

**MINUTES OF THE MEETING HELD IN THE SSAC CONFERENCE ROOM,
ADELPHI BUILDING, 1-11 JOHN ADAM STREET LONDON WC2N 6HT
ON 19th JULY 2011**

Present: Chair: Mr D Sagar
Deputy Chair: Professor J Walker
Members: Mr K Akuffo
Mr L Allamby
Mrs B Campbell
Dr A Erskine
Ms C George
Professor E Kempson
Ms M Reith
Ms P Smail
Ms N Smith
Professor R Walker

Apologies: Nicola Smith (pm), Simon Bartley, John Andrews

Guests and Officials: Charlotte Clark,
Nathaniel Horrocks-Burns (item 3)
Pat Russell, Jacqui Hansbro, Ali Humberstone,
Lorraine Pereira, Anne Corrigan (lawyer) (item 5)

Secretariat: Ms G Saunders, Dr N Moss, Ms J De Brito,
Mr P Mackrell, Mr D Cross, Ms Senay Bulbul

Observers: None

Main Meeting

1. Chair's Welcome and Apologies

The Chair welcomed Members and noted apologies.

2. Private discussion of Item 3.

3. Presentation: Extra Support for Long-Term JSA claimants

3.1 **Ms Charlotte Clark**, head of the Jobseekers, Disability and Work Programme Division within the Department's Employment Group and **Mr Nathaniel Horrocks-Burns** from the same division, attended on behalf of the Department.

3.2 **Ms Clark** explained that the Committee had, at the end of 20ten, agreed that the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations should not be formally referred. Nevertheless, because those Regulations had contained powers to allow the Secretary of State to require claimants to undertake further programmes (and impose sanctions for failure without good cause to comply), it had been agreed at the time that officials would inform the Committee about each specific programme. Hence the reason for the presentation on this occasion.

3.3 **Mr Horrocks-Burns** set out the details of this particular programme. It is a trial to test different types of support for Jobseeker's Allowance (JSA) claimants who undertake the two-year Work Programme but emerge from it without having found sustainable employment and remain on benefit looking for work. It is therefore designed to help very long-term unemployed JSA claimants. In terms of helping people into full-time employment, this is one of the most challenging groups of all. He said that there is to be a nine-month rolling trial period where four different Jobcentre Plus districts in the East Midlands and East of England regions will trial the programme which will last six months for the individuals concerned. He also explained that, for the purposes of the trials, a random allocation process would appoint those eligible to one of three groups: the Community Action Programme (CAP) group, a group subject to Ongoing Case Management, a more intensive programme of support delivered by Jobcentre Plus, and a control group who will receive flexible support through the normal Jobcentre Plus Offer. CAP will be delivered by providers who will tender for the contract. The Community Action Programme itself will consist of 30 hours a week of work experience plus up to a further ten hours a week of supported job-search activity, conducted with the provider. They specified that the kind of work experience sourced by providers should provide direct or indirect benefit to the community. The evaluation of the trailblazer will focus on assessing the impact of each of the three options on claimant benefit and employment outcomes against a control group. The evaluation will also involve interviews

with customers to investigate how participation affects behaviour and motivation.

3.4 **A Member** asked about the time between the evaluation finishing and the programme beginning in earnest and whether there would be sufficient time to draw conclusions and make adjustments in the light of them. **Ms Clark** said that the intention was to have support in place to coincide with the first people finishing the Work Programme – around the Summer of 2013. The trials were set to begin in November 2011 and finish nine months later. That would be well before the go-live date.

3.5 Another **Member** asked the following questions–

3.5.1 What are the sanctions for non-compliance?

Answer - Participants in the Community Action Programme will be subject to the same sanction regime as claimants participating in the Work Programme. Those who fail to comply with the requirements of the scheme face losing their Jobseeker's Allowance for two weeks for the first breach. Further breaches will result in sanctions of four, and finally of 26 weeks. If a claimant is in receipt of a 26 week sanction, benefit can be reinstated when they re-engage, but the claimant must serve a minimum four weeks of the sanction.

