



# Health, Social Security and Housing Scrutiny Panel

## Review of Income Support



Presented to the States on 2nd October 2007

S.R.17/2007



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## **1. TERMS OF REFERENCE**

1. To assess whether the proposed Income Support system would meet the objective of the Department of Social Security to establish a fair and integrated system that would meet the requirements of all customers.
2. To consider whether the proposed system would be cost-effective.
3. To consider whether there would be sufficient manpower resources and training and support for those delivering the Income Support system.
4. To assess whether the proposals would mitigate the effects of GST for those on low incomes.

## **2. PANEL MEMBERSHIP**

### **2.1 Health, Social Security and Housing Scrutiny Sub-Panel Membership: Income Support**

Deputy J. A. Martin, Chairman

Deputy S. Pitman, Vice-Chairman

Deputy G. P. Southern

When the Sub-Panel was constituted on 21<sup>st</sup> March 2006 Deputy F. J. Hill, B.E.M. was elected Chairman and Deputy J. A. Martin Vice-Chairman. Following the resignation of Deputy Hill on 24<sup>th</sup> April 2006, Deputy J. A. Martin was elected Chairman and Deputy S. Pitman Vice-Chairman.

Senator B. E. Shenton resigned from the Sub-Panel to take up the position of Minister for Health & Social Services on the 19<sup>th</sup> September 2007.

Officer Support during the review:

Mr. C. Ahier

Mr. W. Millow

Mr. M. Orbell

Mrs. E. Kingston-Walsh

### **2.2 Adviser**

Dr. Martin Evans is Senior Research Fellow in the Department of Social Policy and Social Work and works in both the Social Disadvantage Research Centre and the Centre for South African Social Policy. He joined the Department in March 2007 having previously worked at the University of Bath and at the London School of Economics.

His research interests are in income, poverty and social security, developing countries, neighbourhood deprivation and welfare to work programmes. He is currently an Economic and Social Research Council Research Fellow and is engaged in research profiling the changes in British social policy since 1979 using an innovative model lifetime approach. In 2006 he was Visiting Fellow at the School of Social Welfare at the University of California, Berkeley. He is an associate of the Centre for Analysis of Social Exclusion at the LSE. Before gaining his PhD from the LSE in 1992, Martin worked in community law centre and advice centres.



### 3. CHAIRMAN'S INTRODUCTION

Almost two decades ago the States made the decision to change the way Jersey delivers support for those on low incomes. As a result of much investigation a framework for what has become known as Income Support was laid down in R.C.84/2005. This new scheme was to replace 14 existing benefits and at the same time to help eradicate poverty and support people in finding and maintaining work.

During this process, however, many key elements essential to the effective delivery of Income Support have been abandoned. For example the CRSP "minimum budget standards", intended to alleviate poverty, and more recently the Oxera micro-simulation models have not been used.

In P.90/2007, Draft Income Support (Jersey) Regulations 200- it is claimed that:

***"The new system will help and enable people to both avoid poverty and to take appropriate actions and life decisions to get out of poverty. The system will do this by effectively tackling real needs whilst promoting work and encouraging self-reliance..."***

**These claims are simply misleading because the reforms have mostly done the opposite. It gives me no pleasure to say this, but I believe that the Social Security Department has failed to achieve its original aims.**

When we look at the losers and gainers from structural reform, the difference in targeting between the current system and that after reform means that pensioners who have significant savings lose, and those below pension age who work mostly lose. The gainers are mostly those who have no earnings and little pension and savings.

Following publication of the proposed rates in July, our advisor, Dr Martin Evans of Oxford University ran them through the models supplied to him by Social Security and shared his concerns with the Sub-Panel. I contacted the Social Security Minister to inform him of our concerns about the structure of the new scheme. I requested an urgent meeting with the Minister and the Chief Minister.

That meeting did not take place until September 13<sup>th</sup>.

Senator Le Sueur was there as Deputy Chief Minister, also in his capacity as Treasury Minister. Others present included the Minister for Social Security, his Assistant Minister Deputy Troy, two senior officers from Social Security, the Sub-Panel and its advisor, Dr Evans.

