

A Review by the Department for Work and Pensions of the Social Security Advisory Committee

June 2012

Contents

Introduction	3
Executive summary.....	5
Stage 1	5
Stage 2	6
Key principles of the review	7
Proportionality.....	7
Timing of the review.....	8
Challenging.....	8
Inclusive.....	8
Transparent	8
Value for money.....	8
Stage one – Key functions	9
The continuing need for these functions	11
How should these functions be delivered?.....	14
Conclusion	17
Recommendations for improvement	19
Stage Two – Corporate Governance	21
Principles of good corporate governance.....	21
Annex A – consultation questions	27
Stage one of the review – questions to be addressed	27
Annex B – external responses to the consultation received from:.....	29
Annex C – summary of SSAC scrutiny activity.....	30
Annex D – details of SSAC membership	31

Introduction

The Government's policy is that if a public function is needed then it should be undertaken by a body that is democratically accountable at either national or local level. A body should only exist at arm's length from Government if it meets one of three tests:

- **Does it perform a technical function?**
- **Do its activities require political impartiality?**
- **Does it need to act independently to establish facts?**

Over 900 bodies were subject to a cross-government review undertaken by all departments in Spring/Summer 2010. This included all Non Departmental Public Bodies, along with a number of Non Ministerial Departments and public corporations. On 14 October 2010, the Cabinet Office Minister, Francis Maude, outlined plans to reform a large number of Public Bodies across government. The Social Security Advisory Committee was retained on the grounds of performing functions requiring political impartiality.

Flowing from the Public Bodies review and as part of the Government's continuing drive for efficiency and effectiveness all Departments are required to review their arm's length bodies at least once every three years to challenge whether the functions they perform are still necessary and if so whether it is still appropriate for them to be delivered in the same way. The Cabinet Office guidance requires that reviews should not be overly bureaucratic and should be appropriate for the size and nature of the body in question.

The Social Security Advisory Committee is a statutory advisory Non Departmental Public Body (NDPB) with no executive or administrative functions or duties.

The Department for Work and Pensions considered that a review led by a Departmental Senior Civil Servant, independent of the Department's stewardship arrangements with the Committee, would be proportionate and appropriate for such a body.

There were two stages to the review:

Stage one

The first stage of this review challenged the continuing need for the Social Security Advisory Committee; questioned whether its functions are necessary and that it remains appropriate to be delivered by government.

A consultation was conducted using the questions in Annex A. 13 formal responses were received from external stakeholders. A list of respondents is included at Annex B.

Stage Two

The second stage of this review examined whether the body's control and governance arrangements are in accordance with the recognised principles of good corporate governance.

The review of the Social Security Advisory Committee was announced by means of a Written Ministerial Statement on 13 March 2012. Consultation took place with Ministers and with senior officials from within the Department and externally with a range of interested parties during March and April 2012. The Work and Pensions Committee were informed of the review at the outset and were invited to provide input into the review. The Social Security Advisory Committee itself has also had the opportunity to input into the review and the interim Chair had the opportunity to comment on the final draft report.

This document is available on the DWP website at:

<http://dwp.gov.uk/publications/corporate-publications/>

A paper copy of this document can be obtained from:

Nicola Lloyd
Pension Protection and Stewardship Division
1st Floor, Caxton House
Tothill Street,
London
SW1H 9HN

PPSD.TRIENNIALREVIEWS@DWP.GSI.GOV.UK

Executive summary

Stage 1

For the first stage of the review, the review team identified and examined the key functions of the Social Security Advisory Committee (SSAC). It concluded that the Committee should continue. Overwhelmingly, respondents to the consultation indicated that SSAC should continue providing independent and expert advice to Government. The review team concluded that the Committee plays a useful role in scrutinising regulations and providing advice on the implications, interactions and possible unintended consequences of Government proposals.

The review team supports the continuation of SSAC in its current form and considers that SSAC's specialised technical knowledge of social security matters is its greatest strength and that political impartiality and independence from Ministers is crucial and will be particularly important at a time of major reform to the welfare system.

In the course of research, the review team found evidence of tensions in the relationship between the Department for Work and Pensions (DWP) and SSAC. Although people within DWP recognised that the involvement of SSAC could add value, concerns were expressed about the tone of their commentary and their focus. SSAC members expressed concern about the Department's approach and their defensiveness. These tensions are unhelpful. SSAC's ability to carry out its role effectively and to have real influence depends on a constructive working relationship with the Department. The team identified a number of areas for improvement and recommends that:

- **The Department formally removes the requirement on SSAC to review DWP's information products. There are other ways in which the Department can get input to ensure these products are fit for purpose; and there are better uses of SSAC's time.**
- **On the appointment of a permanent Chair, SSAC and the Department should build further on the recent work to review the detail of how they work together to ensure that the relationship is strong, whilst retaining SSAC's independence.**
- **The Department and SSAC should consider how best to manage appointments to the Committee in order to ensure that its key strengths (independence and expertise) are maintained. This consideration should include how to ensure that turnover in the membership is managed effectively; how to ensure that there is a**

good mix of skills and background among the members of the Committee; and how induction of new members is handled.

- **The scrutiny of regulations should take precedence over any other work. The ability to provide ad hoc advice, either on SSAC's initiative or at the request of Ministers, should be retained; but any such work should be carefully planned in at the beginning of the year and reviewed in-year in the light of the workload implications of legislative scrutiny; and should reflect the role, skills and expertise of the Committee.**
- **SSAC's relationship with HMRC, and the terms of the Memorandum of Understanding between each party, should be reviewed in the light of the introduction of Universal Credit.**

Stage 2

Cabinet Office advice requires that, where the outcome of the first stage of the review is that the NDPB should remain, the Department should review and ensure the public body is operating in line with recognised principles of good corporate governance. The review team reviewed SSAC's control and governance arrangements and concluded that they are robust. There is one recommendation:

- **The SSAC Management and Financial Memorandum dated 2006, which sets out the framework for the relationship between SSAC and the Department for Work and Pensions, should be reviewed and updated on the appointment of the permanent Chair.**

Angus Gray, Review Lead

June 2012

Key principles of the review

The review of the Social Security Advisory Committee (SSAC) was completed by the beginning of June 2012.