3.5.2 Is it intended that the full actively-seeking requirements will be completed within the additional ten hours, and that there is no expectation that anyone will be required to do anything over and above that?

Answer – that expectation is correct. Participants will remain on JSA throughout and will continue to be subject to the normal conditionality requirements for receipt of this benefit. They will be expected to take steps to actively seek employment and to be available to take up employment if they find it. Providers are expected to support claimants in meeting these requirements as part of the flexible support they offer for up to ten hours a week.

3.6 **A Member** asked the following questions–

3.6.1 How do the unemployment rates in the pilot areas compare with unemployment rates in the most deprived parts of the country? (The point here being that it might be difficult to apply lessons learned in an area of low or medium unemployment to an area where there was a severe shortage of jobs).

Answer – The areas were chosen on the basis of a number of criteria including the mix of urban and rural communities to provide a representative sample. Derby, Nottingham and Leicester may not be in the top ten areas of high unemployment but they have high rates nonetheless

3.6.2 In evaluating behaviour, will there be any analysis of more objective factors? For example a lone parent may appear to lack motivation to find work, when the reality is that the opportunities for finding appropriate child-care is extremely low.

Answer – The onus will be upon the providers to work with the full range of different claimants and tailor provision for their respective needs. This has been set out in the invitation to tender.

3.6.3 How does this programme differ from the Work Programme?

Answer – The Work Programme is more flexible whereas this will be more structured and aims to provide support for a different group of claimants, namely very long term unemployed JSA claimants.

3.6.4 What is the evidence that leads the Department to think that this will be more effective than previous programmes?

Answer – It is being put forward as a trial to see whether it is more effective. If there are elements of this that can be brought forward into the Work Programme then the Department will consider doing so.

3.6.5 Will childcare and transport costs be covered?

Answer – yes.

3.7 Another **Member** asked the following questions–

3.7.1 Although the stated hours was 30 a week, could an individual be required to do work which was up to 40 hours a week?

Answer – Claimants will only be required to undertake 30 hours of work experience a week. In addition to this they will be required to undertake up to ten additional hours of supported job search activity with providers. This would be an issue for the provider to work out with the individual but there should be a minimum of weekly contact between the claimant and the provider. When making a claim for JSA claimants agree a Jobseeker's Agreement with their adviser stating the number of hours they are available for work. It is envisaged that a customer's availability for the Community Action Programme will mirror their availability for work. Participants will not be required to do more activity than their Jobseekers Agreement says they are available for.

3.7.2 In drawing up the pilot areas, was any thought given to the range of labour market situations, so that an evaluation could take account of the buoyancy of the local labour market?

Answer – The intention is to test how interventions work in practice for the very long-term unemployed. The areas were chosen on the basis of a number of criteria including the mix of urban and rural communities to provide a representative sample.

3.7.3 Would multi-cultural factors in places such as Leicester distort the evaluation?

Answer – A sufficient number of claimants will be participating in the trials across each of the four districts to ensure the evaluation results are representative of a wide range of different claimant groups. The evaluation will include a break-down of outcomes by claimant characteristics.

3.8 The **Chair** requested that officials send the Committee a letter setting out the criteria used in the selection of the trial areas, the profile (including definition) and numbers of very-long term unemployed there and details of the evaluation method. Officials agreed to do so.

3.9 A **Member** noted that there had been question-marks raised over the process of research using random assignment. The **Member** also asked the following questions –

3.9.1. How will sustainable employment be measured as an outcome from the process?

Answer – Mr Horrocks-Burns said that processes were in place to get the necessary information. Specifically, CAP providers will be able to claim a sustained job outcome payment where claimants achieve 26 weeks out of 30 in work.

3.9.2 There was also an issue of people being assigned to a programme and then never completing it for a variety of reasons. How will those two groups be disentangled in the evaluation process?

Answer – Ms Clark said that the aspect of non-completers will be covered within the letter to the Committee regarding the evaluation strategy.