During the three hour meeting Dr Evans presented figures and tables, many of which have been reproduced in this report. It was accepted by all participants that the proposed system would not deliver on day one, and that in fact it would in many cases do the opposite of supporting people in work. As explained in our report, it was made clear that most of the losers would be working couples with children and high rents, and pensioners with moderate savings.

At that meeting it was made clear to the Minister that we considered his proposals to be so seriously flawed that the Sub-Panel would recommend that implementation of Income Support be deferred. Social Security representatives stated that once implemented they could amend the system over the coming months and years. The Social Security Minister along with the Deputy Chief Minister decided that this was their preferred option.

This meeting was not recorded, but I am disappointed now that the Minister will not publicly agree that at this round-table meeting, with all the evidence in front of him, he could not deny that the new system of Income Support has serious structural flaws.

The Sub-Panel stands by its main recommendation that implementation of Income Support should be

deferred. We have lodged a series of amendments, but even if adopted they cannot change the fundamental structural faults of the scheme and will not change the winners and losers. We are particularly concerned that the replacement for HIE cannot deliver accessible health care to those most in need.

### **What can be done to make Income Support better?**

First, there has to be complete honesty in the presentation of the proposals. We are critical and rightly so, but there needs to be a greater admission of just how much is still to do to make a scheme that matches the aims that have been put forward. Policy makers, States Members and Ministers have to be more questioning of simple platitudes of strategic policy aims and think more about design and implementation and the necessary resources to make them happen. Platitudes are easy, making things improve across the board is a bigger challenge.

Second, some priorities have to be agreed. Commitments to end child and pensioner poverty within a set timetable and programmes re-orientated to do so could be adopted. Such promises will require better understood and considered programmes to support employment and saving. Such an approach would better match the wider policy aims and may help focus policy makers' minds on the real trade-offs that have to be made when trying to promote opportunity to work alongside income benefits.

Third, there is the opportunity to tinker with the structures of Income Support – **but fundamentally it is not an anti-poverty programme that makes work pay. Neither is it an anti-poverty programme for the elderly that supports saving for old age.** The essence of the reforms has been to squeeze out any resources that promote and reinforce work to those on low to moderate incomes. Any radical change is beyond tinkering but would require complete rethinking.

Fourth, there is the need to prepare for the potential negative effects that Income Support will have on work and saving, even if no larger reform is possible. These are potentially considerable without some immediate action to change the incentive structures to improve the gains from work and to reward savings.

Finally, I ask all States Members to remember that the proposed scheme is the largest single change ever undertaken to the way in which we deliver benefits in Jersey. The Income Support scheme must be sufficiently robust to last for at least the next thirty years. I believe these proposals are not. The administrative and resource costs of endlessly tinkering and trying to get a flawed structure right will be a burden for years to come. This is a decision that we cannot afford to get wrong.

Deputy J. A. Martin,

Chairman, Health, Social Security & Housing Scrutiny Sub-Panel: Income Support

## **4. KEY FINDINGS**

Please note: Each key finding is accompanied by a reference to that part of the report where further explanation and justification may be found.

### **4.1 The Work Focus of Income Support (8)**

#### **Key Finding 1:**

The Sub-Panel believes that the Minister has seriously underestimated the work required to enable Income Support applicants to enter and maintain full-time work, and that the incremental approach adopted to cater for this problem is inadequate.

The Sub-Panel has seen no evidence that the Social Security Department has identified either a) the skills base of these new jobseekers or b) the sectors of the economy in which there is demand.

### **4.2 Making Work Pay (9)**

#### **Key Finding 1:**

In attempting to deal with the poverty trap affecting a small group of workers under the old system of benefits, the Minister has spread poor replacement rates to a wider group of those in work.

