and previous PIP claim have ended.
08/07/26 - an assessment decision is made to award PIP at the standard rate of both the daily living and mobility components backdated to 09.02.26.
09/12/26 FTT find good cause and the negative determination made on 23.12.25 is treated as never being made. As the assessment determination was made on 08.07.26 and PIP was awarded with effect from 09.02.26 the FTT can only consider the period 07.1.26-08.02.26.
The disposal of the case would depend on the facts and that the tribunal is bound by section 12(8)(b)(b) of the Social Security Act 1998 which states a tribunal "shall not take into account any circumstances not obtaining at the time when the decision appealed against was made'. However, it is conceivable that the FTT can make both the good reason and assessment determination in this case. Following the further amendments now proposed, the claimant would fall within amended regulation 13(1A). The negative determination would therefore be treated as not having been made and entitlement to DLA would be reinstated as if it had never ceased. This will result in a financial difference of -£84.35 per week in comparison to their DLA award (payment of which ended in January so the claimant has not had the benefit of the DLA reinstatement).

Scenario 3:
Claimant in receipt of middle rate care of £73.90 and lower rate mobility of £29.20 per week totalling £103.10 per week.
23/12/25 - negative determination for failing to attend and DLA ends with effect from
07.01.26.
23/01/16 - mandatory reconsideration requested.
09/02/26 makes a new claim to PIP. This claim is not treated as a transfer claim as the DLA and previous PIP claim have ended.

23.07.26 - the FTT find good cause and the negative determination made on 23.12.25 is treated as never being made. Under amended regulation 13(1A), the negative determination is treated as not having been made and DLA is reinstated from 07.01.26 as if entitlement had never ceased. The claimant is therefore returned to the ordinary DLA-PIP transfer process. There is not enough evidence to make the assessment decision.
09/11/26 - assessment determination on the DLA transfer claim made and PIP awarded at the enhanced rate of both the daily living and mobility components. DLA ends with effect 08.12.26 and PIP awarded from 09.12.26.
22/12/26 an assessment decision is made on the subsequent claim to award PIP at the enhanced rate of both the daily living and mobility components.
The subsequent claim does not alter the effect of the good-reason decision. Following acceptance of good reason, the negative determination is treated as not having been made and the claimant returns to the ordinary DLA to PIP transfer process. DLA is reinstated from08/01/26 and continues until the DLA run-on period ends following the assessment determination on the revived transfer claim. PIP then begins on the following day in accordance with regulation 17(2).
Scenario 4:
Claimant in receipt of the highest rate of care at £110.40 and the higher rate mobility of £77.05 per week totalling £187.45 per week.
23/12/25 - negative determination for failing to attend and DLA ends with effect from
07.01.26.
23/01/26 - mandatory reconsideration requested
09/02/26 - new claim to PIP. This claim is not treated as a transfer claim as the DLA and previous PIP claim have ended.
23.07.26 - the FTT find good cause and the negative determination made on 23.12.25 is treated as never being made. Under amended regulation 13(1A), the negative determina-

tion is treated as not having been made and DLA is reinstated from 07.01.26 as if entitlement had never ceased. The claimant is therefore returned to the ordinary DLA-PIP transfer process. There is not enough evidence to make the assessment decision.
09/11/26 - assessment determination on the DLA transfer claim is made and PIP awarded at the standard rate of both the daily living and mobility components. DLA ends with effect 08.12.26 and PIP awarded from 09.12.26.
22/12/26 - assessment decision is made on the subsequent claim to award PIP at the standard rate of both the daily living and mobility components.
The subsequent claim does not alter the effect of the good-reason decision. Following acceptance of good reason, the negative determination is treated as not having been made and the claimant returns to the ordinary DLA to PIP transfer process. DLA is reinstated from 08/01/26 and continues until the DLA run-on period ends following the assessment determination on the revived transfer claim. PIP then begins on the following day in accordance with regulation 17(2).

Annex C: Characteristic Analysis of Full PIP Rollout Claimants
This analysis looks at DLA to PIP claimants that were invited to claim PIP as part of Full PIP Rollout (FPR) who received a PIP decision between 2018 and 2019. Only those claimants who have received a PIP decision are included, therefore, claimants who were invited but did not apply to PIP are not included. A negative determination is defined as a disallowance due to failing to attend the assessment or not returning the part 2 PIP form within the time limit. Breakdowns by age, sex and DLA main disabling condition are provided.