The Cabinet Office guidance underpinning the review process requires that the review meets two principle aims:

- (i) a robust challenge of the continuing need for SSAC as a non Departmental Public Body (NDPB) – both function and form; and
- (ii) where it is agreed that a particular body should remain as an NDPB, to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance.

The review was carried out in line with the following key principles:

- **Proportionate**
- **Timely**
- **Challenging**
- **Inclusive**
- **Transparent**
- **Value for money**

Proportionality

The Cabinet Office requires that a review should not be overly bureaucratic and should be appropriate for the size and nature of the NDPB in question.

SSAC is a small body with a maximum of 14 members including the Chairman. Members devote two days work per month to the Committee on average and the Chairman five. The remuneration for the Chairman is £22,000 per annum and for the members it is £256.80 a day. There is a Secretariat of five staff, all on loan from DWP or from HMRC. It has no executive or operational role and its statutory remit is limited to providing advice. The Committee's sponsor Minister is Lord Freud and the Committee's senior steward is Gill Aitken (Director General for Professional Services).

SSAC is funded directly by DWP and has no other funding sources. SSAC's budget for 2012/13 is around £350,000 and includes staff costs and funds for research. The Department considered that, in the light of these factors, an internal review led by a DWP Senior Civil Servant independent of the

stewardship of the Committee was appropriate and would provide value for money for the tax payer.

Timing of the review

The review was announced by way of a Written Ministerial Statement on 13 March 2012 and was completed within three months.

Challenging

The review was a robust examination of the need for SSAC's functions to continue, and whether the advice the Committee gives to the Secretary of State could be delivered as effectively or more effectively by alternative means. The Propriety and Ethics Team at the Cabinet Office has provided an effective challenge function during this review.

Inclusive

SSAC members have been engaged with this review. Key stakeholders were also approached directly for their views. Meetings were held with DWP Ministers and with senior officials in DWP. Parliament was informed at the start of the review and has been made aware of its conclusions. The Work and Pensions Committee was invited to provide comments at the beginning of the consultation and has been made aware of the review conclusions.

Transparent

The findings of the review were announced via a Written Ministerial Statement and published by the DWP and made available on its website.

SSAC does not prepare separate accounts. Its expenditure is accounted for in the accounts of the DWP.

Value for money

The cost of the review was borne from within existing resources. The lead reviewer spent an average of approximately one day a week on the review fitting this work in alongside his current role. No additional travel or subsistence costs were incurred as a result of the review. The lead reviewer was supported by a member of the Pensions Protection and Stewardship Team.

Stage one – Key functions

The Social Security Advisory Committee is an advisory Non Departmental Public Body with a statutory basis (the Social Security Administration Act 1992 Section 170 et seq and Schedule 5). It was formed in 1980 superseding two predecessor bodies: the National Insurance Advisory Committee; and the Supplementary Benefits Commission. SSAC's remit is to provide independent, expert advice to the Secretary of State on an ongoing basis.

Much of the Department's legislation is in the form of secondary legislation. The scope of regulations can vary greatly. A set of regulations might make technical changes to the provisions of an Act or fill out the broad provisions of an Act where the detail was considered too complex to include in the body of the Act, or, in certain circumstances, they can be used to amend or update existing Acts.

SSAC is responsible for mandatory pre-legislative scrutiny of most DWP proposals for secondary legislation relating to welfare benefits and state pensions. It has two key functions:

1. To scrutinise regulations for the benefit of both the Secretary of State and Parliament.
2. To provide independent, impartial advice and assistance to the Secretary of State for Work and Pensions, whether in response to a specific request or on its own initiative. This includes:
 - **providing advice on Ministerial request, either on specific issues or in respect of distinct work streams, such as simplification in the benefit system and input to DWP's public information strategy;**
 - **providing ad hoc advice to Ministers, on subjects chosen by them;**
 - **the provision of non statutory advice to HMRC, which is governed by a Memorandum of Understanding.**

SSAC's role in relation to proposed regulations

The first of these functions is a mandatory pre-legislative scrutiny of most DWP proposals for secondary legislation in respect of social security benefits (in both Great Britain and Northern Ireland), apart from the scrutiny of secondary legislation in respect of industrial injuries or occupational pensions.

This work dominates the Committee's routine workload - SSAC's business programme is generally determined by the amount of secondary legislation that the Department wishes to introduce. There are some exemptions from the scrutiny requirement; one such is where regulations are made under a new Act within six months of commencement.

As part of this scrutiny, the Committee may ask for regulations to be formally referred. This usually involves SSAC conducting a public consultation; submitting a report to the Secretary of State setting out SSAC's comments and concerns about the proposed regulations and making recommendations as to whether and/or how they should proceed. The Secretary of State is obliged to consider the Committee's recommendations and, when the regulations are finally laid before the House, the Committee's report and a statement explaining the response to its recommendations must also be laid. Annex C provides a summary of SSAC's scrutiny activity. Recent output includes:

- **Housing Benefit Amendment Regulations 2010 and The Rent Officers (Housing Benefit Functions) Amendment Order 2010 (dealt with together);**
- **The ESA (Limited capability for work and limited capability for work-related activity) amendment regulations 2011;**
- **The Social Fund Maternity Grant Amendment Regulations 2011.**

General advisory function

The second of these functions is to provide impartial advice and assistance to Ministers. The Committee undertakes a major piece of advisory work on its own initiative each year, supported by a dedicated researcher on the Secretariat Team. These pieces of advice are generally put to Ministers (who will normally respond in the form of a letter to the SSAC Chairman) and are then published on the SSAC website. Recent output includes:

- **Telephony in DWP and its agencies: Call costs and equality of customer access, 2007;**
- **Patterns of employment, benefit eligibility and the rights and responsibilities agenda, 2007;**
- **Third Party Deductions (TPDs): Time for a Policy Review, 2008;**
- **Rights and Responsibilities in the Social Security System, 2009;**
- **Telephony in DWP and HMRC: call costs and equality of customer access – SSAC's 2007 recommendations revisited, 2009;**
- **The impacts of the Benefits System on encouraging the participation of disabled people in public life, 2009.**

In May 2011, SSAC was commissioned by the Minister for Welfare Reform, Lord Freud, to undertake an independent review of the current passported benefits regime and to provide advice on possible approaches to the provision of these benefits when Universal Credit is introduced in 2013. This commission was an opportunity for the Committee to fulfil its advisory role in direct response to a specific request.

The continuing need for these functions

Scrutiny of secondary legislation

The independent scrutiny of social security regulations is SSAC's key function. This is not the same as the scrutiny and challenge of policy proposals, which is the subject of much of DWP's formal and informal consultation with stakeholders. It has a more specific objective – ensuring that the legislation is fit for purpose.

It is beyond question that the function of ensuring that social security legislation is of good quality and is fit for purpose is necessary, and core to the purpose of DWP – no one would argue that the Department should aim for sub-standard legislation. However it could be argued that this is a function which should properly be discharged by DWP's policy-makers and lawyers.

The key question, therefore, is whether the additional independent advice and scrutiny is necessary. All the formal responses to the consultation were unanimous on this. There is no doubt that its role is very much valued by organisations which work with and for benefit recipients, and also by Parliamentarians. It is seen as adding a degree of robust and independent challenge which would not and could not come from elsewhere.

The Committee remains strongly of the view that SSAC plays a unique role in scrutinising regulations and providing advice on the implications, interactions and possible unintended consequences of Government proposals. Political impartiality and independence from Ministers seem to be us to be crucial in fulfilling this role effectively. **Work and Pensions Committee**

During its research, the review team were told that there are a number of examples of regulation making powers that are subject to consultation with various statutory and non-statutory bodies, but the breadth of SSAC's role appears to be unique. So, despite the overwhelming call from the responses to the consultation for SSAC to be retained, the team thought it was worth considering why it is regarded as necessary to have a different set of arrangements for social security regulations. The review concluded that there are three reasons:

- **There is an inherent and unusual complexity in social security policy and legislation. There can be unintended consequences of a particular course of action. There are often winners and losers from changes and recognising who they are is not always straightforward.**
- **The significant use in social security of enabling legislation leaves much of the detail of policy to be dealt with in subordinate legislation, which is by definition subject to less close scrutiny in Parliament.**

- **However, perhaps most importantly, social security legislation affects the most disadvantaged people in society and it is therefore essential that the Department has robust mechanisms in place to ensure the impact of legislation on them is properly assessed. In other areas of policy, for example private pensions, there is an industry body which can give expert advice on regulations. Nothing similar exists for social security recipients.**

This scrutiny function can bring real benefits to the Department by providing an additional check and challenge to ensure that proposals are well thought through, coherent and clearly explained. It can also bring real benefits to Parliament, by enabling MPs and Peers to draw on a reliable and trusted source of advice when considering which issues to give their attention to.

I have come to value this function greatly. Debates on regulations in the Lords are informed by SSAC's reports on them and it would be difficult for us to perform our role of scrutiny adequately without them. **Baroness Lister**

The SSAC is a rare example of truly independent scrutiny in action. It is therefore precious and should be retained. **Child Poverty Action Group**

The scrutiny of secondary legislation could be handled differently – for example through a system of robust, internal peer review within the Department. However, the second element depends on the scrutiny being independent of the Department in order to be externally trusted and credible.

For these reasons, the review team concluded that this independent scrutiny needs to be retained, especially at a time when the latest Welfare Reform Bill represents some of the biggest changes to the welfare system for a generation.

Provision of impartial advice to Ministers

As well as providing impartial advice to Ministers, SSAC provides a sounding board for DWP officials to test policy outside Whitehall and can give DWP useful insight into how that policy is likely to be perceived externally, as well as providing another source of consultation through its links. However, Ministers and the Department regularly receive views and advice from external organisations, whether they request it, for example through external consultations, or not. It is the job of Civil Servants to solicit such input and to distil and interpret it when formulating impartial policy advice for Ministers. The Review Team does not, therefore, think that the provision of advice can be seen as a distinct function for the purposes of this review.

However, once it has been accepted that there is a need to retain a function of independent scrutiny of secondary legislation, the provision of more general advice follows. As SSAC members themselves commented, part of their added value is to be able to take a view across a range of legislation, and to

spot inconsistencies; unintended consequences, and underlying trends. It follows that there may be occasions when commenting simply on one set of regulations would not be sufficient in raising issues and concerns which those undertaking the scrutiny might have. In those instances it seems that those undertaking the scrutiny need to be able to provide broader comment and advice to Ministers.

Ministers are also able to ask SSAC for advice on specific issues. Again, the review team does not think this is a separate function for the purposes of this review. Ministers can already ask for advice in a range of different ways: through public consultation, by seeking views of specific organisations, or by commissioning ad hoc independent reviews. However, once a Department has established a body of expertise to provide independent scrutiny of secondary legislation it seems simply a pragmatic step to allow the ability to seek broader advice from time to time in order to make best use of that expertise.

The review therefore concludes that SSAC should retain these advice-giving functions because SSAC are the natural provider of advice where an issue would benefit from their independence and their overview of a range of social security issues.

