

STATES OF JERSEY



REVIEW OF INCOME SUPPORT (S.R.5/2009): RESPONSE OF THE MINISTER FOR SOCIAL SECURITY

Presented to the States on 22nd September 2009
by the Minister for Social Security

STATES GREFFE

REVIEW OF INCOME SUPPORT (S.R.5/2009): RESPONSE OF THE MINISTER FOR SOCIAL SECURITY

Introduction and general comment

Income Support replaced a disparate group of benefits with the minimum of disruption to local families who receive financial support from the States towards their day-to-day living costs. Over 8,000 households claim Income Support and have received this financial help regularly week in, week out, since January 2008. Income Support has created a single benefit system so that claimants deal with a single States department to meet all their financial needs, it operates under clear rules and guidelines that are publicly available and it has given the States the ability to respond quickly to economic situations when it is necessary to increase benefits to the most vulnerable in our society.

The Scrutiny Sub-Panel gathered a range of evidence, in both written submissions and formal hearings. It is disappointing that the written report uses the available evidence in a very selective manner, limited exclusively to quotes criticising various aspects of the Income Support system. Many of those giving evidence also reported the positive impact of the introduction of Income Support, but these views were not mentioned in the final report. Others expressed opinions suggesting that Income Support was too generous and that benefits should be reduced – again, these opinions were not reflected in the Sub-Panel's report.

The transcripts of the hearings and written submissions can be viewed on the Scrutiny website.

As Members will be aware, the Minister is already committed to a review of Income Support in 2010. Some of the recommendations proposed by the Scrutiny Sub-Panel will be considered in that review. In the main, these relate to major items which will have significant budgetary implications.

The Scrutiny Sub-Panel has not explored the cost of their recommendations, nor made any comment as to how to prioritise their different proposals. The Income Support budget has grown over the last two years at a time at which the economic situation has put severe pressure on the funding of States' services. Requests for additional funding for areas of Income Support must be carefully considered against the many other urgent demands on taxpayers' money at this time. This response identifies each recommendation that is dependent on additional funding.

The Scrutiny Report makes a total of 32 recommendations. Comments on each of these recommendations are included below. They have been grouped according to the type of action that the Department will take as a result of the recommendation, as follows –

- Recommendations that reflect departmental policy current at the time of the Sub-Panel's report and do not require any further action (13 recommendations).
- Recommendations that reflect departmental policy current at the time of the Sub-Panel's report but have funding implications and are therefore being

implemented progressively as funding becomes available (3 recommendations).

- Recommendations that have major resource and/or policy implications and will be considered in the 2010 departmental review (6 recommendations).
- Recommendations that do not have major cost or policy implications and will be further examined by the Department to identify possible actions that can be taken in 2009 and 2010 (7 recommendations).
- Recommendations that are not accepted or are the responsibility of another department (3 recommendations).

To ensure that Scrutiny reports are accurate, Scrutiny Sub-Panels provide draft copies of their final report (excluding the findings and recommendations) to the Minister in advance of publication, so that factual matters can be checked. In respect of this report, the Minister submitted 56 issues identified in the draft report to the Scrutiny Sub-Panel. The Sub-Panel accepted or acknowledged, in some way, 14 of these issues but did not make any changes to the final report in respect of 42 issues raised by the Minister.

Some of these 42 issues are dealt with in the response to the recommendations. Other issues that are not covered elsewhere are set out in the Appendix. The Minister shares the view of the Scrutiny Sub-Panel that the communication of Income Support needs to be improved yet further and it is thus very important that all published information, including the Scrutiny Report, represents an accurate view of the benefit system.

1. Recommendations that reflect Departmental policy current at the time of the Sub-Panel's report and do not require any additional action (13 recommendations).

General comment: The Scrutiny Sub-Panel has been undertaking this review and collating evidence since the implementation of Income Support in January 2008, and many of the issues it identifies relate to the first few months of the operation of Income Support, rather than the current operation. The Department has worked hard over the last 18 months to refine many operational areas to ensure that customers receive an appropriate service and administration runs smoothly and efficiently.

Recommendation 2

Key Finding 1: Many clients find the application process daunting and require assistance in completing the application form.

Recommendation 2: The Department must make staff available to support clients through the application process. (Report section 7.1 pages 18 to 19)

Response: This has been a major part of the Income Support adviser's role from the inception of Income Support. New claimants always receive advice as to whether they are likely to be eligible for Income Support, how to complete the application form and the type of evidence that needs to be produced to support the application. Advice is available over the phone, in person at the Department and, in the case of housebound clients, in their own homes.

Recommendation 3

Key Finding 2: The 5-day turnaround time for IS Payments, following acceptance of a fully completed form, is an appropriate target but no evidence has been provided that this target is being met.

Recommendation 3: The Minister must provide evidence of the monitoring that the Departments 5-day target to process completed claims forms is being met. (Report section 8.0 pages 20 to 22)

Response: The Minister provided a written answer to a question from Deputy Southern on 10th March 2009, giving details of turnaround times for new applications, changes of circumstance, special payments, medical supplies, impairment components and G.P. payments. (This is also relevant to recommendations 15 and 25).

The management of the Income Support team includes the collation of processing times for different types of application. The processing time is measured from the date on which the claimant has provided a completed application form and the evidence required to substantiate the claim. Processing times for a number of functions including the processing of new claims are reported regularly to the departmental Senior Management Team. Collating this information regularly ensures that action can be taken promptly to deal with additional claims in a particular area or to allocate resources appropriately when additional work is required – for example, during preparations for a benefit up rate. Hardship cases are always dealt with immediately, including providing cash payments when necessary.

Recommendation 6

Key Finding 5: Privacy is an essential element for dealing properly with claims.

Recommendation 6: Private rooms must be made available by the Department for interviews as a matter of course. (Report section 8.2 pages 24 to 25)

Response: As noted in the Scrutiny Report, privacy screens have been in place since March. Purpose-built booths have now been installed, in addition to the existing private interview rooms. Claimants can book an appointment in a private interview room by telephoning the Department in advance.