Age
Table 1 – Impacts on FPR DLA to PIP Inflows by age (%)

Age Group	Proportion of FPR claimants with a negative determination	Proportion of FPR negative determinations	Proportion of FPR claimants
16-24	10%	5%	4%
25-34	9%	16%	12%
35-49	7%	25%	21%
50-64	5%	39%	45%
65-74	5%	15%	19%
Total	6%	100%	100%

Table 2 – Impacts on FPR DLA to PIP Inflows by age (volumes)

Age Group	Number of FPR claimants with no negative determination	Number of FPR claimants with a negative determination	Total
16-24	13,540	1,460	14,990
25-34	45,100	4,340	49,440
35-49	82,800	6,580	89,380

50-64	180,300	10,360	190,650
65-74	78,280	4,010	82,280
Total	400,010	26,740	426,750

Figures rounded to the nearest 10.

Younger FPR claimants were more likely to receive a negative determination than older FPR claimants with 10% of those aged 16-24 receiving a negative determination compared to 5% of those aged 65-74.

Sex

Table 3 – Impacts on FPR DLA to PIP Inflows by sex (%)

Sex	Proportion of FPR claimants with a negative determination	Proportion of FPR negative determinations	Proportion of FPR claimants
Female	5%	44%	51%
Male	7%	56%	49%
Total	6%	100%	100%

Table 4 – Impacts on FPR DLA to PIP Inflows by sex (volumes)

Sex	Number of FPR claimants with no negative determination	Number of FPR claimants with a negative determination	Total
Female	203,820	11,830	215,650
Male	196,190	14,910	211,100
Total	400,020	26,740	426,750

Figures rounded to the nearest 10.

Males FPR claimants were slightly more likely to have a negative determination than females (7% compared to 5% respectively).

Main Disabling Condition

Table 5 – Impacts on FPR DLA to PIP Inflows by DLA main disabling condition (%)

Main disabling condition	Proportion of FPR claimants with a negative determination	Proportion of FPR negative determinations	Proportion of FPR claimants
AIDS	8%	0%	0%
Alcohol and Drug Abuse	11%	1%	1%
Arthritis	5%	11%	13%
Asthma	5%	1%	1%
Back Pain - Other / Precise Diagnosis not specified	5%	4%	5%
Behavioral Disorder	10%	1%	1%
Blindness	5%	2%	3%
Blood Disorders	11%	0%	0%
Bowel and Stomach Disease	6%	0%	0%
Cerebrovascular Disease	5%	2%	3%
Chest Disease	3%	1%	2%
Chronic Pain Syndromes	7%	2%	2%
Cognitive Disorder - Other / Precise Diagnosis Not Specified	9%	0%	0%
Cystic Fibrosis	8%	0%	0%
Deaf/Blind	2%	0%	0%
Deafness	5%	1%	2%
Dementia	8%	0%	0%
Diabetes Mellitus	6%	1%	1%
Disease Of The Muscles, Bones or Joints	6%	5%	6%
Double Amputee	1%	0%	0%
Epilepsy	7%	3%	3%
Frailty	4%	0%	0%
Haemodialysis	6%	0%	0%
Haemophilia	6%	0%	0%
Heart Disease	4%	1%	2%
Hyperkinetic Syndrome	15%	1%	0%
Infectious Diseases - Other / Precise Diagnosis Not Specified	3%	0%	0%
Infectious Diseases: Bacterial Disease - Precise Diagnosis Not Specified	0%	0%	0%

Infectious Diseases: Bacterial Disease - Tuberculosis	7%	0%	0%
Infectious Diseases: Viral Disease - Precise Diagnosis Not Specified	8%	0%	0%
Inflammatory Bowel Disease	5%	0%	0%
Learning Difficulties	8%	20%	15%
Major Trauma Other Than Traumatic Paraplegia/Tetraplegia	7%	1%	1%
Malignant Disease	5%	1%	1%
Metabolic Disease	5%	0%	0%
Motor Neurone Disease	4%	0%	0%
Multi System Disorders	4%	0%	0%
Multiple Allergy Syndrome	2%	0%	0%
Multiple Sclerosis	3%	2%	3%
Neurological Diseases	5%	4%	5%
Parkinsons Disease	4%	0%	0%
Peripheral Vascular Disease	4%	0%	0%
Personality Disorder	16%	2%	1%
Psychoneurosis	8%	7%	5%
Psychosis	9%	15%	10%
Renal Disorders	5%	0%	0%
Severely Mentally Impaired	5%	1%	1%
Skin Disease	7%	0%	0%
Spondylosis	3%	1%	2%
Terminally Ill	0%	0%	0%
Total Parenteral Nutrition	0%	0%	0%
Trauma to Limbs	7%	2%	2%
Traumatic Paraplegia/Tetraplegia	3%	0%	1%
Unknown / Transfer from AA	4%	3%	4%
Total	6%	100%	100%