The Minister has therefore failed to construct an 'in-work' benefit system to ensure that:

- a) people are better off in work, or
- b) incentives to improve earnings are maintained

#### **Key Finding 2:**

The Income Support scheme as currently designed:

- a) will severely curtail the benefits of entering work for those with working partners
- b) is likely to result in more job exits and lower job retention, and
- c) may result in reductions in hours currently worked

### **4.3 Poverty (10)**

#### **Key Finding 1:**

The Sub-Panel finds that in moving away from the minimum budget standards recommended by CRSP, the Minister has failed to alleviate poverty for most households on Income Support.

**Key Finding 2:**

The Minister has succeeded in lifting lone parents marginally out of poverty; however he has failed to address child poverty or pensioner poverty.

**Key Finding 3:**

In moving from the old benefit system to the proposed Income Support scheme it is those in work and those with children who will be losers, along with pensioners with savings.

**4.4 Healthcare and Income Support (11)****Key Finding 1:**

The Sub-Panel finds that the proposals to reform HIE have missed an opportunity to design a system which properly gives access to medical services for those with high medical needs: young children and the elderly.

**Key Finding 2:**

The Sub-Panel finds that insufficient consideration has been given to:

- a. incentives that divert care from primary to hospital based provision among a low income risk-adverse population;
- b. short-term versus long-term costs of health provision arising from delayed access to primary care; and
- c. the proposed strategic re-orientation towards enhanced preventative primary healthcare services envisaged by the '*New Directions*'.

**Key Finding 3:**

The Sub-Panel are unconvinced that the Household Medical Account, as designed, will not succeed in delivering medical benefit appropriately and may result in additional costs through Special Payments.

## **5. RECOMMENDATIONS**

Please note: Each recommendation is accompanied by a reference to that part of the report where further explanation and justification may be found.

### **5.1 The Work Focus of Income Support (8)**

#### **Recommendation 1:**

We therefore recommend:

1. the reduction of the definition of full-time work from 35 hours to 25 hours
2. the acceptance that those in long-standing part-time work of 20 hours should not be targeted to increase their hours

(These are to be found in the Sub-Panel's amendments to P.90 Draft Income Support (Jersey) Regulations 200-)

3. that the comprehensive approach applied by employment services in the UK to the use of job-seekers agreements be adopted
4. the Social Security Department should as a matter of priority identify in conjunction with the Economic Development Department the skills base of new job-seekers and the sectors of the economy in which there is demand.

### **5.2 Making Work Pay (9)**

#### **Recommendation 1:**

The Sub-Panel recommends that the implementation of the Income Support scheme is deferred to allow further specialist advice and research, in order to improve incentives to make work pay.

### **5.3 Poverty (10)**

#### **Recommendation 1:**

The Sub-Panel recommends that the implementation of the Income Support scheme is deferred to allow further specialist advice and research, in order to better target pensioner and child poverty and to encourage saving for the future.

### **5.4 Healthcare and Income Support (11)**

#### **Recommendation 1:**

The Sub-Panel recommends that the implementation of the Clinical Cost element contained in Article 8 of Schedule 1 of the draft Income Support Regulation 200- is

deferred in order to better deliver access to health care to Income Support claimants.

## **5.5 Administration: Accountability, Fairness and Discretion (12)**

### **Recommendation 1:**

The Scrutiny Panel recommends that decisions on questions to be asked and information required from applicants for Income Support should be contained in Regulations and not in an Order.

### **Recommendation 2:**

The Sub-Panel recommends that all first application for Income Support must be carried out by Officers of the Social Security Department.

### **Recommendation 3:**

The Sub-Panel recommend that an external independent cost-benefit analysis be undertaken of the claimed administrative savings to include involvement of the Parishes.

## 6. GLOSSARY OF TERMS

**CRSP** – Centre for Research in Social Policy, Loughborough University. They worked on:

Minimum Budget Standards – the income required to maintain a decent level of minimum living standards for Jersey's poorest residents.

**Clean data** – a data set with no missing or wrong data

**Conditionality** – the conditions imposed upon an applicant in order for them to claim Income Support. Most often applied to the need to be seeking work.