Recommendation 7

Key Finding 7: Clients are unaware how their benefit is calculated.

Recommendation 7: The Department must provide all staff with access to a simple benefit calculator in order to provide clients with an immediate printed guide (albeit approximate) to their level of entitlement. (Report section 8.4 pages 26 to 27)

Response: Staff already use a simple benefit calculator and printouts are available to clients on request. The benefit calculator is an important part of the application process as it is used to check whether or not a potential claimant should complete the application form. If the calculator indicates that the household is very unlikely to qualify for Income Support then, in most cases, the potential claimant will be advised not to complete the form.

Recommendation 9

Key Finding 8: *The degree of inconsistency may reflect inadequate training.*

Recommendation 9: *The Department must ensure that staff receive adequate training to ensure that they are confident to deliver correct advice and assistance to clients. (Report section 8.5 pages 27-28)*

Response: The Scrutiny Chairman has acknowledged that many of the case studies included in the report are historical. Inevitably, at the beginning of a new system, it will take time for staff to build up confidence and experience of the new benefit. Staff training is taken seriously and is ongoing. Staff are regularly monitored for capability using a skills matrix and training is adapted to individual needs. Each junior member of staff is supported by a more senior advisor and regular audits provide feedback to the management team and the staff themselves.

Recommendation 10

Key Finding 9: *Department officers no longer provide home visits to assist clients completing the forms.*

Recommendation 10: *The Minister must ensure that Departmental staff provide home visits to assist clients with completing applications and that other community agencies are not relied upon for this. (Report section 9.0 page 29)*

Response: Home visits have always been available to assist with the completion of the Income Support application form. This is clearly explained on the front page of the application form which includes the following statement –

“If you have any queries regarding your application or if you require help to complete this form or require a home visit please telephone the department”.

Recommendation 15

Key Finding 14: *Special Payments do not currently provide an immediate response to requests in crisis.*

Recommendation 15: *The Department must ensure that urgent requests for special payments are monitored and show that they are being paid in a timely way. (Report section 10.1 pages 36 to 39)*

Response: See the response to Recommendation 3.

The management of the Income Support team includes the collation of processing times for different types of application, including urgent special payment applications. This information is reported regularly to the Senior Management Team. All special payment applications are screened on receipt and urgent applications are dealt with on the day that the completed application form and necessary evidence is received.

Recommendation 22

Key Finding 21: *Payments for dental care are not always dealt with promptly.*

Recommendation 22: *The Department must monitor and record claims for dental treatments. (Report section 13.1 pages 55 to 56)*

Response: The management of the Income Support team includes the collation of processing times for different types of application, including special payments in respect of dental treatment. All special payment applications are screened on receipt and urgent applications are prioritised. Claimants needing urgent dental treatment are provided with a letter which authorises immediate treatment from their dentist.

Recommendation 24

Key Finding 22: *The Sub-Panel is concerned that some claimants may not be receiving the right level of personal care.*

Recommendation 24: *Eighteen months into Income Support the Minister needs to check that all claimants are receiving the appropriate level of personal care and report on his findings. (Report section 13.3 pages 58 to 60)*

Response: The Transition Order ensured that all claimants receiving a disability benefit under the previous system were automatically allocated an appropriate personal care component under Income Support. Allocations for clinical costs and mobility component were also included. These allocations remain in place until the Income Support claim is reviewed or the claimant seeks a review themselves. These allocations gave claimants impairment components at a level at least as high as their previous benefit.

All new claimants complete the main Income Support application form which includes a short section asking for details of any long-term medical conditions. Any one in the claimant's household who has a long-term medical condition is asked to complete a separate self reporting form to assess the correct level of impairment component. Once claims have been set up, they are subject to review in the normal way.

Recommendation 25

Recommendation 25: *An adequate monitoring should be put in place by the Department to ensure that medical supply payments are made in appropriate timescales. (Report section 13.4 pages 60 – 61)*

Response: Unfortunately the Scrutiny Sub-Panel received some inaccurate oral information from a member of the public attending a Scrutiny Sub-Panel meeting. The Minister did inform the Sub-Panel of this inaccuracy before the publication of their report. Medical supply payments are processed by the Department in the same way as all commercial invoices, and are paid on a weekly cycle.

Recommendation 28

Recommendation 28: *The Department must increase the flexibility in the monitoring for changes in earned income of people on 'zero hour' contracts so that they do not build up overpayments. (Report section 14.2 pages 65 to 66)*

Response: Flexible monitoring is already available. Most individuals on zero hour contracts do have some regular hours and an estimate is used to calculate the amount

of benefit payable. Temporary fluctuations of up to £40 per week do not create overpayments. Overpayments may occur if the claimant fails to notify the Department of larger changes in income. Claimants that are known to have irregular working patterns are reviewed on a very regular basis.

Recommendation 30

Key Finding 23: The value of the existing skills assessments and training is recognised. The Sub-Panel is mindful that this is a resource hungry service with ever-increasing demands.

Recommendation 30: Given the current economic situation, the Minister should ensure more flexibility in accepting a wider range of training opportunities to support young people. (Report section 14.4 pages 67 to 68)

Response: The Department, as part of the Skills Executive, is working to provide a wider range of training opportunities to support young people in the current economic situation. Additional funding has been sought and received from the Economic Stimulus programme to support a variety of training schemes aimed at young people.

Recommendation 32

Key Finding 25: The Sub-Panel welcomes the delay to the phasing out of transitional payments but is concerned about the impact of the loss of benefit.

Recommendation 32: The Minister must communicate to all recipients the extent to which their benefit will be affected by the phasing out of transitional payments as soon as possible.

Response: As has already been publicly stated, it is confirmed that transition claimants will be informed several months in advance of any reduction in benefit.