The review team did also consider whether there was scope for SSAC to take on a broader think-tank role, helping to shape the public debate about the future of welfare. The review concluded that its statutory basis would not allow for this broader role and it would in any case divert its limited resources away from its key function.

One of the roles which SSAC has been asked to undertake since May 2000 is the scrutiny of the Department's public information products, although recently very little material has been referred to them for comment. The Department has other internal and external processes for ensuring that its products are fit for purpose, including a well-developed customer insight function. In the light of this, and the other pressures on SSAC's resource, the review recommends that the Department formally removes the requirement on SSAC to review public information products.

Memorandum of Understanding with HMRC and HMT

Although the function in relation to HMRC and HMT is non-statutory it is very similar to the function in relation to DWP business. The Committee brings to bear a wide range of skills and experience when considering draft tax credits and child benefit regulations. This is done through written evidence or officials attending a meeting on specific regulations to outline the policy intention; the structure of the draft legislation; and answer member's questions. HMRC colleagues confirm that this can be a rigorous and demanding exercise, and that SSAC's challenge is conducted in a constructive and positive manner.

SSAC's confirmation of its clearance of a regulations package provides an assurance that HMRC has identified the implications falling out of the draft legislation and that it delivers the policy intention. SSAC, with its statutory relationship with DWP, also ensure that the wider picture is considered where in many cases the two departments have joint customers.

The review team concludes that this is a function which needs to be retained for the same reasons it believes that its primary function in relation to DWP should be retained. However, the advent of Universal Credit will change the policy and delivery landscape, and the team recommends that SSAC's relationship with HMRC, and the terms of the Memorandum of Understanding, are reviewed in light of those changes once the impact is clear.

How should these functions be delivered?

Since we have concluded that the primary function is to provide independent scrutiny of regulations, and that SSAC's other functions flow from that, the review team has only considered delivery options for that primary function.

The Cabinet Office guidelines require that a wide range of delivery options are considered, and provide a number of such options. These are considered in turn below.

Moving the function 'in-house'

The Department's processes for policy-making and drafting legislation already involve a degree of internal scrutiny. It would, in theory, be possible to formalise this into a separate process of robust peer review of proposals for secondary legislation within the Department, by using existing policy and legal expertise. This could act as an additional check and balance inside the Department and, if implemented correctly, could lead to better legislation, although the theoretical benefits would have to be weighed against the additional bureaucracy and cost.

However, the provision of independent scrutiny for the benefit of Parliament could not be done within the Department. The added value it brings is by being, and being seen to be, independent of the Department. The same argument applies to other models of in-house delivery, for example the establishment of an Executive Agency.

SSAC's independence is the key to its effectiveness and the willingness of a wide range of stakeholders to engage with it. For this reason, we are unable to see how its' functions could be delivered by local government, or voluntary or private sectors. Any one of these groupings might have a range of divergent or competing interests on any one issue, which would necessarily challenge their perceived independence. **Citizens Advice**

Parliamentary body

In this review we have considered whether SSAC is an effective means of improving the quality of the Department's policy and the legislation required to deliver it and whether or not this could be achieved just as well, if not more effectively, without the benefit of the Committee and by Parliament itself.

The aim of the Secondary Legislation Scrutiny Committee, as a Parliamentary scrutiny committee, is to provide Parliament with an assessment of the policy contained in regulations put before Parliament and bring to the special attention of the House anything it considers appropriate to do so. This includes looking at whether the regulations deliver the stated policy. However, since it is looking at the breadth of regulations laid before the house, it does not have the same depth of knowledge and expertise which SSAC is able to bring to bear.

A similar body could be established more clearly under the auspices of Parliament – e.g. as an advisory body to the Work and Pensions Committee or the Secondary Legislation Scrutiny Committee. The disadvantage of that approach is SSAC would lose its ability to influence the shape of regulations before they are put in front of Parliament. It also seems that this approach would still require something which looked like an advisory NDPB – for example a standing committee of experts ready to provide regular advice.

Ad hoc advisory body

The review team considered whether the Department should seek to bring together an ad hoc group each time there are regulations to scrutinise. However, there are a number of practical reasons why this would be less effective than having a more permanent arrangement:

- (i) the volume of secondary legislation means that the function is needed regularly – it is not an occasional / ad hoc requirement;
- (ii) the Department would still need to draw on the range of expertise which SSAC members currently have, so would end up with the same people or organisations;
- (iii) the complexity of the subject matter means that members of the Committee need some experience and expertise, and continuity is therefore important;
- (iv) the current arrangement of making public appointments is cost effective; a more ad hoc arrangement could be more expensive.

Direct engagement with users or stakeholders

It would be possible to consult stakeholders individually each time there are regulations to scrutinise. However, the current arrangements already ensure that the Department has a body which is designed to represent this range of interests. Going direct to separate organisations would risk:

- (i) nugatory effort in identifying and bringing together the user, stakeholder or sectoral groups on each occasion;
- (ii) the loss of continuity of expertise;
- (iii) the loss of a single Committee view, which seeks to balance sometimes diverse views;
- (iv) individual organisations being unable to respond in the required timescales because of pressures of other work.

Delivery by the third sector

A number of third sector organisations have the necessary expertise on social security issues and members of the Committee have often come from this background. However, it would not be possible to ask one single organisation to undertake the role because, it would only provide its own perspective on the issues, and could not provide the balance of opinions which the current diverse membership provides. Many of these organisations are already involved in lobbying the Government for the social policy changes that they advocate, since this is a key part of their remit. The Department could ask a voluntary sector body to take the lead role and require them to engage with a wide range of other stakeholders. However even that would dilute the important perception of independence.

A move away from the independent, statutory model might impact on the ability to appoint relevant experts (historically the membership has tended to be drawn from academia, advocacy and social research) at the current level of remuneration and without them perceiving their credibility to be at risk. Using DWP and HMRC loaned staff in the SSAC secretariat provides a cost-effective delivery model alongside the benefits of detailed knowledge of Departmental business processes as well as the regulation making process.