Table 6 – Impacts on FPR DLA to PIP Inflows by DLA main disabling condition (volumes)

Main disabling condition	Number of FPR claimants with no negative determination	Number of FPR claimants with a negative determination	Total
AIDS	1,380	120	1,500
Alcohol and Drug Abuse	2,450	290	2,750

Arthritis	53,270	2,940	56,210
Asthma	2,990	160	3,150
Back Pain - Other / Precise Diagnosis not specified	21,500	1,050	22,550
Behavioral Disorder	2,830	330	3,150
Blindness	11,760	620	12,380
Blood Disorders	660	80	740
Bowel and Stomach Disease	1,440	90	1,530
Cerebrovascular Disease	11,950	610	12,560
Chest Disease	8,350	280	8,630
Chronic Pain Syndromes	6,590	480	7,070
Cognitive Disorder - Other / Precise Diagnosis Not Specified	300	30	330
Cystic Fibrosis	800	70	870
Deaf/Blind	130	0	130
Deafness	6,980	380	7,350
Dementia	980	80	1,060
Diabetes Mellitus	3,710	240	3,950
Disease Of The Muscles, Bones or Joints	24,830	1,450	26,280
Double Amputee	180	0	180
Epilepsy	10,030	720	10,750
Frailty	50	0	50
Haemodialysis	90	10	100
Haemophilia	200	10	210
Heart Disease	8,280	320	8,600
Hyperkinetic Syndrome	1,450	260	1,720
Infectious Diseases - Other / Precise Diagnosis Not Specified	60	0	60
Infectious Diseases: Bacterial Disease - Precise Diagnosis Not Specified	0	0	0
Infectious Diseases: Bacterial Disease - Tuberculosis	40	0	40
Infectious Diseases: Viral Disease - Precise Diagnosis Not Specified	10	0	10
Inflammatory Bowel Disease	1,140	60	1,200
Learning Difficulties	60,180	5,310	65,490
Major Trauma Other Than Traumatic Paraplegia/Tetraplegia	3,940	320	4,260

Malignant Disease	3,940	200	4,140
Metabolic Disease	1,870	110	1,980
Motor Neurone Disease	250	10	260
Multi System Disorders	1,970	70	2,050
Multiple Allergy Syndrome	60	0	60
Multiple Sclerosis	13,590	420	14,010
Neurological Diseases	21,500	1,060	22,570
Parkinsons Disease	1,790	70	1,860
Peripheral Vascular Disease	1,930	90	2,020
Personality Disorder	2,830	550	3,380
Psychoneurosis	21,400	1,850	23,250
Psychosis	38,320	3,930	42,250
Renal Disorders	1,490	80	1,570
Severely Mentally Impaired	4,400	230	4,630
Skin Disease	1,200	90	1,290
Spondylosis	8,990	310	9,300
Terminally Ill	20	0	20
Total Parenteral Nutrition	20	0	20
Trauma to Limbs	7,220	530	7,750
Traumatic Paraplegia/Tetraplegia	2,300	80	2,370
Unknown / Transfer from AA	16,270	760	17,020
Total	399,890	26,740	426,630

Figures rounded to the nearest 10.

Across main disabling conditions, the likelihood of an FPR claimant having a negative determination varies. Personality disorders and Hyperkinetic are most likely to have a negative determination at 16% and 15% respectively.

