



Department
for Work &
Pensions

Adran Gwaith
a Phensiynau

Triennial Review Report: Social Security Advisory Committee

An independent review of the function, form and
governance of the Social Security Advisory
Committee (SSAC)

Sarah Stoney

24 March 2015

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Foreword by Sarah Stoney

In November 2014 I was appointed to lead the Triennial Review of the Social Security Advisory Committee (SSAC) on behalf of the Department for Work and Pensions (DWP). It is Government policy that all Non-Departmental Public Bodies (NDPBs) be reviewed at least once every three years. There were two stages to this Triennial Review process. In stage 1 I considered:

- Whether the functions of SSAC are still necessary;
- If they are, whether delivery of those functions by SSAC, in its current form as an advisory NDPB, is the most efficient and effective way; and
- If it is, whether, and if so how, performance might be made more effective or efficient.

Having considered the evidence, I have concluded that there is a clear continuing need for the functions that SSAC delivers and that SSAC is the most efficient and effective way to deliver those functions. Having reached these conclusions, I have also considered whether there are any areas where the performance or impact of SSAC might be improved so making it more effective. Recommendations in this respect are set out in the Executive Summary and explained further in the body of this report.

In relation to stage 2 of the Review, I had to consider whether adequate control and governance arrangements are in place to ensure that SSAC complies with the principles of good governance. I have concluded that SSAC is operating with the level of control and governance that is to be expected of an NDPB of its size and profile.

I would like to thank all the stakeholders who contributed to my Review. Eighteen responses were received to the consultation that was carried out and two organisations attended a workshop to discuss their views with me. The SSAC Chair, Members and Secretariat have co-operated fully and pro-actively with my Review. Officials from across DWP and Her Majesty's Revenue & Customs (HMRC) have also co-operated fully, answering my questions and meeting with me as needed.

Triennial Review Report: Social Security Advisory Committee

Finally, I would like to thank my Review Team for helping me to bring this report together.

Sarah Stoney

Executive Summary

Stage 1

Having identified the key functions of SSAC, considered the responses to the consultation received and examined the evidence available, I have concluded that SSAC should continue in its current form. The overwhelming response from external consultees and officials across Government was that SSAC should continue to scrutinise regulations and provide independent and expert advice in relation to them. SSAC is in a unique position to identify and provide advice on the potential impacts, intended or otherwise, and the inter-relationship between proposed regulations, due to its overview of the legislation and its specialist knowledge of social security and welfare matters.

This review supports the continuation of SSAC in its current form, as an advisory NDPB. The Committee's independence and its political impartiality are essential to the proper delivery of its functions.

During the course of the review, some areas came to light where improvements or change could potentially lead to increased effectiveness and impact of SSAC's work. These are discussed in more detail in the body of this report. In summary the Review recommends:

- there be an evaluation of SSAC's Independent Work Programme and the impact of previous reports;
- the Department considers with the SSAC Chair whether sharing more information about future policy direction could have an impact on SSAC decisions about the content of the Independent Work Programme, increasing its impact and effectiveness, before taking decisions on the subjects to be covered;
- SSAC consider whether it could increase the impact of the Independent Work Programme by consulting further with the Department on the subjects to be covered;

- the Department consider more regularly whether there are specific matters in relation to which it would benefit from SSAC advice; and
- there be an awareness raising exercise across DWP on SSAC's wider role benefiting Parliament.

Stage 2

Cabinet Office guidance is 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 concluded that SSAC's control and governance arrangements are robust.

Introduction

It is Government policy that a non-departmental public body (NDPB) should only be set up, or remain in existence, where the model can be clearly evidenced as the most appropriate and cost-effective way of delivering the functions in question. 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?

Since April 2011, all NDPBs have to undergo a substantive review at least once in every three year cycle. The Triennial reviews examine:

- Stage 1 – whether the functions of the NDPB remain necessary and whether delivery by an arms length body is the most efficient and effective way to deliver these functions
- Stage 2 – If it is concluded that the functions of the NDPB should continue to be delivered by an arms length body, whether adequate control and governance arrangements are in place to ensure that the body complies with the principles of good governance.

All Triennial Reviews are carried out in line with the Cabinet Office 'Guidance on Reviews of Non-Departmental Public Bodies' (July 2014). This guidance states that reviews should be:

- **Proportionate:** Reviews must not be overly bureaucratic and should be appropriate for the size and nature of the NDPB in question
- **Timely:** Reviews should be completed quickly – the first stage ideally within three months - to minimise disruption to the NDPB's business and reduce uncertainty about its future

- **Challenging:** Reviews should be robust and rigorous. They should evidence the continuing need for individual functions and examine and evaluate as wide a range as possible of delivery options
- **Inclusive:** Reviews should be open and inclusive. Individual NDPBs must be engaged in reviews. Key users and stakeholders should have the opportunity to contribute to reviews. Parliament must be informed about the commencement and conclusions of reviews
- **Transparent:** All reviews should be announced and all reports of reviews should be published
- **Value for Money:** Reviews should be conducted in a way that represents value for money for the taxpayer.

The Terms of Reference for this review can be found at Annex A.

The review of SSAC was launched on 18 November 2014 by means of a Parliamentary Written Statement. Consultation took place with Ministers, senior officials from within the Department and externally with a range of interested parties during November and December 2014. The consultation was conducted using the questions at Annex B. A list of the Respondents can be found at Annex C. The Work and Pensions Select Committee were informed of the review at the outset and were invited to provide input into the review. The members of SSAC had the opportunity to input into the review and the Chair had the opportunity to comment on the final draft report.