2. Recommendations that reflect policy current at the time of the Sub-Panel's report but have funding implications and are therefore being implemented progressively as funding becomes available (3 recommendations)

General comment: Since the inception of Income Support, incentives in the three areas identified by the Scrutiny Sub-Panel have already been significantly improved and there will be further improvements in October 2009. These improvements have all been made within the funding currently available for Income Support. To make further improvements in these areas would require additional funding, or the reduction of Income Support component rates. As with many Income Support decisions, there is always a balance to be drawn between the benefit available to the claimant and the cost to the taxpayer.

Recommendation 12

Key Finding 10: Incentives to encourage savings especially for those of pensionable age are insufficient.

Key Finding 11: *The deemed income from savings (£1 per week from every £250) over the capital limit is currently set too high given today's interest rates.*

Recommendation 12: *The Minister must examine ways to improve incentives to save. (Report section 10.0 pages 33 to 36)*

Response: As part of the transfer from the previous Parish welfare system to Income Support, a higher capital disregard figure for pensioners was introduced, compared to working age claimants. Capital disregards were set in January 2008 and increased in October 2008 by 3.7%. A further increase of 10% will be implemented in October 2009. Savings below these figures are completely disregarded from Income Support calculations. Households with savings above these levels will still receive Income Support but the benefit is reduced as the value of the savings increases above the disregarded figure.

	Parish Welfare (up to 27/1/2008) £	28/1/08 £	01/10/2008 (3.7%) £	01/10/2009 (10%) £
Single Pensioner / Disabled	7,715	11,443	11,866	13,053
Couple Pensioner / Disabled	12,807	18,967	19,669	21,636
Single working age	7,715	7,629	7,911	8,702
Couple working age	12,807	12,645	13,113	14,424

Recommendation 26

Recommendation 26: *In order to make IS work effectively as an 'in work benefit' incentives to work must be improved. (Report section 14.0 pages 62 to 64)*

Response: Income Support introduced a consistent incentive for earned income. This was set in January 2008 and increased in February 2009. It will be increased again in October 2009. The three year cash limits submitted as part of the Business Planning process include additional sums for earnings incentives in 2011.

	28/1/08	01/02/09	01/10/2009
Earnings disregard	6%	10%	12%

Recommendation 29

Recommendation 29: *The Minister must increase the income disregard in respect of maintenance. (Report section 14.3 page 67)*

Response: A maintenance disregard was introduced in February 2009 in respect of maintenance income received. Maintenance expenses paid by the absent partner are already subject to a 100% disregard up to the value of the adult or child component, as appropriate.

	28/1/08	01/02/09	01/10/2009
Disregard on maintenance income received	0%	10%	10%
Disregard on maintenance paid	100% (up to value of adult/child component)	100% (up to value of adult/child component)	100% (up to value of adult/child component)

3. Recommendations that have major resource and/or policy implications and will be considered in the departmental review commencing in 2010 (6 recommendations)

General comment: At the introduction of any major new system, there will be a settling down period during which minor issues are dealt with, and at an appropriate time, a more considered review to determine whether there is a need for adjustments to the structural elements of the system.

The Minister is already committed to a broad review of Income Support commencing in 2010 and this will be coordinated with the results of the Income Distribution Survey currently being undertaken by the Statistics Unit. The Scrutiny Sub-Panel has included a number of recommendations that will be considered further as part of this broad review. The Minister will consult widely before making recommendations to the States for any possible changes to the Income Support system.

Each of the suggestions made by the Scrutiny Sub-Panel would add considerably to the cost of Income Support and these costs would need to be weighed up against savings in other areas of Income Support or additional budget being made available at an inevitable cost to the taxpayer.

Recommendation 13

Key Finding 12: *The list of items eligible for Special Payments is too narrow.*

Recommendation 13: *The Minister must ensure that the use of special payments be made more flexible. (Report section 10.1 pages 36 to 39)*

Response: The Special Payment Regulation ensures that the most common requests for payments are covered. Unusual situations are covered by ministerial policy guidelines and ministerial discretion.

Providing additional types for special payment through Special Payment regulations will lead to additional costs.

Recommendation 14

Key Finding 13: *Setting the level of sacrosanct savings for the purposes of special payments at 25% of the capital limits is too low.*

Recommendation 14: *The Minister must review this capital limit on disregarded savings. (Report section 10.1 pages 36 to 39)*

Response: Income Support is based on assessment of income and assets and an individual with £5,000 savings is more able to meet a one-off expense than an individual with £50 savings.

Increasing the capital limit for special payments significantly will lead to significant additional costs.

Recommendation 18

Key Finding 17: *The historic rules that say that under 25's cannot claim rent rebate is inappropriate.*

Recommendation 18: *The Minister must review the under 25's rule that requires them to live away from the parental home for 12 months prior to receiving IS. (Report section 11.0 pages 42 to 44)*

Response: Individuals under 25 can receive Income Support for living expenses. They are entitled to assistance with accommodation costs if there is a specific reason why they cannot remain in the family home, or they have been self sufficient for at least 12 months. Providing assistance with accommodation costs to all under 25s would be likely to increase the demand for housing units in the Island.

There would be a substantial cost to providing support for accommodation costs to all claimants aged under 25.

Recommendation 19

Key Finding 18: *The appeal process is intimidating especially to vulnerable clients.*

Recommendation 19: *The Minister must review the appeal process. (Report section 12.0 pages 45 to 47)*

Response: Section 12.0 of the scrutiny report is based on an apparent misunderstanding of the appeal process. The Income Support law has introduced a fully human rights compliant appeals process – inevitably this has a certain amount of necessary but not excessive formality and, most importantly, this also ensures that it is fair and independent.

Where appeals were available under previous benefits, the appellant was required to produce evidence in order to make a request for an appeal. Under the current system it is much easier for the appellant to request an appeal.

The Department provides a leaflet and application form to assist claimants with the appeal process. Claimants can be represented by a friend or advisor during the appeal process and claimants who do not wish to appear before the Tribunal in person can request the Tribunal to consider their case based on written evidence.