Annex D: Age, sex and conditions of 25 SR type cases:

Gender	Volume	Percentage
Female	16	64%
Male	9	36%
Total	25	100%

Age	Volume	Percentage
16 – 24	19	76%
25 – 34	0	0
35 – 44	1	4%
45 – 54	4	16%

55 – 65	0	
66 – 78	1	4%
Total	25	100%

Main Disability	Volume	Percentage
Autism	8	32%
ADHD / ADD	4	16%
Learning disability	4	16%
Anxiety and depressive disorders	2	8%
Cerebral palsy	2	8%
Bacterial diseases	1	4%
Bipolar affective disorder	1	4%
Head injury - Cognitive impairment	1	4%
Post traumatic stress disorder (PTSD)	1	4%
Psychotic disorders	1	4%
Total	25	100%

SOCIAL SECURITY ADVISORY COMMITTEE

The Rt Hon Sir Stephen Timms MP
Minister for Social Security and Disability
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

7 September 2026

Dear Minister,

Proposed amendment to the Personal Independence Payment (Transitional Provisions) Regulations 2013

We were grateful to Joel Weston and Gary Godolphin for presenting the above regulations to the Social Security Advisory Committee at its meeting on 15 July, and for the further material provided subsequently at the Committee's request.

These Regulations clarify the position for a specific group of Disability Living Allowance (DLA) claimants whose transfer to Personal Independence Payment (PIP) has been interrupted following a determination that they failed to comply with the assessment process, but who are subsequently found to have had good reason for that failure. Following the Upper Tribunal decisions in *OM* and *SR*, questions have arisen about the entitlement consequences where such a determination is overturned and the transfer process restored.[27] The Regulations seek to clarify how entitlement should operate in those circumstances.

Your officials have confirmed that the policy intent is that financial entitlement should flow from the substantive assessment of need, not from procedural events arising during the process of establishing that need. Therefore, a claimant's financial outcome should ultimately depend on their assessed entitlement rather than procedural disputes, or the timing of decisions. Where entitlement remains uncertain, the system should preserve the claimant's existing lawful entitlement until replacement entitlement has been established.

Hence, the procedural finding of "good reason" should restore the claimant to the transfer process but should not itself determine substantive entitlement to PIP.

[27] OM v Secretary of State for Work and Pensions (PIP) [2017] UKUT 458 (AAC) and SR v Secretary of State for Work and Pensions (PIP) [2024] UKUT 308 (AAC).

Where a transfer process breaks down and is subsequently restored, the claimant should return to their pre-transfer position and continue through a single transfer framework from that point. As a result, DLA should remain payable pending a valid determination of PIP entitlement.

In *OM*, the Upper Tribunal held that, where a claimant is later found to have had good reason, the negative determination may be set aside and treated as if it had not been made. The termination of DLA therefore falls away and DLA is reinstated.

In *SR*, it was held that in the circumstances of the case regulations 13(2) and 17(2)(b) operated so that PIP entitlement ran from the date DLA originally terminated, even though good reason had subsequently been accepted. The application of regulation 17(2)(b) therefore had the effect of enabling a claimant ultimately awarded a higher rate of PIP to receive arrears from the original termination date.

Your officials have explained that, while the *SR* determination produces a legally valid outcome under the current Regulations, the Department considers that it does not best reflect the underlying policy principle that substantive need, rather than procedural history, should determine financial entitlement. The Department also considers that applying the reasoning in *OM* alongside the outcome in *SR* could create overlapping entitlement to DLA and PIP for the same period. Your officials explained that this would be inconsistent with the intended operation of the transfer framework and difficult to administer because existing systems, guidance and processes were not designed to support such an outcome.

The existing regulations, as currently drafted, would allow the uncertainty to continue and increase the risk of further Tribunal interpretation. Consequently, the proposed amendments have been brought forward as a proportionate way to resolve the ambiguity in legislation, which officials explained could not have been addressed through guidance alone. Your officials have presented the proposed amendments as providing a clear and consistent framework, reducing the risk of further legal challenge and giving greater certainty to claimants and decision makers.

Following careful consideration of the proposals and the evidence presented, I can confirm that the Committee has decided that it does not intend to take these Regulations on formal reference.[28]

In doing so, I acknowledge the significant engagement of your officials throughout this scrutiny process and welcome the further explanation provided regarding the Department's policy intent, the rationale for the amendments and the desire to provide a clearer and more coherent legislative framework.

Nevertheless, members identified a number of issues on which further clarification and assurance would be helpful.

The relationship between delay and entitlement outcomes

[28] **Under the powers conferred by section 173(1)(b) of the Social Security Administration Act 1992.**

The Committee recognises the Department's view that acceptance of good reason should restore claimants to the ordinary transfer process rather than generate a different entitlement outcome. It also notes the Department's explanation that restoring and backdating DLA is intended to remedy the effect of the earlier incorrect decision, placing affected claimants on the same footing as other transfer claimants within a consistent transfer framework. The Committee would, however, welcome further clarification regarding the financial consequences of the revised approach.