About the Social Security Advisory Committee

SSAC is an independent statutory body that provides impartial advice on social security and related matters. It scrutinises most of the complex secondary legislation which underpins the social security system. The purpose, functions and form of SSAC are set out in the Social Security Administration Act 1992.

SSAC is a small Non-Departmental Public Body with a maximum of 14 members, including the Chairman. It does not have an executive or operational role and its

statutory remit is limited to providing advice. Members are expected to devote on average two days work per month to the Committee and receive £256.80 per day. The Chairman is expected to devote five days work per month and receives £22,000 per annum.

SSAC is supported by a Secretariat of five staff (4.6 FTE), all on loan from DWP or HMRC. SSAC's sponsor Minister is Lord Freud and its senior steward is Jeremy Moore, Director General for Strategy, Policy and Analysis Group. The Committee is funded directly by the Department and has no other funding sources. The Committee's budget for 2014/15 is £350,000 and includes staff costs and funds for research.

Stage one – Key functions

Overview

SSAC has two functions:

- To perform a mandatory scrutiny of most of the proposed regulations relating to welfare benefits and state pensions for the benefit of both the Secretary of State for Work and Pensions and Parliament; and
- To provide advice and assistance to the Secretary of State, whether in response to a specific request or on SSAC's own initiative.

This latter function of providing advice and assistance includes:

- responding to specific requests for advice from Ministers and officials;
- undertaking its own detailed studies as part of SSAC's Independent Work Programme;
- informally scrutinising regulations that are exempt from statutory scrutiny, e.g., where regulations are made within six months of commencement of a new provisions;
- providing non-statutory advice to HMRC;
- providing comment on a range of draft guidance and communications;
- responding to public consultation exercises conducted by Government and others where they believe that they can add value.

SSAC also performs a similar role for the Department for Social Development in Northern Ireland.

Generally, advice offered formally by SSAC in relation to proposals for legislation must be published by the Secretary of State for Work and Pensions, along with the Government's response to their conclusions and recommendations. There is no

statutory time limit in which SSAC's advice must be published, but it must be laid with the regulations if and when they are laid before Parliament. In relation to other forms of advice from SSAC, there is no obligation upon the Secretary of State to respond or to act upon any of the advice.

Mandatory scrutiny of Regulations

This is SSAC's key function. It dominates its workload and, as a result, determines what time SSAC has available to consider other matters within its remit. Annex E provides a summary of SSAC's scrutiny activity, for example, in 2014 SSAC considered 28 sets of regulations in its mandatory scrutiny role, deciding that two sets should be formally referred to it, leading to published reports on:

- the Social Security Jobseekers Allowance and Employment and Support Allowance Waiting Days Amendment Regulations 2014;
- the Housing Benefit Habitual Residence Amendment Regulations 2014.

General advisory function

A large part of SSAC's advisory role is the research and resulting reports produced as part of its Independent Work Programme. In recent years SSAC has undertaken one or two major pieces of advisory work each year. These have been supported by a dedicated researcher on the SSAC Secretariat. In the last two years, four reports have been published:

- Implementation of Universal Credit and the support needs of claimants¹;
- Communications in the benefits system²;
- The cumulative impact of Welfare Reform: a commentary³;
- Social security and the self-employed⁴.

¹ [SSAC Occasional Paper 10: Implementation of Universal Credit and the support needs of claimants](#)

² [SSAC Occasional Paper 11: Communications in the benefits system](#)

³ [SSAC Occasional Paper 12: The cumulative impact of Welfare Reform: a commentary](#)

⁴ [SSAC Occasional Paper 13: Social Security and the self-employed](#)

DWP Ministers are able to make specific requests for advice from SSAC, which are not related to the scrutiny of regulations. In the period since the last review in June 2012, no such specific requests have been made. The last occasion was in May 2011 when SSAC was commissioned to undertake an independent review of the passported benefits regime and provide advice on the possible provision of these benefits on the introduction of Universal Credit.

Are these functions still required?

Mandatory scrutiny of regulations

The main function, and from the consultation, clearly the most important function that SSAC carries out is the scrutiny of regulations and provision of advice in conjunction with that role. The overwhelming view from respondents to the consultation and from discussions with officials across DWP and HMRC is that this function is still very much required. There is also a great deal of support from external stakeholders, including Parliamentarians, who value SSAC's provision of robust and independent challenge.

“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 crucial in filling this role effectively.” (Work and Pensions Select Committee)

The last review of SSAC, carried out in June 2012, concluded that there were three reasons why additional scrutiny of social security regulations carried out by SSAC was still required. They were:

- the inherent and unusual complexity of social security policy and legislation means there can be unintended consequences of a particular course of action which are not always easy to recognise;
- 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 subject to less close scrutiny in Parliament;

- social security legislation affects the most disadvantaged people in society and as such it is essential the Department has robust mechanisms in place to ensure the impact of legislation on them is properly assessed.

These reasons for additional scrutiny of social security secondary legislation still stand. Nothing has happened in the time since June 2012 to weaken these arguments. Some of the responses to the external consultation would suggest that this additional scrutiny has actually never been more important.