The 2010 review will include an examination of the appeal process, based on the experiences of a larger number of cases.

Recommendation 27

Recommendation 27: *The Minister must review the effectiveness of Childcare Components to ensure that people can get back to work. (Report section 14.1 is pages 64 to 65)*

Response: Contrary to the Sub-Panel report, childcare assistance is available to employed parents including shift workers. It is also available to parents of school-age children undertaking an agreed education course.

There would be a substantial cost to extending childcare assistance to parents who are jobseeking.

Recommendation 31

Key Finding 24: *The Sub-Panel notes that there has been a reduction in the availability of support for children in that family allowance used to be claimable after 6 months' residency. This could cause potential hardship to children of parents who do not have 5-year residency status.*

Recommendation 31: *The Minister must review the 5-year residency status policy. (Report section 15.0 pages 69 to 70)*

Response: The length of residency needed in order to qualify for Income Support was a major topic of discussion in the consultation leading up to the introduction of Income Support. This was agreed by the States and is a significant reduction from the 12 year period that previously applied to the Housing subsidy schemes. This will undoubtedly again feature in the review in 2010.

It would be very expensive to reduce the five-year eligibility period – A reduction would require substantial increased funding or a reduction in the overall level of Income Support to all claimants.

4. Recommendations that do not have major cost or policy implications and will be further examined by the Department to identify possible actions that can be taken in 2009 or 2010 (7 recommendations)

General Comment: These recommendations deal with relatively minor, mainly administrative aspects of Income Support. The Minister will consider whether implementing these proposals in full or in part would improve the service provided to claimants and/or the equity of the scheme.

Many of these recommendations will increase the cost of Income Support.

Recommendation 1

Key Finding 1: *Many clients find the application process daunting and require assistance in completing the application form.*

Recommendation 1: *The Minister must ensure that the application form is made simpler and that it is available on- line in various languages. (Section 7.1 pages 18 to 19)*

Response: The Minister is not prepared to consider online applications in various languages. This would have a major cost and would be unlikely to be suitable for vulnerable clients.

The design of the main application form is regularly reviewed. A shorter form is now available for pensioners. The design of the application form will be reviewed again. A redesigned form is likely to include more use of colour and fewer questions per page leading to a form that has more pages and is more expensive to produce.

The U.K. benefit system often requires families to apply to multiple agencies to receive all the benefits that they are entitled to. The U.K. Income Support form, which covers only a few aspects of the Jersey Income Support benefit, is considerably longer than the current Jersey form.

Recommendation 5

Key Finding 4: Many clients, and agencies have complained at conflicting advice from different members of staff in dealing with a claim.

Recommendation 5: The Minister must ensure that clients, especially the elderly and vulnerable are able to see the same officer throughout their claim. (Report section 8.1 pages 23 to 24)

Response: Within Social Security, every client contact is recorded against the client's electronic record to ensure that when an advisor deals with a query, the advisor is aware of the client's recent dealings with the Department and can provide relevant advice.

It is unlikely that all clients would be allocated a named officer as this would require a considerable increase in the number of staff available and would add significantly to the cost of the administration of Income Support.

However, the Department already operates several procedures to assist claimants who may be vulnerable.

Once a claim has been set up, Income Support advisors writing to claimants provide their own contact details, so that the claimant can speak to them directly, if wished. This is particularly important for elderly clients, for example, after a bereavement.

Many claimants with mental health issues are also dealt with on a personal basis and the Department works with Social Workers and Probation Officers to offer the most appropriate service to these claimants.

Where appropriate, parishes can manage the affairs of vulnerable clients, providing regular cash payments. As most parishes have a very small number of staff, the individual will regularly see the same officer.

These procedures will be reviewed with CAB and Social Services to identify any further measures that should be taken.

Recommendation 8

Recommendation 8: *The Department should examine and implement the U.K. example in seeking to ensure that all clients are aware of their benefit entitlements. (Report section 8.4 pages 26 to 27)*

Response: Although some U.K. benefits can be applied for online, the U.K. benefit system as a whole is not easy to access and there are a large number of separate benefits – the Minister would not wish to emulate the U.K. system, as it requires claimants to make several applications to different government departments and local councils to claim different benefits.

Income Support information is available on the gov.je website and leaflets are supplied regularly to CAB, The Bridge and Cyril Le Marquand House. Parishes and other stakeholders are supplied with leaflets on demand.

It is acknowledged that communication is an important issue and the Minister will review this area. This has already been provided for in the 2010 Business Plan.

Recommendation 11

Recommendation 11: Section 9.1 – *Given the demonstrated need for clients to be assisted in getting IS we recommend that the Minister investigate setting up free access to an independent advocacy service. (Report section 9.1 pages 30 to 32)*

Response: CAB already provide free independent advice to many Income Support claimants and there is a very good working relationship between the CAB advisors and the Income Support team. The Minister will consult CAB to ascertain whether an additional service would be able to provide services that CAB is unable to provide, yet believe is needed.

A new independent advocacy service would have cost implications.

Recommendation 17

Key Finding 16: *The Department has not given sufficient publicity to make young people living in the parental home aware that they can claim benefit.*

Recommendation 17: *The Minister must ensure that young people living in the family home are aware that are entitled to claim benefit. (Report section 11.0 pages 40 to 44)*

Response: The majority of young people living at home remain in education and are included in the family claim. Young adults who are jobseekers will be in regular contact with the Department through their jobseeking activities. Experience within the Department and from Highlands College suggests that young adults are well informed as to their right to benefit.

However, it is acknowledged that communication is an important issue and the Minister will review this area. This has already been included in the 2010 Business Plan as a separate commitment.