The Committee considers it particularly important that there is a broader understanding of when delays in the transfer process should, or should not, result in backdated entitlement, particularly where delays in reaching a valid entitlement decision can reasonably be linked to an error on the part of the Department. This issue is significant because some claimants who are ultimately awarded a higher rate of PIP may receive less overall financial support than would be available under the current Regulations as interpreted in *SR*, despite having already experienced an interruption to their transfer process as a result of an incorrect decision subsequently overturned.

The Committee would welcome a fuller explanation of where the Department considers the appropriate boundary lies between delays that form part of the ordinary transfer process and delays attributable, wholly or in part, to a decision that is subsequently overturned. In particular, we would like assurance that the resulting financial outcomes are consistent with the Department’s objective of removing the consequences of an incorrect procedural decision and restoring affected claimants, so far as possible, to the position they would otherwise have been in.

Potential differential impacts on affected claimant groups

The Committee would welcome further clarity on the extent to which the implications of the revised proposal have been considered for groups who may be disproportionately represented amongst claimants later found to have had good reason for failing to comply with assessment requirements. This issue is of particular importance because the affected cohort may include individuals with autism, ADHD, learning disabilities, psychosis, cognitive impairments, arthritis, or other conditions that can make engagement with administrative processes more difficult.

Against this background, the Committee would welcome assurance regarding any Equality Impact Assessment, or other equality analysis, undertaken in relation to the revised proposal, including the removal of the outcome currently available under the *SR* interpretation, together with a summary of the evidence considered, the conclusions reached, and how those findings informed the Department’s assessment of the impact on affected groups.

Consistent operation of the amended framework

During the scrutiny process, the Committee noted the complexity of the interaction between the *OM* and *SR* decisions and the amended Regulations. Members were concerned that a lack of clarity regarding that interaction could result in inconsistent understanding and application by decision makers, advisers and claimants, creating uncertainty about entitlement outcomes and increasing the potential for future dispute. Against this background, the Committee considers it particularly important that the Department provides clear guidance on how the amended Regulations are intended to operate alongside the relevant case law. In promoting consistent understanding and application by decision makers, advisers and claimants, the scope for future uncertainty or dispute may be reduced.

We would therefore welcome assurance that guidance and operational materials will clearly explain the effect of the amendments, including the Department's interpretation of the two decisions and illustrative examples where appropriate.

Wider application of the underlying principle

During its scrutiny, the Committee considered the broader question of how the principle that substantive entitlement should not be determined by procedural events is applied across the social security system, particularly where an adverse procedural decision is subsequently overturned. The Committee appreciated the constructive discussions with officials regarding the principles underpinning the proposed amendments and how those principles informed the Department's preferred policy approach.

While recognising that this issue extends beyond the scope of the present Regulations, the Committee recommends that the Department considers how this principle is applied across comparable parts of the benefits system and reflects on whether any lessons can be drawn from those arrangements. The Committee would welcome further engagement with the Department on this issue in due course.

I would be grateful for your response on the matters raised above concerning entitlement outcomes, differential impacts and implementation. We would also welcome the opportunity for further engagement with officials in due course on the recommendation set out above regarding the wider application of the underlying principle across the social security system.

Thank you again for the Department's constructive engagement with the Committee throughout this scrutiny process.

I am copying this letter to the Secretary of State, the Baroness Sherlock OBE, Sophie Dean, Bill Thorpe and Natalie Keogh.

Yours sincerely,



Dr Stephen Brien
Chair, Social Security Advisory Committee

Department for Work & Pensions

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22 September 2026

Dr Stephen Brien
Chair, Social Security Advisory Committee

Dear Stephen,

Proposed amendment to the Personal Independence Payment (Transitional Provisions) Regulations 2013

Thank you for your letter dated 7 September 2026 concerning the Committee's scrutiny of these regulations. I welcome the Committee's decision not to take them on formal reference and am grateful for its careful consideration, advice and support throughout the process. I also welcome the important points raised in the Committee's letter, which I address in turn below.

The relationship between delay and entitlement outcomes

The Department welcomes the opportunity to clarify its position. The Committee has correctly understood the Department's policy: where a transfer claimant demonstrates good reason following a negative determination, they are returned to the transfer process. The Department considers this the fairest approach for all transfer claimants. The Department's position is that the amendment restores the ordinary transfer process. It is not intended to disadvantage claimants but nor is it intended to provide a more advantageous outcome than would arise under the normal transfer rule.