“The current and ongoing programme of welfare reform and related change, coupled with the potential implications for a range of groups with diverse characteristics make the work of SSAC particularly important.” (*Drugscope*)

The scrutiny role SSAC carries out does benefit the Department. It was clear from the SSAC meeting attended by the Reviewer that SSAC clearly take their scrutiny role seriously. The members are engaged with the Regulations put before them for consideration, actively considering the issues and whether there are additional matters the Department needs to consider. Members were keen to be helpful to the Department, making suggestions of how things might otherwise be done or improved where appropriate. SSAC’s questioning also demonstrated the overview that SSAC has, due to the fact that it considers both DWP and HMRC regulations. This assists the Department in ensuring that its policies are cohesive and consistent.

The experience and the independence of SSAC from the Department mean that its views are considered to be of particular value by external stakeholders. The evidence shows that SSAC is trusted by external relevant groups which means that they are prepared to engage readily with the consultations on regulations that SSAC holds. As a result, SSAC may have access to some groups and views that the Department itself does not. These can then be fed through to the Department in the SSAC’s Report on any regulations on which it consults.

“Public consultation allows for a wider range of opinion than would otherwise be available. Many claimants would fear repercussions if having to respond to the DWP directly. Being independent allows for wider debate.” *(Peabody Trust)*

“The membership of SSAC is drawn from a range of interested parties with highly relevant experience of the operation of benefits in the real world – their practical advice on how the proposed legislation will function, in particular about any unintended consequences that may occur, is invaluable.” *(Secondary Legislation Scrutiny Committee”)*

General advisory role

For the purposes of considering whether the general advisory function of SSAC is still required, it is helpful to look at it in 3 streams of work:

- that advice which is intrinsically provided as part of the scrutiny of regulations;
- advice sought on an ad hoc basis, i.e., in relation to regulations exempt from statutory consideration, guidance or information products; and
- the Independent Work Programme SSAC undertakes on its own initiative and specific requests for advice from Ministers.

In relation to the first of these, it is clear that as the scrutiny of regulations is still required, the provision of advice related and relevant to this must also be required. These two functions cannot be sensibly separated.

On the second, if SSAC is to remain in existence to carry out the scrutiny of regulations and the provision of advice in respect of those, it makes perfect sense to continue to allow the Department to make ad hoc requests for advice or assistance, where there is resource to deal with those alongside the scrutiny function. The Department benefits from SSAC considering the content of some regulations which are exempt from mandatory consideration in the same way as it does where they are subject to such consideration. SSAC can certainly assist in questioning the policy and considering what unintended consequences there might be.

There are also occasions where SSAC is asked to consider departmental guidance, and in fact there have been occasions where SSAC has requested sight of draft guidance linked to regulations it is considering. Over recent years, the amount of discretion that decision makers have under social security legislation has increased. There are some matters that previously may have been covered by regulations, but where the detail of what decision makers need to consider is now in guidance. In this context, it can be helpful for SSAC to consider Departmental guidance and this Review would suggest that this practice should continue on an ad hoc basis. However, if the amount of departmental guidance on which the Department sought views from SSAC were to increase there would clearly be resource issues and this work stream would need to be reconsidered in that light.

In the last review it was recommended that the Department formally remove the requirement on SSAC to review public information products. SSAC has, however, found that it is still sometimes sent such products to comment upon. This does not appear to be particularly onerous and SSAC members themselves feel that where this occurs they can add value as their experience means they can more easily consider it from the perspective of the end user. They are content to continue with this consideration where requested and this should continue where there is adequate resource available within current resource.

In relation to the Independent Work Programme, more mixed views were received. It has been difficult within the scope and resource of this review to evaluate the impact of the reports produced by SSAC under its Independent Work Programme. In relation to two out of the last four reports produced the Department has not formally responded to the content or recommendations made. Those reports that the Department has welcomed and taken an interest in have clearly had an impact and recommendations have been acted upon, for example SSAC's report on Communications in the Benefits System. Those which have not been responded to or acted upon by the Department have some value to external stakeholders as interesting and credible comment on the subjects considered, but there is a question whether this is an efficient or effective use of SSAC's resources. However, it may be that although some reports are not responded to immediately afterwards, in the

longer term recommendations made are taken on board or otherwise acted upon. Equally, there may also, on occasion, be a legitimate role for an independent statutory body to decide to undertake work on, and make recommendations about, issues that appear to be of public concern but which may be less than welcome at the time to the Government of the day. SSAC is currently undertaking a review of their report 'Telephony in DWP and its agencies.

SSAC has a sub-committee which leads on the Independent Work Programme. In determining the subjects for research and report, views are sought from across the members and the thoughts of external stakeholders are sought at the biannual stakeholder events, one of which is held outside of London. The Chair usually informs the Minister of topics for the work programme at their informal quarterly meetings. The topic currently being looked at is the localisation of services.

In relation to this third stream of the SSAC's advisory role, this review recommends that, without prejudice to the rights of an independent body:

- there be an evaluation of the Independent Work Programme and the impact of previous reports;
- the Department consider sharing with SSAC on a confidential basis more information about future policy direction so that SSAC decisions on the content of the Independent Work Programme can take this into account;
- SSAC consider whether it could increase the impact of the Independent Work Programme by consulting further with the Department on the subjects to be covered; and
- the Department consider more regularly whether there are specific matters in relation to which it would benefit from SSAC advice.

HMRC advisory role

SSAC's role in relation to HMRC, although non-statutory, is very similar to its role in relation to DWP. HMRC officials value the role that SSAC plays. The fact that SSAC provides advice to both DWP and HMRC and considers Regulations from both Departments means that SSAC can provide an overview when considering

matters for the individual Departments. This Review considers that the scrutiny of HMRC Regulations and the related provision of advice should continue for the same reasons given for the continued scrutiny of DWP legislation.