Recommendation 20

Key Finding 20: *The Department has failed to inform both patients and G.P.s how the HMA scheme works. The HMA is not an adequate replacement for HIE. The removal of free access to G.P.s has caused some patients anxiety.*

Recommendation 20: *The Department must inform G.P.s and Clients clearly and simply how the HMA system works. (Report section 13.0 pages 50 to 54)*

Response: Departmental representatives meet regularly with the Primary Care Body, which represents all local practising G.P.s. Every G.P. was visited individually in advance of the introduction of Income Support to explain the new system. It is acknowledged that many claimants have not fully understood the new system and additional communication is planned for this area.

Recommendation 21

Recommendation 21: *The Minister must examine how repeat prescriptions charges can be included into the benefit components. (Report section 13.0 page 55)*

Response: Many G.P.s have recently increased repeat prescription charges. The impact on IS claimants will be investigated.

Including repeat prescription charges in Income Support components will have a cost implication, which is currently unfunded.

5. Recommendations that are not accepted or are the responsibility of another department (3 recommendations)

Recommendation 4

Key Finding 3 *Departmental practice has been that IS payments have not automatically been backdated to the date of the initial claim.*

Recommendation 4: *The Sub-Panel recommends that the Minister ensures that payments IS are automatically backdated to the date of the initial claim. (Report section 8.0 pages 20 to 22)*

Response: Claims are routinely backdated up to 14 days and there is discretion to backdate more than 14 days. If there is a delay in providing information that is due to the illness of the claimant, their caring responsibilities or a domestic emergency then there is discretion to backdate the claim up to one month.

It is important that there is some limit on the length of time that claims can be backdated. Income Support is designed to meet current need and it would be difficult to justify a policy that allowed for long delays between an initial application and the applicant providing information to allow the claim to be assessed.

Automatically backdating all claims to the date of the initial claim will have a cost implication and create additional administration.

Recommendation 16

Key Finding 15: *Treating money from divorce settlements intended for the benefit of children as part of the assessment of capital is not appropriate.*

Recommendation 16: *The Minister should investigate how divorce settlements for the benefit of children can be ring-fenced and not be counted as part of the family income.*

Response: This recommendation is based on evidence from a single case in which a divorce settlement was made after the details of Income Support had been approved by the States and were publicly available but just before the benefit came into force. Lawyers are now aware of the new rules and accordingly the Minister understands that this situation is unlikely to arise again.

Recommendation 23

Recommendation 23: *Ministers need to resolve the outstanding issues outlined in P.145/2007 as a matter of urgency.*

Response: P.145/2007 refers to the provision of Active Cards by Education, Sport and Culture and Bus Passes by Transport and Technical Services.

Free Active Cards are now available to all Income Support claimants who successfully complete the Exercise Referral programme.

Free Bus Passes continue to be available to individuals aged under 65 who were previously in receipt of an HIE bus pass.

APPENDIX

Introduction

To ensure that Scrutiny reports are accurate, Scrutiny Sub-Panels provide draft copies of their final report to the Minister in advance of publication, so that factual matters can be checked. In respect of this report, the Minister submitted 56 issues identified in the draft report to the Scrutiny Sub-Panel. The Sub-Panel accepted or acknowledged, in some way, 14 of these issues but did not make any changes to the final report in respect of 42 issues raised by the Minister.

Some of these 42 issues are dealt with in the response to the recommendations. Other issues that are not covered elsewhere are set out in this Appendix, under 3 headings –

1. Accurate information for Income Support Claimants and professional advisors
2. Appeal Process
3. UK Benefit System

The Minister shares the view of the Scrutiny Sub-Panel that the communication of Income Support needs to be improved yet further and it is thus very important that all published information, including the Scrutiny Report, represents an accurate view of the benefit system.

1. Accurate information for Income Support Claimants and professional advisors

Extracts from the text of the final scrutiny report is provided in italics and the comment provided to the Scrutiny Sub-Panel by the Minister is provided in plain text under each section. The comments that have been included relate to information that is of importance to Income Support claimants and professionals who provide assistance to Income Support claimants.

Scrutiny Report states:

8.0 Turn around time and backdating

Evidence received by the Sub-Panel from the Prison Chaplain and Shelter Trust suggests that the application process causes particular difficulties for prisoners following their release as they are unable to register for IS until they have actually been released. The Sub-Panel believes that the system should allow prisoners to apply for IS prior to the end of their sentence via the 'Prison Market Fair' enabling them to receive payment immediately upon their release.¹

Information provided by Minister:

Prisoners can apply for Income Support prior to the end of their sentence and Income Support Advisors always attend the Prison Market Fair. Once a release date is confirmed the Income Support claim will be processed and left in a pending state. A

¹ Public Hearing transcript 23rd February 2009 J. Hodge, Shelter Trust and Rev. P. Wilcox, Prison Chaplain.

prisoner who attends the Department without any funds will be able to receive their first IS benefit payment within approximately one hour, if the prisoner has set up a claim through the Market Fair.

Scrutiny Report states:

8.1 Personal contact

It is also unacceptable for Income Support recipients with mobility problems to be expected to pay for a taxi fare to attend a meeting or to collect documents at the Social Security Department's behest.

Information provided by Minister:

Documents will always be posted if requested by the claimant.

Scrutiny Report states:

9.0 Home Visits

The Sub-Panel is aware that in the introductory stages of setting up IS staff were made available to visit people in their homes in order to ensure that application forms were properly completed. This practice appears to have stopped.

Information provided by Minister:

Home visits have always been available.

The front page of the IS application form contains the following statement:

“If you have any queries regarding your application or if you require help to complete this form or require a home visit please telephone the dept”

Scrutiny Report states:

10.0 Savings levels

*'The other thing that we are finding is that the level of savings is set at £11,800 and whatever it is. But that level of savings – the client is expected to use those savings for expenses, which is fair comment. But if the client only has £2,000 they are still expected to use that balance to buy carpet if they are moving and pay for removal, leaving them with next to nothing in the bank. Very short-sighted. A lot of these people are unwell; they could die 6 months later, no money to pay the funeral.'*²

Information provided by Minister:

As is illustrated in the table above, if the level of savings is £11,866, then the individual would not be expected to pay for carpets and removal expenses if they only had £2,000 savings.