**Component (Income Support)** – an individual element of Income Support comprising a discrete set of payments

Basic Components:

Adult a basic sum to cover daily living expenses

Child a basic sum to cover daily living expenses

Household a basic sum to cover general household expenses

Additional Components:

Housing two types available

i. Renting/Living as a lodger – component based on the rent payable for the accommodation

ii. Occupying own property – assists with expenses only payable by a property owner

Impairment three types available

i. Personal care – for people who need some assistance with their own care

ii. Mobility – for people with an impairment which seriously affects their mobility

iii. Clinical cost – for people who need to visit their GP regularly because of a chronic or progressive condition

Childcare covers day care and the rate varies according to the age of the child

Carer available to people who look after someone who is disabled or has a serious medical condition.

**Determinations** – the decisions made by the Determining Officers relating to the eligibility of claimants for specific elements of Income Support.

**Determining Officer** – an employee of Social Security with the power to determine claimants eligibility for specific elements of Income Support.

**Disregard** – the element(s) of savings that are not taken into account when determining an application for Income Support.

**HIE (Health Insurance Exceptions)** - is a scheme which allows certain people on a low income to see their doctor and get prescribed medicines free of charge. Entitlement is means tested.

**Household Medical Account (HMA)** – a means of setting aside a proportion of Income Support benefit to provide for the payment of GP bills.

**Internal Policy Guidelines** – a guide to the Income Support Scheme for employees of the Social Security Department offering guidance on interpretation and application of the scheme.

**IDS (Jersey Income Distribution Survey)** – was undertaken in mid-2002 to better understand the differences in the incomes of Jersey residents including the most vulnerable and low-income groups. The incomes of Island households were investigated through a random sample of all private households.

**Job-seeker** – an individual deemed to be capable of, available for and actively seeking work.

**Job-seekers agreement** – an agreement that sets out the reasonable steps that a jobseeker needs to do to satisfy the actively seeking work condition of Income Support.

**Marginal Deduction Rate** – the amount an individual earns if they work one additional hour.

**McClements equivalence scale** – a statistical means of adjusting for different sizes of households so that they can be directly compared.

**Means-tested benefits** – a benefit where a claimant is assessed for eligibility based upon



their income and/or savings.

**Median income** – The median is the middle value when all incomes are arranged from highest to lowest.

**Micro-simulation model** – Micro-simulation models are computer models that operate at the level of the individual behaviours.

**OECD** - (Organisation for Economic Co-Operation and Development).

**Orders** – administrative decrees issued by Ministers not subject to amendment by the Sates.

**Parish Welfare** – The current system of assistance administered by the Parishes for those who do not have the means to meet basic needs, such as food, housing, heating and clothing.

**Policy Guidelines** – the public guide to the Income Support System.

**Poverty line** – The poverty line is the level of income below which one cannot afford to purchase all the resources one requires to live. People who have an income below the poverty line have no discretionary disposable income, by definition.

**Poverty gap** – The amount of income that would be required to bring every poor person exactly up to the relative poverty threshold, thereby eliminating poverty.

**RAND Experiment** – was a comprehensive study of health care cost in the United States.

**Replacement Rates** – ratio of total income out of work to the income in work. A high replacement rate means a low incentive to work.

**Rent Abatement** – is a rental subsidy paid only to tenants in States Rental Accommodation.

**Rent Rebate** – Rebate is a rental subsidy available to tenants in private sector rented accommodation (including Housing Trust properties).

**Special Payments** – a discretionary payment designed to assist claimants in exceptional circumstances and determined by a Determining Officer.

**Taper** – the taper is the withdrawal of Income Support when in work as a combination of disregards and the marginal deduction rate.

**Transitional Protection** – the means by which the level of benefits for current claimants is protected or gradually reduced over a defined period of time. At the defined point in time the claimants will receive the new level of benefit.