The last review recommended that the Memorandum of Understanding between SSAC and HMRC be revisited. This did not happen, but other measures were put in place. A HMRC sub-group was established which meets regularly with HMRC officials to discuss issues of common interest. From discussions with the Chair and officials at HMRC, it is clear that they do not see any great value in revisiting the Memorandum at the current time. The relationship under the Memorandum appears to be working relatively well. It is also worth noting that the volume of SSAC's work involving HMRC will reduce significantly following the full rollout of Universal Credit. As such, this review does not repeat the recommendation from the last review.

How should the functions be delivered?

The Cabinet Office guidelines require that a wide range of delivery options be considered. Some of the options are considered below.

Bring in-house – it would be possible for the Department to set up an additional team that scrutinised Regulations to provide the additional check that SSAC provides for Departmental purposes, though they would lose the benefit of the external experience that a body like SSAC can attract to its membership. However, a team internal to the Department could not carry out the independent scrutiny which Parliament relies on. SSAC's independence from Government is seen as vital to its effectiveness by its external stakeholders.

Ad hoc advisory body – The volume of secondary legislation the Department produces means this would be much less efficient than having a dedicated body as a group would regularly need to be brought together. The subject matter, links and overlaps between the regulations of the Department mean that it is much more beneficial for the same group of people to consider all the regulations. That

group then benefits from the overview and a build-up of knowledge and experience, as is the case with SSAC. A more ad hoc arrangement, as well as suffering from these disadvantages, would also be likely to be more expensive than the current arrangements.

Delivery by the voluntary sector – There are a number of voluntary sector organisations who could carry out this role, but they are organisations already involved with lobbying the government on social security issues. As such there would be a loss of the independence from which SSAC benefits and the wider perspective the diversity of SSAC membership offers would be lost.

Delivery by the private sector – There is unlikely to be any interest from the private sector in providing this role as there is nothing involved in the role to generate an income. Privatising the role would do nothing other than increase costs so as to add a profit margin for the company who takes the service on.

Merger with another body – SSAC is unique in its remit of social security legislation. As such no body has been identified with whom SSAC could helpfully merge.

“An NDPB has a certain status that helps it retain the trust and respect of those involved in the debate and it is hard to imagine alternative arrangements retaining that trust and respect.” (TUC)

Conclusion on the delivery model

The conclusion of this review is that the existing model of delivering these functions via an advisory SSAC remains the best option for delivery of SSAC's functions. The current delivery model is supported as effective by the sponsoring Minister, external stakeholders who responded to the consultation and the majority of officials spoken to across Government.

Of the Cabinet Office three tests for remaining an independent NDPB, SSAC clearly meets the second test. That is, that its functions need to be, and be seen to be, delivered with absolute political impartiality. If SSAC is to support both the Department and Parliament with the scrutiny of regulations it must provide an independent perspective on what is put before it. If the advice SSAC provides were not provided by an independent body, the weight and authority of it would diminish so reducing its value and impact.

Relationship between SSAC and DWP

The last review recommended that SSAC and the Department should build further on work to review how they work together to ensure that the relationship is strong, whilst retaining SSAC's independence. This arose as a recommendation because it became apparent during that review that there was some ambivalence within the Department about SSAC's role and some concern within the Committee that the Department was often unclear about its objectives and did not provide enough information about the overall context for regulations.

During the course of this review it became clear that a lot of work has been done by SSAC members, the Chair, the Secretariat and the Department on improving the working relationship. More information is being shared by the Department with SSAC and the Secretariat confidentially so that there can be a greater understanding of the background and drivers for some of the policies and regulations put before them.

SSAC members and the Secretariat have delivered training and awareness raising session to officials within the Department. This has assisted in informing people within the Department about SSAC, the knowledge and experience of its members and the value it can add when properly consulted.

The relationship between the Department and SSAC appears to have developed well at all levels since the last review, particularly when recognising that there is a delicate balance to be struck due to the maintenance of the Committee's

independence. In the course of carrying out research for the review, it became apparent that there had been some issues with one set of regulations in the past year, which involved highly political issues and very short timescales. However, it was very clear that this was not the norm. Generally, there is a strong appreciation of the helpfulness of the Secretariat and the value that the Chair and the Committee as a whole add to regulations through their scrutiny and challenge.

One point that did stand out was that although officials understood SSAC's role in relation to the Department and the benefits that its scrutiny can bring to the Department, officials had little awareness of the reliance that Parliament also places on SSAC's scrutiny of regulations and the importance of that. This Review recommends that some awareness-raising within the Department of SSAC's wider role take place. This could assist officials in understanding further all the reasons why it is important that SSAC has the opportunity to properly scrutinise regulations.

Resources

SSAC's budget is currently £350,000 per year. The majority of this budget is allocated to staffing the Secretariat and paying members for their time and expenses. Having considered the budget and how it is allocated, the only way of making significant savings in relation to SSAC is to reduce the number of members on the Committee or reduce the staffing levels of the Secretariat. This Review would not recommend either of these options. Any such financial saving made would have a disproportionate negative impact on the effectiveness of the Committee in delivering its functions.