Delivery by the private sector

The private sector is very unlikely to contain the necessary expertise. The provision of social security advice and guidance is not something delivered in the private sector and it would be difficult for an organisation to demonstrate the necessary independence. There is nothing in the role which would generate an income. Even if SSAC was established as a private sector organisation, it would be dependent on this single stream of funding, so the Department would have achieved nothing in changing its status, other than raising its costs, so that the company could generate a profit.

Delivery by local government

This function requires a single source of advice to Ministers. That is not compatible with devolving the function to local government.

Merger with another similar body

Research has failed to identify another body with a similar remit to SSAC's - i.e. the scrutiny of a broad range of legislation. Even if one did exist, SSAC's focus on social security legislation requires a particular knowledge and expertise from its members. Asking another body to take on the role would require that body to recruit the same membership to add to whatever existing expertise it already had. The only possible argument for this would be to reduce the overhead of providing secretariat support, but in practice

- (i) the existing model is very lean; and
- (ii) there are very real advantages in having the secretariat drawn from and capable of building and maintaining strong relationships with DWP and HMRC, so the disadvantages would outweigh any theoretical advantages.

Conclusion

The review concluded that retaining an Advisory NDPB to fulfil this function remains the best option. SSAC's functions are integral to the making of secondary legislation by DWP. The current delivery model has been endorsed as highly effective by the Department's key external stakeholders for example by the Work and Pensions Committee. It has been recognised by Parliamentarians as providing an independent, expert perspective, helping to improve the quality of policy making and secondary legislation across DWP. The Committee's business processes are economically interwoven with those of DWP, sharing IT, telephony and resource management in order to create a seamless interface and minimise costs. However, the advice it gives is completely independent. If the Committee's functions were not carried out by an advisory NDPB with its independence explicitly guaranteed by statute the weight attaching to its advice could be diminished.

The Cabinet Office has set out three tests, one of which SSAC needs to meet if it is to remain an NDPB:

- **is this a technical function (which needs external expertise to deliver);**
- **is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or**
- **is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity.**

SSAC meets all three of these tests in some way. Social Security legislation is undoubtedly complex and it requires real expertise to understand it and critique new legislation. However, this is not really what is meant by technical. It is a function which needs to be delivered with political impartiality, because it is SSAC's independence which gives it its unique added value. Similarly, in order for its advice to carry weight in Parliament it needs to deliver independently of Ministers (though it does not strictly deal in facts of figures). The test it meets most fully is the second of the three.

Recommendations for improvement

In the course of research, the review team found some ambivalence within the Department about SSAC's role. Most people recognised that the process could and did add value, even if sometimes it was uncomfortable for officials and Ministers. Nevertheless, concerns were expressed that at times:

- **the relationship between the Department and SSAC, and the tone of some of SSAC's commentary can be unnecessarily adversarial;**
- **it can appear that SSAC is opposed to the overall policy direction, rather than focusing on the adequacy of the regulations put forward;**
- **it can feel like consulting SSAC is no different from other discussions with external stakeholder organisations.**

SSAC members, on the other hand, expressed concerns that sometimes the Department:

- **is insufficiently clear about the objectives of the regulations it brings;**
- **does not spend enough time explaining the overall context for the regulations;**
- **can be too defensive.**

Although there are many engagements which are effective, these tensions are unhelpful. SSAC's ability to carry out its role effectively, and to have real influence, depends on a constructive working relationship with the Department. The review team recommends that, on the appointment of a permanent Chair, SSAC and the Department build further on the recent work to review the detail of how they work together to ensure that the relationship is strong, whilst retaining SSAC's independence.

The Department should consider, for example, whether it could more often consult SSAC, on a confidential basis, on strategy and policy in the early stages of development; how the Secretariat could become a more effective bridge between SSAC and the Department, both serving the Committee's independence, and working hard within the Department to get the right level of commitment and engagement; and how SSAC can more clearly demonstrate (particularly within the Department) that it is bringing a range of perspectives to bear in its advice, rather than simply replicating the views of the external stakeholder groups, since one of its strengths should be the range of interests it represents. The Department should also consider how to ensure that there is a good mix of skills and background among the members of the Committee.

Views on the '6 month rule', whereby SSAC does not consider regulations which are made under a new Act within six months of commencement, were mixed, with some people arguing that it should be removed, and others arguing that it served a useful purpose. The review team suggests that, as

part of the review of ways of working, SSAC and the Department consider how best to enable the Committee to provide advice on important areas of regulations which are introduced within 6 months of the enabling act, without making it a requirement in all cases. This is already happening with regulations for Universal Credit.

The team were also struck by SSAC members' views on the challenge of building up sufficient expertise to fulfil the role well. As a result, the recommendation is that the Department and SSAC should consider how best to manage the appointments to the Committee in order to ensure that its key strengths (independence and expertise) are maintained. This consideration should include how to ensure that turnover in the membership is managed effectively and how induction of new members is handled.

Finally, the review team believe that the scrutiny of regulations is SSAC's key role and as a result this should take precedence over any other work. The ability to provide ad hoc advice, either on SSAC's initiative or at the request of Ministers, should be retained. However any such work should be carefully planned in at the beginning of each year and reviewed in-year in the light of the workload implications of legislative scrutiny. This work should reflect the role, skills and expertise of the Committee.