² Written Submission 2.33 – see Scrutiny Website – Income Support Review evidence.

Scrutiny Report states:

10.0 Savings levels

In many cases, those with significant savings are those in their 50s, 60s and beyond. For large numbers of these people, their savings represent an element of security around the dangers of them falling ill and especially of being able to pay for a decent funeral. The Sub-Panel has ascertained that such funeral costs may be of the order of £3,500 to £4,000. At the very least the Sub-Panel believes that funeral costs must be covered by an absolute minimum limit.

Information provided by Minister:

The death grant currently available is £691.32. A single pensioner would therefore have a minimum of £3,657.82 available for a funeral.

Scrutiny Report states:

10.1 Special payments and levels of contributions

The Connétable of St. Helier confirmed to the Sub-Panel that a number of his parishioners were falling through the Income Support net, and were being assisted by the Parish from charitable funds. These requests for financial assistance included help with bills relating to dental care, carpets, moving house and funeral expenses, and were occurring on a weekly basis. The Connétable could not confirm why some of his parishioners were not being assisted under the Income Support system, other than speculating that some may be a few months short of the minimum residency requirement.

Information provided by Minister:

The Parish Welfare system was only available after 5 years' residency.

Special payments are available to individuals who have 4 years and 6 months residency, if they meet the other criteria for Income Support.

Scrutiny Report states:

13.1 Dental care

Under Special Payments the prescribed standard process for applying is to secure the necessary quote(s) and have their claim approved by the Department before they can undergo the relevant treatment.

Information provided by Minister:

The procedure used by the Department is very similar to that previously used by the Parish of St. Helier.

If the patient is in pain and qualifies for a special payment, there is no need for the claimant to seek a quote in advance. The Department will provide a letter of authority for the claimant to take to the dentist. This authorises treatment of up to £150 to provide interim treatment while the quote for the main treatment is processed.

Scrutiny Report states:

13.4 Payment for medical supplies

FN&HC went on to say that they had anecdotal evidence that individuals were also experiencing the same delays in payment.

Information provided by Minister:

There is no connection between the payment of invoices, which are raised by suppliers after the service has been provided, and the payment of benefit, which is made in advance.

Scrutiny Report states:

14.1 Childcare components

The Sub-Panel was concerned to hear from Family Nursing and Home Care that night shift working parents were facing additional difficulties accessing childcare components as they were at home during the day. This is a further disincentive for parents to work as they need to sleep during the day and the children require day care.

Information provided by Minister:

Shift workers have always been covered by the Childcare component. The Policy guidelines state at section 7.4

“A childcare component can be allocated to a “parent” who is employed and needs childcare to cover the time they are at work. Up to an extra hour a day can be allowed for travelling to and from the childcare provider to work, if necessary. The childcare can also cover a shift worker who needs to sleep during the day.”

Scrutiny Report states:

14.1 Childcare components

In addition, it believes that the childcare component should be made available to those who wish to study in order to help them find employment.

Information provided by Minister:

Support for parents of children (aged over 5) who are students is also already available. The same section of the guidelines (7.4) States:

“3. “parent” is a student

If a “parent” is training or studying then a childcare component is available to cover childcare costs while the “parent” is studying. The “parent” must be undertaking a course that has been approved. A "parent" looking after a child aged under five is not

required to work in order to claim Income Support. If a "parent" in this situation chooses to study, the childcare component is not normally available.”

Scrutiny Report states:

15.0 The 5 year residency rule

The Sub-Panel believes that the 5-year residency rule before a parent can get any support for childcare is too long. This is contrary to other initiatives seeking to encourage young people to stay and work in Jersey to balance the ageing population. Given that Jersey’s government has only just accepted that money spent on children is an investment, not an expense, this approach seems retrograde.

The Sub-Panel suggests that the lack of adequate financial support to families coping with children will prove a false economy and discourage those children from reaching their full potential. It suggests that the Minister for Social Security looks at all the 14 Income Support benefits and considers whether, at the very least, a childcare component could be introduced earlier.

Information provided by Minister:

A separate scheme exists to provide support with childcare for low income working parents who were living in Jersey when the child was born and have been living in Jersey for 6 months.

2. Appeal Process

Sections 12.0 and 12.1 of the scrutiny report refer to the appeal system. Following a request from the Scrutiny Sub-panel, the Department provided the Sub-Panel with confidential information in respect of a specific appeal. The decision of the appeal tribunal in that particular case was based on an interpretation of the power of the determining officer to take into account exceptional circumstances.

The Scrutiny Sub-Panel’s description of the appeal process in section 12.0 has confused the circumstances of this one particular case with the general principle of the appeal process.

As these sections of the published report provide a misleading picture of the way in which Income Support appeals can be made, and it is very important that Income Support claimants have access to a human rights compliant independent appeal process, these two sections are reproduced in total including all the departmental comments, submitted to the Sub-Panel.

As before the Sub-Panel text is shown in italics with the Minister’s comment below in plain text.

Scrutiny Report states:

“12. APPEALS AND OVERPAYMENTS

12.0 Income Support Appeals

Any benefit system has to provide a mechanism to enable recipients to appeal against decisions made by departmental officials.

The Sub-Panel is aware that the Income Support Law includes a clear procedure for challenging any decision made by a Determining Officer. The first step is to ask for the claim to be re-evaluated by a different officer (Second Determination). If an adult in the Income Support Unit is still dissatisfied after this internal review, s/he has the right to seek an independent appeal.

However, the Sub-Panel considers that a second determination is largely a ‘tick box’ procedure to ensure that the arithmetic has been done properly. The 3 areas most likely to give rise to an appeal are –

- (a) Missing out a component from the calculation,*
- (b) Questions around overpayments or,*
- (c) Backdating.*

Information provided by Minister:

If a formal, second determination is necessary this is undertaken by a senior advisor with further evidence requested as considered necessary, and decisions recorded in great detail. It is most definitely not a “tick box” procedure. However, in many cases, this is not necessary as a discussion with the claimant can correct any misunderstanding or identify additional evidence not previously produced.