During this review SSAC had 14 members, including the Chair, which is the maximum size of the Committee in accordance with the legislation. Recent recruitment exercises have focussed on ensuring that the Committee includes the range of perspectives that it needs from its membership. Experience throughout this Review showed that all the members are clearly engaged with their role and well informed. The average cost per member for 2013-14 (including expenses) was in the region of £6,500, excluding the Chair, and all the members clearly give

additional time to their SSAC role, studying, researching and reading papers, which is not charged for. Any reduction in the membership of SSAC would mean a loss to the width of experience and the perspective SSAC provides, which is one of its greatest assets. This would outweigh any potential cost saving. There is also the danger that if SSAC loses one member, the other members have to do more and so charge more to make up for that.

The Secretariat is small and well managed. It provides a great deal of support to the members, of which they are very appreciative. As well as preparing for the SSAC monthly meetings, the Secretariat regularly corresponds with the members during the month so allowing more minor sets of regulations and other business to be considered by post, rather than taking up valuable meeting time. The Secretariat also provides a lot of support and assistance to officials in DWP and HMRC, so making the process of bringing regulations to the SSAC as smooth as possible. There was a great deal of praise for the Secretariat from within SSAC, external stakeholders and officials across the Departments.

Stage two – Corporate Governance

Principles of good corporate governance⁵

Accountability – The Minister is ultimately accountable to Parliament and the public for the overall performance, and continued existence of the advisory NDPB.

| Supporting provisions | Examples of evidence |
|--|---|
| <ul style="list-style-type: none"> • The Minister and sponsoring department should exercise appropriate scrutiny and oversight of the advisory NDPB. This includes oversight of any public monies spent by, or on behalf of, the body • Appointments to the advisory NDPB should be made in line with any statutory requirements and, where appropriate with the Code of Practice issued by the Commissioner for Public Appointments • The Minister will normally appoint the Chair and all Board Members of the advisory NDPB and, in consultation with the Chair, be able to remove individuals whose performance or conduct is unsatisfactory • The Minister should meet the Chair on a regular basis • There should be a requirement to inform Parliament and the public of the work of the advisory NDPB in an annual report proportionate to its role • The advisory NDPB must be compliant with Data Protection legislation • The advisory NDPB should be subject to the Public Records Acts 1958 and 1967 | <ul style="list-style-type: none"> • SSAC's budget is reviewed and set each year by the Stewardship team. • The budget and annual business plan are agreed. The Secretary and Stewardship team monitors delivery of SSACs objectives and financial outturn in year. • There is a formal framework between DWP and SSAC, which was last reviewed in 2013. • The Stewardship team runs recruitment exercises on behalf of Ministers for the Chair and Committee Members. They are run in accordance with statutory requirements and in line with the Code of Practice for Public Appointments. • The Stewardship team is responsible for Chair and member contracts. • There are quarterly and ad hoc meetings between the Chair and sponsor Minister. The Permanent Secretary also meets with the chair on an ad hoc basis. • SSAC complies with Data |

⁵https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332151/Triennial_Reviews_Guidance_-_annexes.pdf

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| | Protection and Freedom of Information legislation and is subject to the Public Records Acts 1958 and 1967. |
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Roles and Responsibilities

Role of the Sponsoring Department – The departmental board ensures that there are appropriate governance arrangements in place with the advisory NDPB. There is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the advisory NDPB.

| Supporting provisions | Examples of evidence |
|--|---|
| <p>Depending on the risks to the department’s wider objectives and/or the size of the advisory body, the following arrangements may need to be put in place:</p> <ul style="list-style-type: none"> • The departmental board’s agenda should include scrutiny of the performance of the advisory NDPB proportionate to its size and role • There should be a document in place which clearly sets out the terms of reference of the advisory NDPB. It should be accessible and understood by the sponsoring department and by the Chair and Members of the advisory NDPB. It should be regularly reviewed and updated. • There should be a dedicated sponsor team with the sponsor department. The role of the sponsor team should be clearly defined • There should be regular and ongoing dialogue between the sponsoring department and the advisory NDPB. • There should be an annual evaluation of the performance of the advisory NDPB and any supporting committees - and of the Chair and individual Members. | <ul style="list-style-type: none"> • The DWP and SSAC framework was last reviewed and updated in 2013 • The Stewardship Team is in the Feedback, Legislation and Decision Making Division of DWP. The Steward is Jeremy Moore. • The Steward and SSAC Chair meet annually. The Deputy Director Head of the Stewardship Team’s division also meets the Chair on an ad hoc basis as necessary. • There is regular contact between the Stewardship team and the SSAC Secretariat. Contact is generally on an ‘as needed’ basis, being on average at least weekly. More formal discussions are held quarterly. • The Steward appraises the Chair on an annual basis and the Chair appraises the performance of individual Committee Members. |

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| | The performance of SSAC is included in the annual Departmental <i>Arm's Length bodies Performance Report</i> which is produced for the Departmental Board. |
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Role of the Chair – The Chair is responsible for leadership of the advisory NDPB and for ensuring its overall effectiveness.