It may be helpful to explain the negative determination process in more detail. If a claimant does not attend an assessment or return a PIP2, the decision maker (DM) will investigate the reasons before making a negative determination. This provides a safeguard before the dispute process begins. Similarly, where a negative determination clearly results from official error—for example, because a received PIP2 form was not digitally attached to the claimant's case—the Department will take expedited action to correct the case rather than await the full mandatory reconsideration process.

Although a negative determination is usually made early in the transfer process, mandatory reconsideration and appeals can cause delays, with appeal timescales

outside DWP's control. Good reason may therefore take time to establish. However, under both the OM and SR decisions, any gap in entitlement would arise between the dispute being raised and good reason being accepted. Once good reason is established, the Department reinstates and backdates DLA as soon as practicable, reducing immediate financial hardship and returning the claimant to the PIP transfer process. At that stage, the outcome of the PIP determination remains unknown and may still be several weeks away. The Department considers that reinstating DLA and restoring claimants to the ordinary transfer process once good reason is accepted places all transfer claimants on an equal footing, providing parity and fairness.

Potential differential impacts on affected claimant groups

My officials welcomed the Committee's request that the Department reconsider the equality impacts of the proposed amendments. As the Committee noted, the changes will affect vulnerable people whose health conditions or disabilities may affect their ability to engage with the benefits process. The Committee was also right to request further equality analysis of the Full PIP Rollout (FPR) cohort, as the pause in that process meant these claimants were not covered by the original Equality Impact Assessment (EIA).

As the Committee will be aware, the Department's response of 13 August included further analysis of the FPR cohort. However, this analysis cannot directly identify individuals who, following a negative determination, establish good reason and subsequently make a successful PIP claim.

My officials acknowledge that neither the original EIA nor the subsequent information and analysis provided during scrutiny specifically reflects the removal of regulation 17(2)(b) following our engagement with the Committee. However, the Department remains satisfied that the impacts identified remain relevant and unchanged. This is because the analysis focused on the underlying policy rationale for implementing the OM decision: that PIP is payable only from a date after the assessment determination, applying a single framework to all successful good reason cases which promotes consistency and equal treatment.

As noted in our previous responses to the Committee, the Department has kept the DLA-toPIP invitation and transition process under continuous review since the original decisions in the OM and SR cases (both of whom were pre-pandemic FPR invitees). Although invitations to adult DLA claimants were paused since the pandemic, the Department has recently resumed the process on a small, controlled scale. This measured approach will help us understand the financial, operational and, most importantly, claimant impacts, enabling us to identify and reduce barriers for those who may find the process difficult.

Consistent operation of the amended framework

The Department is committed to communicating the issues raised in the OM and SR decisions clearly, both internally and externally. Transfer claimants are handled by specialist co-located teams, making it easier to update guidance and communications consistently.

The Department implemented the OM decision in 2019 and conducted a small Legal Entitlements and Administrative Practices (LEAP) exercise to restore DLA entitlement for affected claimants from the date of the Upper Tribunal decision. It also updated internal guidance and published an externally available Advice for Decision Making (ADM) memo explaining the change and the revised process. The Department has followed this approach since then.

When the amended regulations are expected to come into force on 30 October 2026, the ADM will be updated, the previous OM memo revoked and a new memo published. It will be available to claimants, their representatives and advisers, as well as tribunals. The Department will then undertake a LEAP exercise to apply the SR decision to claimants who benefit from that interpretation between the date of the decision and 29 October 2026. A specialist team will identify the affected claimants and ensure that the correct interpretation is applied to each case. The Department chose not to implement the SR decision until the amended regulations come into force because the case law was unclear and, more importantly, the amendment provides a consistent process for all claimants.

Wider application of the underlying principle

The Department recognises the Committee's interest in the wider application of substantive entitlements and adverse procedural decisions. Although broad principles may apply, each social security benefit or entitlement is governed by distinct legislation and processes. The Department remains committed to reviewing new and existing processes to ensure legal compliance and provide claimants with the best possible service.

I would like to express my thanks to the Committee for their helpful engagement during the scrutiny process of these regulations.

Yours sincerely,



Rt Hon. Sir Stephen Timms MP

Minister for Social Security and Disability