Scrutiny Report states:

Since recipients of IS are not given a breakdown of what components they are eligible for, the first step to take as highlighted in Section 8.4 is to routinely include a breakdown of components in the correspondence informing applicants of their level of entitlement.

The issue involved in overpayments is whose responsibility was it. Had the Department made an error? Or was it the fault of the client?

Information provided by Minister:

The department has clear guidelines on how to interpret between office and/or customer error.

Scrutiny Report states:

A review of such a decision by another officer in the same department does not appear to be an effective remedy. Disputes around what is affordable in terms of repayments is a matter of judgement. As previously mentioned in Section 8.0 all claims must be backdated under the Law to the date on which the first application was received.

Information provided by Minister:

The interpretation of the Law in section 8 is incorrect.

Scrutiny Report states:

However, evidence suggests that the Department has consistently failed to do so.

A Booklet entitled 'If you think our decision is wrong' is available to clients – Part One – Introduction states as follows –

If you have applied for or are getting a benefit, you may need to know what you can do if you think we have made the wrong decision about your claim or if you don't understand our decision.

Where the word 'benefit' appears in this leaflet it also applies to Income Support and the award of credits to your Social Security contribution record.

If you receive a decision from us in writing, it's usually because you have:

- *Claimed a benefit,*
- *Had a change of circumstances which affects your benefit, or*
- *Been told to pay a benefit back.*

If you think our decision is wrong, or you don't understand it, you can:

- *Ask us for a spoken or written explanation,*
- *Ask us to look at our decision again (this is known as reconsidered), or*
- *If you have already had the decision reconsidered, appeal against our decision.*

For certain decisions, you may be able to appeal to an independent tribunal who can change our decision if they agree that it's wrong. You can find more information on tribunals in the leaflet.

However, you cannot appeal against any decision unless you have first requested that we look at the decision again.

Therefore if you submit an application to appeal it will be treated as a request to reconsider the decision and not an application to appeal. This does not affect your right to appeal against the reconsidered (second) decision if you still think that is wrong.

There are time limits for asking us to look again at decisions and appeals. We tell you about these in this leaflets.

The Sub-Panel is concerned that even with the assistance of the booklet navigating the appeals process is a frightening prospect for vulnerable clients.

Information provided by Minister:

The Registrar of Appeals, who administers the appeals process, assists appellants as far as possible in the submitting of an appeal. Appellants may also attend the Tribunal premises in advance to view and familiarise themselves with the surroundings and the Registrar of Appeals will explain the proceedings in person.

Scrutiny Report states:

The Sub-Panel notes that the determining officer is not only required under the provisions of Article 12(2)(a) of the Income Support (General Provisions) (Jersey) Order 2008 to notify the claimant, not only of the determination, but of the reasons for it.

The Sub-Panel feels that, as outlined above, a request for a second determination is unlikely to satisfy the client. The next and only option is then to appeal to a formal tribunal. This for most IS clients is an extremely daunting prospect and will often require assistance from a third party, either a States member or even a lawyer. The Sub-Panel has been informed by the Appeals Registrar that most appeals have been rejected and sent back because of the absence of a request for a second determination.

Information provided by Minister:

A number of appeals have been withdrawn as a result of being reconsidered. (All “appeals” received via the Registrar of Appeals are reviewed by the Adjudication Team and if classed as “premature” appeals and will be allocated for redetermination by another Determining Officer).

Scrutiny Report states:

In fact one IS appeal has been heard in 18 months. Only one appeal has been heard and that case is referred to in Section 10.2 of this report.

Information provided by Minister:

In total 10 appeals have been submitted. Two appeals have been heard. A further 5 have been submitted and the Appeal withdrawn following reconsideration (including one appeal against a special payment). 1 has been submitted to the Tribunal Chair who has identified it as a “bound to fail” case and two others are pending awaiting the outcome of the reconsideration process.

Scrutiny Report states:

The Powers of the Tribunal are set out in the new Article 13(10)³ of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974 ([Revised Edition chapter 26.900.28](#)) which states –

“(10) On the appeal of any case under this Article, the Tribunal may confirm, reverse or vary the decision of the second determining officer and shall give its decision in public.”

³ New Article 13(10) inserted by Social Security (Consequential Amendments) (Jersey) Order 2008 – R&O.18/2008

The powers of the Tribunal to vary or reverse a second determination are given in Article 7(3) of the Income Support (Jersey) Law 2007 which states –

“(3) A determining officer may, in exceptional circumstances, disregard any capital or income that an Order under this Article would otherwise require to be taken into account.”

Information provided by Minister:

This is not a power of the Tribunal. It is describing the discretion available to the Determining Officer.

Scrutiny Report states:

The appellant in effect has to convince the tribunal that the circumstances of his case are truly exceptional.

Information provided by Minister:

This is not correct. Both parties in the tribunal are required to present facts to the Tribunal – the Tribunal must then consider the evidence, decide which is accurate/relevant, and consider whether the law has been applied correctly. The circumstances of the case do not need to pass any particular test, including whether or not the case is exceptional.

Scrutiny Report states:

This appears to the Sub-Panel to be a high threshold to cross. There seems little point in having such an appeal mechanism when, apart from in cases of error on the part of the Department, any appeal has little chance of success.

The Sub-Panel suggests that some clients are so overwhelmed by the overburdensome task of applying that they give up and don't feel able to endure the strain of seeking a second determination or ultimately an appeal.

This is illustrated in the case of the client in written submission 2.37 after numerous visits and phone calls –

'I sat in the queue for an hour. they advised me that until I got an income tax return I would not getting anything ,I explained what I had been told previously and it was repeated that, no that I would not be considered even if not working'.

At this point, I lost hope and thought 'what is the point? Just carry on with credit cards.'