| Supporting provisions | Examples of evidence |
|--|--|
| <ul style="list-style-type: none"> • The advisory NDPB should be led by a non-executive Chair • There should be a formal, rigorous and transparent process for the appointment of the Chair. This should be compliant with the Code of Practice⁶ issued by the Commissioner for Public Appointments. The Chair should have a clearly defined role in the appointment of non-executive board members • The duties, roles and responsibilities, terms of office and remuneration (if only expenses) of the Chair should be set out clearly and formally defined in writing. Terms and Conditions must be in line with Cabinet Office guidance and with any statutory requirements. The responsibilities of the Chair will normally include: <ul style="list-style-type: none"> ○ representing the advisory NDPB in any discussions with Ministers ○ advising the sponsoring department and Ministers about member appointments and the performance of members; ○ ensuring that members have a proper knowledge and understanding of their role and responsibilities. The Chair should ensure new members undergo a proper induction process and is normally responsible for undertaking an annual assessment of non-executive board members performance; | <ul style="list-style-type: none"> • The Chair is recruited through fair and open competition. The process is compliant with the Code of Practice on Public Appointments. • The Chair has a role in the recruitment of Committee members. • Appointments to the Chair are for a 3 year fixed term, with the possibility of an extension for one further term, subject to the Minister's agreement. • The time commitment is 5 days per month. Remuneration is £22,000 per year. • The duties, role and responsibilities, terms of office and remuneration are set out clearly in the contract prepared by the Stewardship Team. • The terms and conditions |

⁶ <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-20121.pdf>

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|--|--|
| <ul style="list-style-type: none"> ○ ensuring that the advisory NDPB, in reaching decisions, takes proper account of guidance provided by the sponsoring department or ministers ○ ensuring that the advisory NDPB carries out its business efficiently and effectively; and ○ representing the view of the advisory NDPB to the general public, when required. | <p>are in line with Cabinet Office guidance.</p> <ul style="list-style-type: none"> ● The SSAC Chair has a clear set of objectives which are agreed with the Steward and formally assessed at the end of the year by the Steward. |
|--|--|

Role of other members – The members should provide independent, expert advice. All Members should ensure that high standards of corporate governance are observed at all times. This should include ensuring the advisory NDPB operates in an open and accountable way.

| Supporting provisions | Examples of evidence |
|---|---|
| <ul style="list-style-type: none"> ● There should be a formal, rigorous and transparent process for the appointment of members to the advisory NDPB. This should be compliant with the Code of Practice⁷ issued by the Commissioner for Public Appointments ● Members should be properly independent of the department and of any vested interest (unless serving in an ex-officio or representative capacity). ● Members should be drawn from a wide range of diverse backgrounds, but should have knowledge and expertise in the field within which the body has been set up to advise Ministers. The advisory NDPB as a whole should have an appropriate balance of skills, experience, independence and knowledge. ● The duties, roles and responsibilities, terms of office and remuneration of members should be set out clearly and formally defined in writing. Terms and Conditions must be in line with Cabinet Office guidance and with any statutory requirements. | <ul style="list-style-type: none"> ● The members are recruited through fair and open competition. The process is compliant with the Code of Practice on Public Appointments. ● The duties, roles and responsibilities, terms of office and remuneration are set out clearly 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 per day. ● Members are drawn from a wide range of diverse backgrounds. ● Four member positions are reserved by statute for persons |

⁷ <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-20121.pdf>

| | |
|--|--|
| <ul style="list-style-type: none"> • All members must allocate sufficient time to the advisory NDPBs to discharge their responsibilities effectively. • There should be a proper induction process for new members. This should be led by the Chair. There should be regular reviews by the Chair of individual members’ training and development needs. | <p>representing Northern Ireland, disabled people, organisations representing employers and organisations representing employees. Three positions are reserved by convention for persons representing Scotland, Wales and ethnic minorities. Annex E contains details of the current membership.</p> <ul style="list-style-type: none"> • On-going feedback from the Work and Pensions Select Committee supports the view that SSAC’s work is considered to be both independent and expert. |
|--|--|

Communications – The advisory NDPB should be open, transparent, accountable and responsive

| Supporting provisions | Examples of evidence |
|---|--|
| <ul style="list-style-type: none"> • The advisory NDPB should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000 • The advisory NDPB should make an explicit commitment to openness in all its activities. Where appropriate, it should establish clear and effective channels of communication with key stakeholders. It should engage and consult with the public on issues of real public interest or concern. This might include holding open meetings or annual public meetings. The results of reviews or inquiries should be published. • The advisory NDPB should proactively publish agendas and minutes of its meetings. • There should be robust and effective systems in place to ensure that the advisory NDPB is not, and is not perceived to be, engaging in political lobbying. There should also be restrictions on members attending Party Conferences in a professional capacity. | <ul style="list-style-type: none"> • SSAC operates in line with the statutory requirements and spirit of the Freedom of Information Act 2000. • SSAC makes an explicit commitment to openness in all its activities. SSAC publishes background information about the Chair and members, agendas and minutes of committee meetings, reports and consultation documents on its website. • SSAC publishes an annual report, which includes a summary of SSAC’s work and information about the Committee’s expenditure. |

Conduct and behaviour – Members should work to the highest personal and professional standards. They should promote the values of the advisory NDPB and of good governance through their conduct and behaviour

| Supporting provisions | Examples of evidence |
|---|--|
| <ul style="list-style-type: none"> • A Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all members. This should follow the Cabinet Office code. All members should be aware of the Code. The Code should form part of the terms and conditions of appointment • There are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for members. This is regularly updated. • There must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules. • There are clear rules and guidelines in place on political activity for members and that there are effective systems in place to ensure compliance with any restrictions • There are rules in place for members on the acceptance of appointments or employment after resignation or retirement. These are enforced effectively. | <ul style="list-style-type: none"> • The Cabinet Office Code of Conduct forms part of the terms and conditions of appointment in individual member contracts. • SSAC maintains a register of Member’s interests and, as set out in the Framework document, operates clear rules and guidelines are in place for managing conflicts of interest which are handled by the Chair. |

Conclusion

After considering the above, the SSAC control and governance arrangements are robust and at the level expected of an NDPB of SSAC’s size and profile.