Stage Two – Corporate Governance

Principles of good corporate governance

Principle	Evidence
<p>ACCOUNTABILITY</p> <p>The Minister is ultimately accountable to Parliament and the public for the overall performance, and continued existence, of the public body.</p>	<p>The Social Security Advisory Committee (SSAC) is an advisory non Departmental Public Body of the Department for Work and Pensions.</p> <p>SSAC's budget is reviewed and set each year by the Stewardship Team. A reduction in budget and Secretariat was agreed by the Steward with the then Chair as part of the Spending Review 2010 planning exercise. The budget and annual business and three year strategic plan are agreed with the Steward who provides formal sign off of plans and financials.</p> <p>The Stewardship Team monitors delivery of SSAC's objectives and financial outturn (see next section for more detail) in year.</p> <p>In 2011, the Stewardship Team and Committee undertook a comprehensive review of SSAC's role and remit for Ministers and produced a detailed report. This considered SSAC's statutory framework; its accountabilities to Ministers and Parliament and the implications of this for how SSAC should deliver its business.</p> <p>The Stewardship Team runs recruitment exercises on behalf of Ministers for the SSAC Chair and Members. Chair and Member exercises have been undertaken over the last year. These have been run in accordance with statutory requirements and in line with the Code of Practice issued by the Commissioner for Public Appointments. The Secretary of State appoints the SSAC</p>

Principle	Evidence
	<p>Chair and members. Ministers met all appointable candidates after the recruitment exercise conducted for the Chair in 2011.</p> <p>Ministers have specified that the membership of SSAC should be refreshed as part of the ongoing turnover of members. The aim is to introduce new skills that will enable SSAC to be well placed to fulfil its functions in light of the welfare reform changes the Department is committed to. The Stewardship Team have reflected this in four subsequent recruitment exercises. The Stewardship Team is responsible for drafting SSAC Chair and member contracts.</p> <p>There are quarterly and ad hoc meetings between the SSAC Chair and SSAC's sponsor Minister, Lord Freud. The Permanent Secretary also meets with the Chair on an ad hoc basis and has recently attended a Committee meeting.</p> <p>SSAC complies with Data Protection and Freedom of Information legislation. SSAC is subject to the Public Records Acts 1958 and 1967.</p>
<p>ROLES AND RESPONSIBILTIES</p> <p>The DWP departmental board ensures that there are appropriate governance arrangements in place with the SSAC</p> <p>There is a sponsor team within the department that provides appropriate</p>	<p>SSAC's sponsor Minister is Lord Freud, Minister for Welfare Reform. The Committee's sponsorship arrangements are in the process of moving to a new team. The Committee's sponsor team in the Department will sit within the business team for DWP's Professional Services. Gill Aitken (Director General for Professional Services) is SSAC's senior sponsor /Steward.</p> <p>The Steward and the SSAC Chairman meet at least twice a year to discuss progress. As a small body, the day to day sponsorship relationship with SSAC has traditionally rested largely with one individual who can build an effective working relationship with the SSAC Secretariat. Queries are dealt with on an 'as required basis' with discussions on recruitment etc being held. Contact is at least weekly. More formal discussions are held between the SSAC secretariat and the stewardship team at least quarterly for the same purpose. The Stewardship team maintain 'keep</p>

Principle	Evidence
<p>oversight and scrutiny of, and support and assistance to the SSAC.</p>	<p>in touch' arrangements with the staff seconded to SSAC and handle their secondment agreements.</p> <p>The Steward appraises the Chair on an annual basis (and in year this year) and the Chair appraises the performance of individual Committee members. The Chair line manages the SSAC Secretariat and provides regular performance reviews and annual appraisals. Financial information is monitored in year on an ongoing basis by the Stewardship Team working with Finance colleagues. Finance have provided in year support for the SSAC Secretariat. There are quarterly formal review points with the DWP budget holder where any potential over or under-spend is highlighted and then discussed with the Secretariat or Chair.</p> <p>There is a Management Statement and Financial Memorandum which sets out the framework for the relationship between SSAC and the Department for Work and Pensions. The document is dated October 2006 whilst it has been reviewed from time to time it has not been updated since 2006. The review team recommends that this document is updated on the appointment of the permanent Chair.</p>

Principle	Evidence
<p>ROLE OF THE SSAC CHAIR</p> <p>The Chair is responsible for leadership of the Committee and for ensuring its overall effectiveness.</p>	<p>See the section on Accountability above for details of the Chair’s recruitment process by fair and open competition.</p> <p>Appointments to the SSAC Chair are for a fixed term of three years, with the possibility of an extension for one further term. The time commitment is 5 days per month. Remuneration for 2012 is set at £22,000 per annum. The duties, role and responsibilities, terms of office and remuneration of the SSAC Chair are set out clearly and formally defined in writing in the contract prepared by the Stewardship Team. The terms and conditions are in line with Cabinet Office guidance. The SSAC Chair has a clear set of objectives in place which are agreed with the Steward and formally assessed at the end of the year by the Steward. These objectives include:</p> <ul style="list-style-type: none"> • Delivery of SSAC’s statutory responsibilities, including the provision of robust and balanced advice on proposed regulations and wider issues, informed by personal input and the contributions of members. • Leading the Committee to ensure it works well as a team. • Effective Chairmanship of SSAC meetings, ensuring all participants have an opportunity to openly express their point of view. • Effective management of Committee business, in particular that all key outputs are planned and that progress is monitored closely. • Effective resource management, including managing within SSAC’s allocated budget, delivering a plan for future efficiencies and demonstrating propriety and regularity in the use of all available resources. • Effective, open and transparent stakeholder management – internal and external - including acting as an ambassador on behalf of SSAC. • Line management of the Secretariat, including support in relation to the DWP selection exercise and the timely completion of regular reviews and annual appraisals. <p>The SSAC Chair must obtain permission from the Secretary of State to undertake any other work, accept any other appointments, or engage in any activity which might create a conflict of interest with the role.</p> <p>The Committee’s workload and performance are discussed in year at the series of meetings outlined above.</p>