3.10 A **Member** asked whether the evaluation would include interviewing people?

Answer – Mr Horrocks-Burns said that qualitative research would take place alongside data gathered administratively.

3.11 Another **Member** asked the following questions–

3.11.1 What could an individual be expected to do?

Answer – Mr Horrocks-Burns said that the work would be community based and of benefit to the community although they would not have precise details until the bids had come in. That said there was an expectation that it might include placements similar to those being sourced as part of the Mandatory Work Activity scheme including working on horticultural projects, in retail placements and in libraries for instance. Providers will be given a degree of flexibility in offering different types of work experience.

3.11.2 What safeguards are in place to prevent work displacement?

Answer – Ms Clark said that work displacement avoidance was being built into the tendering exercise and reinforced through engagement with providers.

3.12 The **Deputy Chair** commented that if the programme were to be sold as a positive experience, it was important in the evaluation to measure the individual's motivation after they had been through the programme rather than confine it to how they felt at the outset/at the end of the process.

3.12.1 Will the work experience be tailored to the particular individual?

Answer – Ms Clark replied that the Department expects providers to tailor placements to the individual to the extent possible, acknowledging that it may not be possible to match a placement to an individual's career aspirations in every instance.

3.12.2 What is a reasonable outcome in this situation? Will you be going further than looking at whether a person finds a job, and examining whether it is an appropriate and sustainable job?

Answer – Ms Clark said that with both of these questions it would be appropriate to gather more information about the evaluation exercise and include it in the letter that would be sent.

3.13 Another **Member** said that in the letter it would be important to include any information on the job displacement effect of the programme. The recourse to long-term placements of work experience is becoming so prevalent within Jobcentre Plus that it is difficult to think that there can be no impact at all upon actual jobs, particularly in areas of high unemployment. To that end could any changes in the distribution and population of long-term unemployed people in the areas where the pilots were taking part be evaluated?

Answer – The Department has put safeguards in place to guard against this and more information on the evaluation strategy will be included in the letter to the committee.

3.14 Another **Member** commented that Australian research had shown that rather than find a single sustainable job, it was more commonplace for the very long-term unemployed who were subjected to these kinds of measures to embark upon a succession of low-paid, short-term, and sometimes part-time jobs, interspersed with periods of unemployment. With the arrival of Universal Credit where benefit could well continue throughout such changes in circumstance, this would become a big issue.

Ms Clark accepted this and agreed that intermittent spells of part-time work for someone could not be seen as a useful outcome. She also confirmed that this along with many other issues will be looked at in the course of developing policy for Universal Credit.

3.15 A **Member** said that he was pleased that very long-term unemployed people were being looked at and intensive support was planned. The **Chair** thanked the officials for attending.

4. Private discussion of Item 5

5. The Social Security (Miscellaneous Amendments) (No. X) Regulations

5.1 A team from Employment Group had appeared before the Committee on 6th July to present draft proposals known as the Social Security (Miscellaneous Amendments) (No X) Regulations, but had been asked to

return to address a number of outstanding issues. The Committee had also requested that the supporting documentation be re-presented in a more coherent form – which it had been. In between the meeting of 6th July and this meeting, a letter had been sent to the Minister for Employment expressing, amongst other things, the Committee’s concern that they had not been given adequate time to allow it to conduct a proper scrutiny of the draft proposals in order to make a decision as to whether they should be formally referred.

5.2 On this occasion the Department was represented by **Ms Jacqui Hansbro** (Jobseekers and Skills Directorate, Partnerships Division), **Ms Pat Russell** (Young People and Employment Division), **Ms Alison Humberstone** (responsible for Get Britain Working co-ordination and Work Experience Implementation) and **Ms Lorraine Pereira** (Welfare to Work Strategy and Governance). **Ms Anne Corrigan** from DWP Legal Services also attended in order to answer any legal questions the Committee wished to raise. A paper setting out the outstanding questions and issues had been prepared by the Secretariat, and the **Chair** suggested that these be addressed in order.