This hitherto previously competent man ended up stuck in the system for over 5 months. He was completely unaware of the fact that he could have made an appeal or what the system was. Had he not noticed the existence of the Scrutiny Sub-Panel and its enquiry he might now be going through bankruptcy proceedings. Only when he attended the Department accompanied by Deputy Southern was he able to secure benefit for himself and his sister. It required the assistance of two supervisors, one

from Income Support and the other from the Health Section. He was requested to contact these two individual officers by name in order that his claim could be properly dealt with. Once again this reinforces the findings contained in Section 8.0 of this report.

The Sub-Panel believes that it is innappropriate to go straight from an officer decision straight to the daunting but independant tribunal, given that the powers of the tribunal are so limited.

A solution to this problem would be either, to give the tribunal greater powers of discretion

Information provided by Minister:

The tribunal cannot exercise discretion. The role of the tribunal is to act as an independent arbiter, gather evidence and decide upon fact and apply the relevant legislation to those facts on whether the law has been applied correctly.

Scrutiny Report states:

or to insert a new stage in the process that of an appeal to the discretion of the Minister.

Information provided by Minister:

The Minister is not part of the decision making process, other than in the exercise of his powers under Articles 8(2) and 8(3) of the Law . If the Minister became involved, the matter would not be decided under the Law and then the opportunity to appeal to an independent tribunal would be lost.

Scrutiny Report states:

12.1 Special Payments – Minister’s Discretion

Special Payments appeals are the direct responsibility of the Minister for Social Security.

Information provided by Minister:

That is not correct. SP appeals are made to the Tribunal. The Minister makes dicretionary payments under Articles 8(2) and 8(3) of the Law.

Scrutiny Report states:

The Minister has the right to make Discretionary Payments which fall outside the main framework of Income Support. The Sub-Panel notes that the powers of the Minister to make Special Payments are given in Article 8(2) and (3) of the Income Support (Jersey) Law 2007 ‘in exceptional circumstances’. Because these decisions are discretionary, it is ironic that they cannot be appealed.

Information provided by Minister:

They cannot be appealed because they are not decisions under the law, and so they are no objective criteria against which an appeal can be heard.

3. UK Benefit System

The Sub-Panel makes various references to the UK Income Support system. Income Support in the UK is one of a large number of means tested benefits available to low income households. Income Support in the UK only provides benefits for the adults in the household and other benefits have to be applied for in respect of children, rent, council tax etc. It is only available to certain groups of working age adults. The direct.gov website includes the following information:

“You may be able to get Income Support if you're aged 16 to 59 and any of the following apply:

- you're a lone parent
- you're registered sick or disabled
- you're a student and either a lone parent or disabled
- you're caring for someone who's sick or elderly

and the following apply:

- you don't have savings of £16,000 or more
- you're not working, or work on average less than 16 hours a week

You may also be entitled to Income Support if you have a low income and:

- you're sick and your Statutory Sick Pay is less than the amount of Income Support you would be entitled to
- you or your partner or civil partner are not working because of parental leave
- you're on paternity leave

Who isn't eligible?

If you work on average more than 16 hours a week, or have a partner or civil partner who works on average 24 hours a week or more you can't usually claim Income Support.”

There are a number of references to UK Income Support in the Scrutiny report. These are reproduced below with the comments submitted by the Minister to the Scrutiny Sub-Panel.

Scrutiny Report states:

8.3 Benefit entitlement

In contrast, the UK benefits system has a more holistic approach to applications for benefit. The application form is clearly laid out and uses simple language throughout. Another significant advantage to the UK system is that the application process is

available online or over the telephone and clearly indicates other benefits for which applicants might be eligible, as outlined in Appendix 1.⁴

Information provided by Minister:

The Income Support benefit in the UK is only one of a very large number of income related benefits administered by a range of different government departments and local authorities. It is a very different benefit from Jersey Income Support, which provides almost all income related benefits in a single application from a single office.

The Income Support Benefit in the UK is administered by the Department of Work and Pensions and mainly covers living costs for working age adults. Claimants with children need to apply separately to Her Majesty's Revenue and Customs for child benefits and tenants needing help with rental costs may need to apply to the local authority as well. Pensioners are covered by a different set of benefits.

Scrutiny Report states:

10.0 savings levels

Whilst it is very difficult to compare two very different benefit systems, the Sub-Panel explored the approach to savings adopted in the United Kingdom, which provides for a cap on the amount of savings (albeit a lower amount of £6,000) that you can have and still receive benefit.⁵ That capital amount is set as the absolute minimum and affords a safety net for the client together with an incentive to save. The Sub-Panel is disappointed that the existing IS system provides clients with a higher savings cap but expects up to 75% of those savings to be used for unforeseen events that are not fully covered under special payments.

Information provided by Minister:

The capital amount of £6,000 is the maximum allowed under the UK Income Support benefit before deductions to weekly benefits are made in respect of savings. In Jersey, these amounts range from £7,911 to £13,113 for working age adults.

The benefit system in the UK is not the same as Jersey but UK Budgeting Loans cover the cost of one off items such as furniture and household equipment, removal expenses, which are similar to items covered in Jersey by Special Payments. The maximum capital allowed in the UK is £1,000 for under 60s and £2,000 for over 60s. Above these limits, no assistance is provided with one-off costs in these categories. Assistance that is provided is in the form of an interest free loan, that must be repaid.

Scrutiny Report states:

10.0 Savings Levels

The Sub-Panel finds the level of reduction to be punitive and questions whether the £1 reduction for every £250 above the savings allowed is a fair reflection of the actual benefit brought by those extra savings.

⁴ jobcentrepluswebsite

⁵ jobcentrepluswebsite

Information provided by Minister:

The deemed interest is not supposed to represent the actual benefit brought by those extra savings. It is a device to reduce means tested benefits to households as the level of savings rises. The UK uses exactly the same rate of £1 per £250, for all savings above £6,000, in respect of their Income Support benefit. Income Support benefit is not payable in the UK at all if the claimant has savings in excess of £16,000.