Principle	Evidence
<p>ROLE OF THE SSAC MEMBERS</p> <p>SSAC members should provide independent, expert advice.</p>	<p>See above for more information on the Member recruitment process.</p> <p>The duties, role and responsibilities, terms of office and remuneration of SSAC members are set out clearly and formally defined in writing in the contracts drafted by the Stewardship Team . Members are required to commit to a minimum of 2 days work per month. Remuneration is £256.80 a day or annual equivalent.</p> <p>Members are drawn from a wide range of diverse backgrounds. As described above, Ministers have recently asked the Stewardship team to recruit members with a range of skill sets to ensure that SSAC can deal effectively with the challenges ahead. As such, recent recruitment exercises have sought to recruit individuals with skills not traditionally held by Committee members (for example IT delivery). In the last 12 months, there have been three new members appointed and two re-appointments of existing members. The Stewardship Team is currently running another exercise as member appointments end. Members appointed are drawn from outside Government and by fair and open competition. Seven member posts are reserved: four posts are reserved by statute for posts representing Northern Ireland, organisations representing employers, organisations representing employees and disabled people; and three posts are reserved by convention for posts representing Scotland, Wales and ethnic minorities. Annex D contains details of the current membership.</p> <p>Ongoing feedback from the Work and Pensions Select Committee supports (and SSAC’s effective working relationship with them) supports the view that SSAC’s work is viewed as both independent and expert.</p> <p>Contracts specify that SSAC Members must obtain permission from the Secretary of State to undertake any other work, accept any other appointments, or engage in any activity which might create a conflict of interest with the role.</p>

Principle	Evidence
<p>COMMUNICATIONS</p> <p>The Social Security Advisory Committee should be open, transparent, accountable and responsive.</p>	<p>SSAC makes an explicit commitment to openness in all its activities. SSAC publishes on its website: background information about the Chair and members, agendas and minutes of Committee meetings, reports, consultation documents and details of visits. This covers the range of work it undertakes, including public consultations with interested bodies and individuals. These make it clear how the Committee has responded to the information it has been provided with and why it has come to the decisions it has.</p> <p>SSAC publishes an annual report (there is no requirement for this to be published in Parliament). This report includes a summary of SSAC's work and a financial statement setting out the Committee's expenditure. SSAC does not produce its own formal accounts as its expenditure is included in the Department's accounts. In accordance with transparency best practice SSAC has agreed to include more information on its financial expenditure in this year's annual report.</p>
<p>CONDUCT AND BEHAVIOUR</p> <p>SSAC members should work to the highest personal and professional standards. They should promote the values of the public body and of good governance through their conduct and behaviour.</p>	<p>The Cabinet Office Code of Conduct sets out the standards of personal and professional behaviour expected of all Chairs and Committee members. This forms part of the terms and conditions of appointment in individual's contracts.</p> <p>Committee Members discussions with the Steward have provided clear evidence that they take their responsibilities in respect of their personal and professional standards most seriously. The records of their meetings also reflect this along with their strong commitment to a successful SSAC.</p> <p>SSAC maintains a register of members interests and, as set out in the Framework document, operates clear rules and guidelines in place for managing conflicts of interest which are handled via the Chair.</p>

Annex A – consultation questions

Stage one of the review – questions to be addressed

Functions of SSAC

The key functions of SSAC are:

- **mandatory pre-legislative scrutiny of most DWP proposals for secondary legislation in respect of social security benefits (in both Great Britain and Northern Ireland), leading in some cases to formal referral;**
- **where regulations are formally referred, it usually initiates public consultation, and then it reports to the Secretary of State. The Secretary of State is obliged to take account of the Committee's recommendations and, when the regulations are finally laid before the House, the Committee's report and a statement explaining the response to its recommendations must also be laid.**
- **providing advice on Ministerial request, either on specific issues or in respect of distinct work streams, such as simplification in the benefit system and input to the DWP's public information strategy;**
- **providing ad hoc advice to Ministers, on subjects chosen on their own initiative;**
- **provision of non-statutory advice to HMRC, governed by a Memorandum of Understanding.**

Questions:

1. Are all of these functions still required? Which have proved to be most successful?
2. What benefits do these functions bring to the effective design of the social security system?
3. Are the functions appropriate in terms of delivering SSAC's statutory objectives and other objectives?
4. How effective has SSAC been in delivering its functions?
5. Are there additional functions which SSAC should take on?

Delivery Model

Where the Department concludes that a particular function is still needed, we need to consider a wide range of delivery options. This should include whether the function can be delivered by the local government, voluntary or private sectors. It should also include an examination of different central government delivery models, including whether the function can be delivered by the sponsoring Department, by a new or existing Executive Agency or by another existing central government body.

The Cabinet Office has set out “three tests” for deciding whether NDPB status is appropriate: (i) is this a technical function (which needs external expertise to deliver); (ii) is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions); or (iii) is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity.

Questions

6. Are there any alternative delivery models for the functions which need to be retained?
7. Could we achieve the same objectives through different arrangements for engagement with users, stakeholders, sectors and communities?
8. Which, if any, of the ‘three tests’ for being an NDPB do the functions of SSAC meet? Which one is key?

Additional comments

9. If you consider that there is an ongoing need for SSAC, are there any changes you would want to see in terms of either its function or form?
10. Are there any other comments you would like to make beyond the specific questions above?