5.3 **Ms Corrigan** dealt with the legal issues. In response to the criticism that the new regulation 5A(2) of the Jobseeker’s Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 has been drafted in a way that is particularly difficult to follow, she said that alternative drafting approaches had been considered and rejected. One approach would have been to amend regulation 17A of the Jobseeker’s Allowance Regulations so as to include this group as a new category of claimants who were to be treated as available for employment. This was rejected on policy grounds. The intention is to apply modified availability rules rather than exempt them from the availability condition altogether and this could not have been achieved by using regulation 17A. A second approach would have been to amend the definition of “full-time student” in regulation 1 of the Jobseeker’s Allowance Regulations. This had two disadvantages: one, it is not good drafting practice to use a definition to apply an exemption within an existing exception, and the definition is already complicated as it is; two, it would mean amending the secondary legislation by affirmative resolution, and this would delay its introduction – contrary to the wishes of Ministers. That left a third option of adding a new regulation to the Employment, Skills and Enterprise Scheme Regulations, which came into force on 20th May 2011 and this was the one taken.

5.4 **Ms Corrigan** confirmed the view of a **Member** who suggested that the legal effect of the way in which the “full-time student” provision had been drafted was that the Government had effectively imposed a “light-touch” conditionality rather than a total exemption from the requirement to be available for employment as a condition of entitlement to JSA. **Ms Hansbro** confirmed that this was indeed the policy intention. The **Member** in question felt that on those grounds there was some justification for the drafting option chosen.

5.5 Another **Member** asked whether all the potential ramifications that could arise as a result of the drafting approach taken had been explored. **Ms Corrigan** replied that she was confident that this had certainly been done within the sphere of Jobseeker's Allowance, but was reluctant to say the same in respect of possible knock-on effects in relation to other benefits. Since the Committee had raised the issue of the possible effect upon Council Tax eligibility and exemption (as well as Housing Benefit and Council Tax Benefit entitlement) of trainees being required to train for longer hours under the Employment, Skills and Enterprise Scheme Regulations and thereby being classified for benefit purposes as "full-time students", lawyers had been in contact with their counterparts in DCLG. Those discussions were ongoing. **Ms Hansbro** said that they had taken steps to address the issue of the effect upon HB/CTB entitlement. The intention was that people should not lose out. Because the Regulations had already been laid it therefore became a matter of finding a "work-around". Officials were confident that it would only affect a small group of claimants entitled to contributory JSA. They would either be kept on a training allowance, or their hours of training would be below the threshold for bringing them into the "full-time student" category. Officials were grateful to the Committee for having spotted this issue and having brought it to their attention. Officials also said that in practice people required to undertake training of up to 30 hours a week would not see themselves as full-time students. Neither would anybody else. It was simply that the particular effect of DWP legislation was to classify them in that way.

5.6 A **Member** observed that these rules will need a great deal of attention when it comes to drafting new legislation for Universal Credit, and especially with regard to existing provisions relating to Council Tax Benefit. **Ms Corrigan** agreed and said that all these programmes were being designed so that they would carry over into Universal Credit.

5.7 A **Member** asked why the legislation could not expressly provide that 30 hours a week was the upper limit for training under this scheme. **Ms Corrigan** replied that although the regulations could have set an upper limit on the weekly hours of training, there is a general desire and instruction to avoid being over-prescriptive in legislation. **Ms Hansbro** assured the Committee that there is no intention to increase the weekly hours of training above 30.

5.8 On the issue of apprenticeships, a **Member** asked why during the additional four weeks of work experience whilst the apprenticeship arrangements were being set up, labour market conditionality continued to apply? If an apprenticeship was starting very shortly, why require them to take up a different job elsewhere? **Ms Humberstone** replied that the same issue arises currently where somebody in receipt of benefit may be starting work in, say, a month's time. They have to be available for employment and actively seek it, but there has always been an expectation that, in that situation, advisers will use their discretion and act reasonably. The **Member** commented that it would be good to be reassured by seeing the guidance on that point. **Ms Humberstone** said that this would be arranged.