## 7. INTRODUCTION: POLICY BACKGROUND & REFORM

It is worth revisiting the aims and history of reform briefly because the Income Support system is the result of over 10 years of consideration of policy. Prior to P.86/2005 considerable effort and money had been spent on commissioning research and obtaining policy advice, notably including:

Jersey Income Distribution Survey (IDS), 2002

Household Budgetary Requirements in Jersey - Centre for Research in Social Policy (CRSP) Loughborough University (December 1998)

Aiming for a Fairer Society, 2001, Robert Walker, University of Nottingham and Institute for Fiscal Studies

Social Protection in Jersey: a comparative Study, Stella Hart & Robert Walker, Nottingham University, 2004

The long development of Income Support has overlapped with a “decade for the eradication of poverty”, reflecting of the importance and significance of the topic. For example, the proposition P.44/2000, Minimising Material and Social Deprivation, lodged on 4th April 2000, referred back to previous reports and work commissioned by the Benefits and Welfare Working Party in 1996, and focussed on 3 essential elements:

- Welfare analysis
- Marginal deduction rates
- Household (minimum) budgetary requirements

These concerns have been the focus of all subsequent work and the many reports produced since. They are summarised in 2 broad areas:

1. Work incentives (Marginal deduction rates {MDR})
2. Reducing poverty

To these must be added the replacement of the inadequate HIE scheme.

3. Access to Healthcare

This preliminary work included detailed estimates of “minimum budget standards” – the income required to maintain a decent level of minimum living standards for Jersey’s poorest residents - and more structural advice on the aims of a co-ordinated approach to social policy and minimum income provision.

However, much of this advice and research investment appears to have been ignored and/or superseded by a change in policy approach in the formulation of Income Support proposals. There is today a real question of how far the large sums of money spent on such research and advice have been good value for Jersey taxpayer’s money.

Since the Sub-Panel’s involvement began in March 2006 a further and more acute problem has become apparent. This concerns the capacity of the Minister and the Social Security

Department to specify, commission and use simulation models relating to the introduction of Income Support. The micro-simulation model commissioned at considerable expense from Oxera to exploit the data in IDS was soon abandoned. This means that it is not possible to estimate the impact of the proposed Income Support scheme on the whole Jersey population and the income distribution nor to estimate the potential effects of behavioural responses to the new IS scheme.

These two essential elements – the minimum budget standards and Oxera’s micro-simulation models – were still considered to be essential in the then Social Security Committee’s Report R.C.48/2004.

**Extract from R.C. 48/2004:**

***“13. Developing and costing the System***

*Work on the income support system regarding the nature, policy and structure of the benefit is nearing completion and modelling has begun which is highlighting areas for more analysis and political steering. Several examples are given here.*

*Measures*

*There is a need to set out some indicators by which the success or failure of the new system may be measured. This brings us back to the purpose of the benefit. As an income top up does the benefit affect the inequality or equality of incomes in Jersey? Does it lessen poverty? Nottingham University are currently undertaking a study across Europe, including Jersey, analysing social protection programmes and potential comparators.*

*Level of household budgets*

*Loughborough University continue to develop the Household Budget figures to identify different costs, some of which have been mentioned above. In particular, disability, carers and the costs of the aged are being considered. Not only will these refine the budgets but the research may add to the number of components either by introducing new ones or extending the range of others (disability).*

*Impact on existing beneficiaries*

*The change in policy will target more support to the very low end of the income spectrum. The benefits that are likely to be redirected are the rent subsidy and the disability benefits with the relatively high income bar (and relatively high rate for some disabilities). DTA is a prime*

*example but is not alone in this area. It can be seen from the budget standards that some types of disability have no additional transport costs. It is for this reason that recent discussions in the Department have highlighted the need for a clear transition strategy.*

*The Social Security Advisory Council is also meeting with representatives of organisations representing people with disabilities on the issues relating to disability benefits and components.*

#### Cost estimates

*OXERA has begun to model the overall cost of the scheme based on early assumptions. These assumptions will be refined and iterations of the model developed to give a realistic estimate of costs, impact and inter-action with the fiscal strategy currently being developed.*

#### **14. Conclusion**

*This paper outlines the fundamental principles behind the proposed income support system which the Employment and Social Security Committee will be bringing to the States in January/February 2005 for implementation in October 2006. The Committee is happy to receive any feedback on these principles and key issues which might help it refine the proposals.”*

In the ensuing three years not only has the timetable for implementation been seriously delayed but the structure outlined has been compromised. Further comparison with both the content and the levels of benefit referred to in R.C.48 is made in section 3.