Annex B – external responses to the consultation received from:

Dame Anne Begg, Chairwoman of the Work and Pensions Committee

Kate Green MP

Baroness Ruth Lister of Burtersett

The Rt. Hon Stephen Timms MP

Child Poverty Action Group

Citizens Advice

HM Revenue and Customs

Joseph Rowntree Foundation

Shelter

Scottish Government

Trades Union Congress

Pat Smail, Independent Research Consultant; and former SSAC member

Fran Bennett, Senior Research Fellow in the Department of Social Policy and Intervention, University of Oxford

Annex C – summary of SSAC scrutiny activity

Regulations	2005	2006	2007	2008	2009	2010	2011
Published reports on proposals and responses by Secretary of State (i.e. formal reference)	1	2	0	3	5	3	0
Regulations put to the SSAC which the Committee decided did not require formal reference	21	34	28	21	25	30	22
Regulations considered by the Committee other than under the terms of its statutory remit (i.e. made within six months of the coming into force of the relevant Act)	0	0	6	10	2	9	3
Regulations considered by the Committee under the terms of its Memorandum of Understanding with HMRC.	9	5	4	6	7	6	1

Annex D – details of SSAC membership

Paul Gray CB - Paul is a retired Civil Servant who was formerly Executive Chairman of HM Revenue and Customs and, before that, the Second Permanent Secretary in the Department for Work and Pensions. Paul is now a partner and Chair of Praesta Partners LLP, an executive coaching and mentoring firm. He also serves as Chair of Governors of a comprehensive secondary school, and as a member of the Council, and its Strategy and Resources Committee, at the University of Essex.

Janet Walker OBE - Janet is Emeritus Professor of Family Policy in the Institute of Health and Society at Newcastle University. She has directed over 50 studies in the fields of marriage, divorce, parenting, criminal justice and in the provision of services for children and young people, couples and families, and has been an expert consultant to the Council of Europe. She is a trustee of Relate and international Board member of the Canadian Research Institute for Law and the Family. She is a Fellow of the Royal Society of Arts and Academician of the Academy of Learned Societies for the Social Sciences.

Kwame Akuffo - Kwame is Chair of Ealing Racial Equality Council and also Chair of the free law clinic, Community Advice Programme. He is co-founder of the Equality and Human Rights Centre West London and has been a law teacher since 1982. He is currently a Senior Lecturer at Ealing Law School, Thames Valley University. He is a JP and a member of the Family Panel.

Les Allamby - Les is Director of Law Centre (NI). He is a solicitor and sociology and social administration graduate. He is a social security adviser involved in advocacy before the Social Security Commissioner, and with taking cases to the ECJ and ECHR on social security issues. He has also served as an election monitor and supervisor in Bosnia, Pakistan and Georgia.

Simon Bartley - Simon is Chair & Chief Executive of UKSIC and President & Chairman of WorldSkills International. Simon is a Chartered and a European Engineer, a Member of both the Institution of Civil Engineers and of CIBSE and is a Fellow of the Institution of Engineering Technology and of the City & Guilds of London Institute. He is a Member of The City & Guilds Council and a Member of both the Apprenticeship Ambassadors Network and the Skills Forum. He currently chairs both the 14-19 Diploma Steering Group for Construction and the Built Environment and the BSI SME Policy Committee. Simon is Chair of Providence Row Charity, a Charity for the homeless in the East End of London.

Brigid Campbell OBE - Brigid started her career in the civil service before undergoing teacher training, spending five years in a Citizens Advice Bureau, and

then qualifying as a solicitor. After a short spell in practice, she joined the teaching staff of The College of Law. She was appointed to the Independent Tribunal Service (now The Tribunals Service) in 1995, and was until her retirement a part-time Chair. Since retiring from the College in 2000 she has returned to Citizens Advice, where she works mainly in social policy.

Keith Faulkner CBE - Keith studied Physics and Psychology at Reading University and undertook research for the Ministry of Aviation as a Temporary Executive Officer. His main career was with the global employment services business, Manpower, in which he held a wide variety of line and functional management positions over a period of more than 30 years. Keith's last role at Manpower was as Public Affairs Director and as part of this Keith played a lead role in the formation of a public/private joint venture company with Cap Gemini and the Employment Service, Working Links. Keith served as Working Links' first Chair, became Managing Director from 2003 until 2008 and then reverted to the role of Chair until November 2011. Keith is a trustee of several charities and an active member of both the CBI and Acevo.

Pamela Fitzpatrick - Pamela is Director of Harrow Law Centre, an organisation she founded in 2010. She has an MA in Public Policy and Public Law and has worked in the voluntary sector for over 25 years. Prior to taking up her post at Harrow Law Centre she was employed by the Child Poverty Action Group as a welfare benefits specialist. She has written extensively on social security particularly on the European dimension. She is a Trustee of Springfield Law Centre. She lectures extensively on social security and policy related to welfare. Pamela is a member of the Tress group (Training and Reporting on European Social Security) organised by the European Commission.

Colin Godbold - Colin is an independent consultant specialising in delivery of large scale Information Technology and organisational change programmes. Formerly a Partner in IBM's consultancy and services practice, Colin has had a successful business career spanning over 30 years. He has worked closely with a variety of UK Government Departments including the Department of Work and Pensions, and with commercial organisations in particular in the oil, banking and insurance industries. He is a Chartered and European Engineer and a Fellow of the British Computer Society.

Elaine Kempson CBE - Elaine is Professor Emeritus at the University of Bristol, having previously been Director of the Personal Finance Research Centre at the University. She is also a part-time consultant to the World Bank. She is a consumer protection adviser to the Central Bank of Ireland and a non-executive director of the Financial Ombudsman Services. She was, until recently, a non-executive director of the Banking Code Standards Board, a member of HM Treasury's Financial Inclusion Taskforce and of the Government Advisory Group on over-indebtedness.

Nicola Smith - Nicola Smith is Head of the Economic and Social Affairs Department (ESAD) at the Trades Union Congress (TUC). Prior to joining the TUC, she was employed as a Principal Researcher at the Centre for Economic and Social Exclusion, where she managed a range of research focusing on welfare-to-work and anti-poverty policy. Nicola has also held research and policy posts at the Children and Young People's Unit within the Department for Education and Skills (DfES), and at Barnardo's Policy and Research Unit.

ISBN: 978-1-78153-049-8

A Review by the Department for Work and Pensions of the Social Security Advisory Committee