Annex A: Background to the Triennial Review

This is the second DWP Triennial Review of the Committee, which is a relatively small NDPB in terms of its budget and number of DWP and HMRC staff providing the Secretariat function. Therefore the Minister for Welfare Reform agreed that this review should be led by someone independent of the Committee and the DWP Stewardship Team with responsibility for SSAC, but not necessarily a Senior Civil Servant.

Terms of Reference for the Triennial Review of SSAC

The review will determine whether the SSAC's function is still required and, if it is, whether the existing model of a non-Departmental public body is the best option for delivery. It will comprise two stages.

The **first stage** will examine:

1. Whether the purposes for which the SSAC was established are still necessary
2. Whether the services currently undertaken by the SSAC to deliver these purposes are still appropriate, adequate and effective
3. Whether these services are best carried out by an Advisory Non-Departmental Public Body; and, if so, whether and if so how performance might be made more effective or efficient?

The Reviewer will:

- Consider how the recommendations from the 2012 Triennial Review have been taken forward
- Consider how the services performed by the SSAC, in discharging its current advisory remit add value to the DWP and Parliament
- Consider the possibility, and impact, of either extending or dispensing with its remit and services, taking account of the current legal framework

- Consider the potential for managing, administering and organising its services in different ways (including merging, rationalising, restructuring), taking account of any potential alternative advice models, so as to improve effectiveness and efficiency
- Evaluate the current arrangements to identify what is working well and potential areas for improvement, and make recommendations accordingly.

If the first stage determines that the SSAC should remain, the **second stage** will:

1. Consider the effectiveness of the services and functions provided by the SSAC, and scope for improvement; and
2. Consider if the current governance arrangements are fit for purpose.

Annex B: Consultation questions

Stage one of the review – questions to be addressed

The Committee's main functions are to:

- perform a mandatory scrutiny of most of the proposed regulations that underpin the social welfare system on behalf of the Secretary of State for Work and Pensions and Parliament; and to
- provide advice and assistance to the Secretary of State, whether in response to a specific request or on the Committee's own initiative.

Advice offered formally by the Committee in relation to proposals for legislation must be published by the Secretary of State for Work and Pensions, along with the Government's response to the Committee's conclusions and recommendations. There is no obligation upon the Secretary of State to respond to other forms of advice from the Committee, or to act upon any of the advice offered.

In addition to the scrutiny of proposals for legislation, the Committee has general advisory functions. For example, where resources permit, the Committee will:

- informally scrutinise regulations that are exempt from formal statutory scrutiny;
- respond to public consultation exercises conducted by Government and others where the Committee believes that it can add value;
- respond to specific requests for advice from Ministers and officials;
- undertake detailed studies as part of the Committee's independent work programme;

- provide comment on a range of draft guidance and communications produced by both the Department for Work and Pensions (DWP) and HM Revenue and Customs (HMRC).

The Committee performs a similar role for the Department for Social Development (DSD) in Northern Ireland. The Committee also has a non-statutory role offering advice to Treasury Ministers and HMRC on Tax Credits, National Insurance, Child Benefit and Guardian's Allowance.

Questions:

1. Are all of these functions still required?
2. What benefits do these functions bring to the effective design of the social security and welfare system?
3. How effective has SSAC been in delivering these functions?
4. Do you think SSAC strikes the right balance between its different functions?
5. In relation to which functions do you think SSAC has the greatest impact?
6. 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 local government or the 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

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

Additional comments

10. 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?
11. Do you think SSAC currently has the right skills, and balance of skills, across its membership?
12. Are there any other comments you would like to make beyond the specific questions above?

Annex C: External responses to the consultation

Dame Anne Begg, Chair of the Work and Pensions Select Committee

Child Poverty Action Group

Peabody Trust

Professor Janet Walker, Former Committee Member

Her Majesty's Revenue and Customs

Baroness Celia Thomas, Parliamentarian

Secondary Legislation Scrutiny Committee

Baroness Ruth Lister, Parliamentarian

Drugscope

Fran Bennett, Senior Research Fellow – Oxford University

St Mungo's Broadway

Joseph Rowntree Foundation

Trades Union Congress

Law Centre (NI)

National Audit Office

Keith Faulkner, Former Committee Member

Diana Whitworth, Former Committee Member

Les Allamby, Former Committee Member

Annex D: Summary of SSAC activity

Regulations considered by the SSAC

| Regulations | 2012 | 2013 | 2014 |
|--|----------------|----------------|-----------------|
| Published reports on proposals and responses by Secretary of State (i.e. formal reference) | 1 ⁸ | 1 ⁹ | 3 ¹⁰ |
| Regulations put to the SSAC which the Committee decided did not require formal reference | 37 | 27 | 26 |
| 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) | 6 | 5 | 3 |
| Regulations considered by the Committee under the terms of its Memorandum of Understanding with HMRC | 3 | 3 | 5 |