The Sub-Panel recognises the constraints on the Minister and officers. First, cost assumptions have changed over the past 10 years due to fiscal and economic pressure. However, this change has not been made explicit to members or to the public.

For instance, in 2000, there was discussion of a reformed scheme costing 20% more than current spending on benefits for low income households<sup>[1]</sup>. Instead, the proposed IS scheme has been introduced on a cost-neutral basis for the underlying structural reforms.

This approach has meant that many households currently in receipt of benefits will have reduced or no entitlement. Households affected include both moderate to low income earning families and pensioner households with savings. Additional spending has only been given to protect losers under the new rules through transitional protection benefits.

Second, the constraints of time and staff resources have been very apparent throughout our period of scrutiny. The original timetable for tabling the Proposition and introduction of Income Support has been put back and is around one year behind early estimates and 6 months behind the more recent estimates in place as of April 2007.

## 7.1 Structural Failings

Most importantly, it is clear to us that there has been a lack of strategic policy expertise at a high level in the Social Security Department. There has been a demonstrable inability to join the aims of policy to an assessment of a sufficiently wide range of options and to cost these as alternative scenarios. Instead, faced with time constraints and no micro-simulation model, officers have developed an approach that merely “cuts up the cake” of existing provisions and then reallocates spending according to a very limited number of options, most of which have been carried forward from the current Jersey systems. There has thus been an over-heavy reliance on pre-existing Jersey approaches and practice, and there is no evidence of applied learning from international evidence of what works best in the design of social assistance programmes.

The Steering Group in its first report in September 2001 made the following comment, (quoted in P.86/2005):

*“....there do not appear to be, as yet, fully integrated approaches that could provide a model of good practice for Jersey”.*

Whilst it may be true that there is no single, fully integrated model of good practice, as we point out in our report, over the past 25 to 30 years there has been a huge growth in good quality policy evidence about what works and what doesn't work across the English-speaking world. This evidence comes from the USA, UK, Canada, Australia, Eire and New Zealand, for instance and from labour market economic analysis as well as specific policy evaluation studies. The OECD has adopted much of this evidence into clear policy advice for its member countries.

This evidenced-based policy research appears to have been completely ignored in the development of the current Income Support structures.

The overall effect of these limitations is most clearly seen in the inability of the proposed Income Support scheme to offer a clear range of provisions across its area of operation in a manner that matches the constraints and opportunities that face low-income individuals in Jersey.

It is, for instance, a crucial failure that provisions do not suit the needs of both in-work and out-of-work populations. Despite the clear approach most recently put forward in the recently adopted *Social Policy Framework for Jersey* to promote independence, saving, work and mutual support, the range of individual level incentives offered by the Income Support proposals are poor. Instead, Income Support promotes a limited set of poorly structured incentives that represent the lowest denominator of what is achievable.

The net result of these constraints is that Social Security Department staff have worked hard and put much effort into the proposals put forward in P90 and P91. They must be applauded for their efforts. But in many instances the proposals are inherently weak and structurally flawed.

In discussions with the Sub-Panel and our Advisor, the DSS have accepted the need to refine and adapt the proposals after their implementation. However, it is the concern of the Sub-Panel that such an approach is risky. A poorly designed structural reform once implemented will be difficult to amend unless the political pressure to reform continues and does not

disappear under the inertia of future day- to-day administration of the scheme after January 2008. Even with the political will, we believe that the fundamental structural defects inherent in these proposals will require major reform in the short to medium term.