5.9 Another **Member** asked whether in the discussions between the Department and the National Apprenticeship Service about this scheme providing a route into apprenticeship, it could be made clear that the young person could face a sanction if they rejected the offer of an apprenticeship. **Ms Humberstone** said that this would be included in future discussions.

5.10 **Ms Corrigan** addressed a pre-notified question in relation to regulation 5(1) of the ESE Regs. This was not an issue which arose directly from the specific proposals in front of the Committee but had come to light when a **Member** had had cause to look at the wording of the legislation which took effect in May 2011 and noticed that it differed significantly from the version that had been presented to the Committee at the end of 2010. The version of the wording of regulation 5(1) which found its way on to the statute books was particularly difficult to interpret. The question was in two parts: how should it be interpreted, and why was the Committee not advised as to the change? **Ms Corrigan** confirmed that it had been amended after having been to the SSAC and was changed because a technical and necessary change had been identified. She explained the change in detail but said that she would set it out in writing.

5.11 Pre-prepared questions had been asked in relation to Local Authorities and the fact that they give exemptions and discounts for the payment of Council Tax in a number of different situations. Have those rules been checked to see whether there are implications for those in receipt of a training allowance and those who are apprentices or full-time students? Are there any consequences in this respect, for example, in moving from being in receipt of a training allowance to continuing to be entitled to JSA? Are there any implications for HB/CTB entitlement of claimants aged 18 and above. **Ms Hansbro** said that they would come back on these questions as it was still being worked through.

5.12 Another question had been pre-notified in relation to the fact that training allowances were non-taxable, in contrast to JSA which was taxable. **Ms Hansbro** said that, from their analysis and taking the worst-case scenario, the time period involved would be four weeks spent in a service academy and ten weeks on the Work Programme. That translated into a potential maximum loss of £53 for someone in an academy and £133 for someone on the Work Programme. This would only apply if they then moved into a job which paid at a level above the tax threshold, although the time of the financial year when the employment started would also be a factor. If they moved into employment in this way, then it would almost inevitably be to their long-term advantage. Numbers affected were estimated at around 7,500 attending service academies and around 2,500 participating in the Work Programme. When asked **Ms Hansbro** said that this issue had not been considered at the outset but only arose when Committee members had raised it.

5.13 A pre-notified question about the views of the Association of Colleges regarding these proposed changes was answered by **Ms Hansbro**. She said that their views had been sought and that they were broadly supportive

because the current rules on 16 hours had created an artificial barrier. Their experience was that training had to be fitted around benefit rules, and that the greater flexibility to design training courses without that constraint was an improvement and would mean that they could offer more. A **Member** said that colleges tend to be frustrated when they have trainees who, because they are subject to JSA conditionality, find that they are required to leave. There is, therefore, a concern about people being pulled off a course to do a job which is unrelated to the training. **Ms Hansbro** said that this goes back to the previous point made earlier about advisers acting with discretion and in a reasonable manner. The **Member** felt that in practice there was a gap between what is stated as an intention and what actually happens locally. **Ms Russell** said that this issue would normally be discussed with the claimant as they embark upon the training. Expectations and what would be required should be set out clearly at that stage.

5.14 Another **Member** mentioned the problem of people undergoing training who are obliged to leave for half a day or so in order to sign on. Could this not be done by telephone or electronically, particularly as the Department will know where the claimant is? It will be a particular problem if the courses are 30 hours a week. **Ms Hansbro** said that they are looking at ways to ease this process for people, for example, having JCP staff visit the training provider in order to secure the fortnightly signature. **Ms Corrigan** pointed out that the current Welfare Reform Bill will allow greater flexibility for electronic processes to be adopted.