Independent Work Programme Reports published by the SSAC

| Year published | IWP reports |
|----------------|--|
| 2012 | <ul style="list-style-type: none"> • SSAC Occasional Paper 9: Universal Credit and Conditionality |
| 2013 | <ul style="list-style-type: none"> • SSAC Occasional Paper 10: Implementation of Universal Credit and the support needs of claimants • SSAC Occasional Paper 11: Communications in the benefits system |
| 2014 | <ul style="list-style-type: none"> • SSAC Occasional Paper 12: The cumulative impact of Welfare Reform: a commentary • SSAC Occasional Paper 13: Social Security and the self-employed |

⁸ The [Universal Credit and related regulations](#) were published in December 2012. This report responded to three formal references which were received in 2012

⁹ The [Housing Benefit and Universal Credit \(size criteria\) \(Miscellaneous Amendments\) Regulations 2013](#) was published in November 2013

¹⁰ The [Draft Income Support Work Related Activity and Miscellaneous Amendment Regulations 2014](#) report was published in January 2014. The [Social Security Jobseekers Allowance and Employment and Support Allowance Waiting Days Amendment Regulations 2014](#) was published in September 2014. The [Housing Benefit Habitual Residence Amendment Regulations 2014 \(S.I. 2014, No.539\)](#) was published in November 2014.

The Committee submitted a further report to the Secretary of State in 2014 (The Universal Credit (Waiting Days) Regulations). The Government has provided an interim response to this report and the Committee awaits the full response in due course.

Annex E: Details of SSAC membership

Paul Gray CB 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. He originally trained as an economist, and his earlier career included a wide range of posts in HM Treasury and periods as the Economic Affairs Private Secretary to the Prime Minister and as a corporate planner in the private sector. Paul is an associate 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 at the University of Essex.

John Andrews OBE is the former head of tax at Coopers & Lybrand (now PWC) and was president of the Chartered Institute of Taxation. Since 1998 he has been a full-time volunteer in the charity sector with a particular focus on helping those on low incomes cope with the complexity of the law.

Rachael Badger has been the Head of Policy Research for Families, Welfare and Work at Citizens Advice since 2013. Prior to that Rachael was a civil servant, and had a variety of roles within both the Department for Work and Pensions and HM Treasury between 2003 and 2013.

Adele Baumgardt is a consultant providing advice on diversity and quality issues to public authorities. She is a member of the Welsh Government's Third Sector Partnership Council and is vice-chair of Sport Wales. She is a former chair of the Public Transport Committee in Wales and a former Wales commissioner for the Women's National Commission.

John Ditch is a former Professor of Social Policy at the University of York and a former Pro Vice-Chancellor at Northumbria University. He is a senior expert to the EU's Mutual Information System on Social Protection and an Independent Consultant and Honorary Professor of Social Policy at the University of York. He is also a Fellow of the Royal Society of Arts and of the Royal Statistical Society. As a former Chair

and Vice-Chair of two NHS Boards and as an independent member of the Agricultural Wages Board for England and Wales, he has extensive board and committee experience.

Colin Godbold is a consultant specialising in delivery of large scale Information Technology and organisational change programmes. He is a former partner in IBM's consultancy and services practice. In his 30-year experience, he has led the delivery of complex programmes in both the public and private sectors. He is a fellow of the British Computer Society and is a chartered and European Engineer.

Chris Goulden heads the poverty team in the policy and research department at Joseph Rowntree Foundation. He is a former social researcher at the Home Office and Cabinet Office. He is also a former clinical researcher on cancer in the NHS, a former member of the UK Commission for Employment and Skills and a former member of the Social Research Association Board.

Dr Jim McCormick is co-founder of a research partnership McCormick-McDowell, Scotland Adviser to the Joseph Rowntree Foundation, a board member of Scottish Business in the Community and a member of the Stroke Association Scotland Committee. Previously he was director of independent think-tank the Scottish Council Foundation. He has also worked at the Institute for Public Policy Research (IPPR) and in the European Parliament in Brussels.

Gráinne McKeever is the Chair and Executive Director of the Law Centre, Northern Ireland, a not-for-profit specialist advice organisation. She is a Reader in Law at Ulster University, with research and teaching expertise in social justice. She is the Assistant Editor of the Journal of Social Security Law and currently teaches social security law and policy to undergraduate and postgraduate law students. Gráinne is a Director of Ulster University's Law Clinic, through which postgraduate law students provide social security advocacy for members of the public.

Matthew Oakley works at Which?. He is the former Head of Economics and Social Policy at Policy Exchange, where he wrote extensively on reform of the social security system, employment services and care system. He is also a former economist at HM Treasury, where he provided advice on the tax and benefit

systems. He has a masters degree in economics from UCL where he specialised in labour economics and econometrics.

Seyi Obakin is the Chief Executive of Centrepoin, a leading national charity working with young people who have experienced homelessness. He is a chartered accountant and has worked in a wide range of social housing provision. He has also been involved in research and inquiries into family life and the support families need, lifelong literacy and youth enterprise. He is currently serving as a Commissioner of the UK Commission for Employment and Skills.

Judith Paterson has worked in the field of social security law and advice for more than 25 years and is currently leading a Scotland-wide, second tier welfare rights service for the Child Poverty Action Group in Scotland. Her work involves contributing to social policy work and analysing legislation and issues arising from casework for their impact on individuals, families and services.

Nicola Smith is the Head of the Economic and Social Affairs of the Trades Union Congress and oversees research and policy development on a wide range of areas from macro-economic policy, the labour market and public spending to housing, transport and pensions. She is a former principal researcher at the Centre for Economic and Social Inclusion and has worked in related roles at Barnardo's and the Department for Education.