## **7.2 Aims of the Policy and reasons for change**

The proposed Income Support scheme, as defined in P.90 Draft Income Support (Jersey) Regulations 200- and P.91 Draft Income Support (Special Payments) (Jersey) Regulations 200- and their attached Orders, must be judged on its success in meeting the fundamental aims of the policies developed over the past two decades.

*“Income Support should seek to guarantee an adequate standard of living for all”.*

The Steering Group in its first report in September 2001 made the above statement, (again quoted in P.86/2005). The introduction to P.86 reinforces this fundamental statement (our emphasis):

*“No-one wants to create a culture of benefit dependency, yet there is a need to achieve a level of financial support high enough to provide a basic standard of living without it being so high as to undermine the **incentive to work and save**. In Jersey this has to be achieved within the Island’s existing and future means. **The ultimate aim is that of reducing poverty in the Island.**”*

The Report to P.90/2007 expands on this:

*“The new system will help and enable people to both avoid poverty and to take appropriate actions and life decisions to get out of poverty. The system will do this by effectively tackling real needs whilst promoting work and encouraging self-reliance. It will be equitable, consistent, sustainable, easily understood and accessible whilst taking account of the whole needs of the family.”*

The criteria on which Income Support is to be judged are listed below, and form the basis of our Report.

### **i) Better target poverty**

The Minister suggests in his introduction to P.90/2007 that Income Support will better target poverty than the systems it is replacing. This may or may not be true. No one can say, because there has been no analysis performed to show how far the current expenditure of £60 million (2007) on the schemes to be replaced by Income Support reduces poverty.

P.90 states that 20% of households (circa 8,000) receive such help and that

*“the total estimated sum spent on social protection”*

gives rise to similar numbers of poor people (poverty rates) to the European average but lower underlying depth of poverty (poverty gaps).

However, much of such poverty reduction comes from Jersey pensions, and there has been no

published evidence to show how existing means-tested schemes impact on poverty. Neither is there any evidence put forward as to how Income Support will change poverty rates and poverty gaps. Such comparison of poverty before and after reform would require use of the OXERA micro-simulation model, which was abandoned by the Social Security Department.

From hypothetical model families, we are able to report indicative and illustrative changes to poverty for certain types of households using the spreadsheet-based models of DSS. These are shown in Section 10. They tell a tale of continuing household poverty under Income Support.

## **ii) Improved Efficiency**

The Minister suggests that the changes will give rise to efficiency gains in several ways.

Administrative efficiency is expected to improve through moving to a single administering body (DSS). Greater ease of access to claimants is expected from “easier to understand” policy structures and a single administering body.

However, given the complexity of some of the structures set up by the current proposals, there are considerable doubts about the size of such efficiency gains. These issues are fully discussed in section 12.

Financial efficiency is said to be gained in aggregate by better targeting (effectively removing entitlement to those with higher incomes). However, detailed analysis of the targeting reveals that whilst single parents benefit, working couples and pensioners with savings do not. (See Chapter 10)

Additionally, the Minister claims that there is an improvement in individual incentives to work.

*“One of the fundamental principles of the system is that those people who can work should work and be given every encouragement to work “ (P.90/2007 p.4)*

In fact it is the absence of soundly-based incentives to work that the Sub-Panel identifies as one of the major faults in the proposals. This is explored in section 9.

## **iii) Fairness**

The promotion of a less discretionary and more rights-based system that is fairer and more transparent is a key aspect of the introduction of Income Support. The Sub-Panel welcomes the introduction of independent Determining Officers in Income Support and the right of appeal against decisions that they make. However, it has increasingly become concerned about the operation of Income Support and the relationship between Ministerial operational decisions which are not open to appeal and “determinations” that are. This and other concerns over the discretionary nature of aspects of the system appear in Section 12.

In addition there are several issues concerning the claiming of Income Support, overpayments and back-dating. Issues surrounding the use of Regulations instead of Orders also need further debate. The improvements in administrative efficiency required of the new system are called into question by continued dependence on Parish involvement. These issues are dealt with in Section 12.