5.15 A pre-notified question about discretion was addressed by **Ms Russell**. It concerned the fact that the legislation increases the move away from the labour market tests set out in legislation and towards individually-tailored conditionality. Whilst there is a positive aspect to that development, the Committee would like to receive assurances about adequate safeguards. Local anecdotes show that it cannot be guaranteed that advisers will always act reasonably. If the conditions are not set out specifically in regulations, what is to prevent an unreasonable and inappropriate use of individual discretion and what recourse to complaint is available for an aggrieved claimant? She explained that individuals will receive written notification as to what they will be required to do. If unhappy with that an aggrieved claimant can follow the local complaints procedure and see the adviser's manager. Additionally they can ask for a decision-maker to determine whether the individual conditions being imposed are reasonable in the light of the legislative framework. After that there is the Independent Case Examiner who can impose an administrative charge of up to £5,000 on the provider. Jobcentre Plus would receive details of such complaints, identify if a pattern was emerging and take steps to address it.

5.16 A **Member** said that from local experience, anyone seeking to take the case to the Independent Case Examiner had to be particularly persistent and articulate. In practice few ever reach that stage. As a further point the **Member** questioned the use of discretion when someone was doing the 30 hours a week training but at a distance from their home. In such cases there needed to be a sense of proportion when setting the labour market

requirements. **Ms Russell** agreed and said that they would always expect advisers to recognise these kinds of factors. She confirmed that relevant parts of the guidance around this subject would be made available to the Committee. The entire script would be inordinately long and irrelevant in many places but selected passages could be sent.

5.17 A **Member** asked about the child protection implications of making the Work Experience programme available to 16-17 year olds. **Ms Humberstone** emphasised that 16-17 year olds were not being mandated to participate. They were free to decline. She also stressed that the responsibility for conducting CRB checks rested with the employer, whereas the Department's responsibility lay with ensuring that the employers with whom they worked were compliant with the law. Such issues as the need to avoid individuals being left alone with another member of staff, rules concerning physical contact and the monitoring of the arrangements would all be written into the Service Level Agreement.

5.18 A **Member** commented that a single case that went badly wrong had the potential to create enormous adverse publicity. **Ms Humberstone** said that this was recognised and that great care was being taken, although Jobcentre Plus have a long record of dealing with 16-17 year olds. Another **Member** said that the concern here is that the DWP will be putting some vulnerable youngsters into a potentially dangerous situation. Employers need to understand that 16-17 year olds may be in a very different kind of situation from other employees. **Ms Humberstone** emphasised that guidance will ensure that advisers will not push anyone into a work situation if the individual expresses any kind of fear about the prospect. The possibility of engaging in Work Experience will be discussed with the claimant and will be mutually agreed.

5.19 Another **Member** expressed concern that the DWP may be abrogating responsibility on this matter. Research shows that young people who have been abused are vulnerable to further abuse. The issue is not so much avoiding being in an enclosed space, but avoiding being in a situation where a young person can be groomed for subsequent abuse. The explanatory memorandum presented with the regulations says that "our main priority for these vulnerable people would be to restore them to a situation whereby they are back with their families, or living with an alternative family member and in a safe and stable environment upon which they can build a firmer future for themselves." The **Member** wished to know how the regulations achieved this. **Ms Humberstone** acknowledged that the regulations themselves do not achieve this as such, but that advisers would receive guidance which was aimed at bringing some kind of stability into the lives of young people who would normally be estranged from family members and claiming JSA.

5.20 The **Chair** reminded officials of their commitment to write back to the Committee on the legal issue which had arisen as well as other outstanding matters. The Committee would be writing a second letter to the Minister as had been indicated at the previous meeting. He thanked officials for attending.

6. Discussion of the SSAC recruitment process (additional item)

Reserved item

6.1 Members and the Chair had a private discussion of the SSAC recruitment process over lunch. Members involved in the recruitment exercise absented themselves from the discussion.

7. Chair's report and Minutes of 6 July

Reserved item

7.1 There was discussion of the Chair's written report and the minutes of the 6 July meeting.

The meeting closed at 15.00.

8. Action Points

No Item	Action
1 3	Secretariat to follow up outstanding issues with officials <i>Supplementary information has been received</i>
2 5	Secretariat to follow up outstanding issues with officials <i>Supplementary information has been received</i>
3 9	Secretariat to issue a letter setting out concerns <i>A letter has been sent</i>
4 5	Secretariat to write to Professor Harrington <i>A letter has been sent</i>