This overview gives an indication of the type and range of concerns the Sub-Panel have with the proposed Income Support scheme. We now turn our attention in this Report to the detail of the proposals in front of us and in doing so we widen discussion to broader and more strategic policy problems inherent in the scheme.







## 8. THE WORK FOCUS OF INCOME SUPPORT

There is a central emphasis on work in Income Support. The Minister and the Social Security Department have gone to great lengths to emphasise that entitlement to benefits will depend on being in “full-time” work.

*“One of the fundamental principles of the system is that those people who can work should work and be given every encouragement to work if their circumstances allow.”* (P.90 Draft Income Support (Jersey) Regulations 200- page 5).

### 8.1 Will Income Support improve promotion of employment?

Over the past 25 to 30 years there has been a huge growth in good quality policy evidence about what works and what doesn't work across the English-speaking world. This evidence comes from the USA, UK, Canada, Australia, Eire and New Zealand, for instance and from labour market economic analysis as well as specific policy evaluation studies. The OECD has adopted much of this evidence into clear policy advice for its member countries.

The evidence and best practice can be split into two main areas across which are five main considerations:

#### Making Work Available

- I. **Put in place Clear Rules of Entitlement that link Receiving Benefits to Being in or Looking for Work.** The short-hand for this is “Conditionality”.
- II. **Put in Place a Range of Effective & Efficient Employment Services-** to match people to jobs, to improve their ability to get jobs, (their “employability”) and to provide a service to employers. This could be achieved by working closely with the Minister for Economic Development.

-

#### Making Work Pay

- III. **Ensure People are “Better Off in Work”**– this means ensuring that benefits in work and benefits out of work are sufficiently different to give a positive return to people entering employment. (The comparison of income out of work to that in work is shown in “Replacement Rates”).
- IV. **Ensure that People Maintain Incentives to Improve their Earnings** – this means ensuring that means-tested benefits are not tapered back too steeply. Current proposals for IS suggest a 94% taper – meaning that anyone earning an extra £1 will only keep 6p. This is usually discussed in the form of “Marginal Deduction/Tax Rate” and was a major argument for reform in Jersey.

High marginal deduction/tax rates deter partners of working people from entering work – as their taking up a job will only result in very small gains to family income.

- V. **Ensure Some Stability in Support for Work** – this means avoiding rules that

revise entitlement for all and any changes in earnings. This rewards work by giving a period of certainty for households as they rely on a mix of earnings and benefits. It can most simply be done by having fixed periods of benefit lasting say 6 months.

These principles are applicable to all industrial economies and should thus apply to Jersey. The proposals in P.90, Draft Income Support (Jersey) Regulations 200-, especially the stated objective of promoting employment, must be judged against these five principles.

### **8.1.1 Making work available (Objectives I and II)**

Income Support sets up a fundamental condition of entitlement that all those entitled must be in “full-time work”. This raises questions as to how many applicants must be considered for employment, and in particular what is meant by the full-time work requirement. The Social Security Department has collected data on current claimants of benefits that will be replaced by IS to give an indication of the size of the relevant populations of claimants.

Overall, around 45% of the anticipated IS individual claimants are those who are never required to work (pensioners and mothers of children aged under 5).

In addition the Sub-Panel established that, as at 22<sup>nd</sup> August 2007, there were 693 low-income families receiving Family Allowance (Social Security Department e-mail 23<sup>rd</sup> August 2007). Many or all of these will probably be required to be actively seeking work, either full or part-time.

The majority of the remainder will either already be in work or not required to work full-time. This means that the stated commitment to making full-time work the condition for Income Support is only really appropriate for a minority of claimants - those who are both unemployed and who have no employment constraints. This fact has been well-known for many years. Analysis of caseloads of Parish Welfare clearly shows that only a quarter are “unemployed”.

Table 1 shows an estimate of the size and circumstances of the population who will be subject to work conditionality. These estimates are taken from Social Security Department data obtained earlier this year from a sample of approximately 5,000 applications for IS already received (out of a total of 7,000+). The data clearly show that the Social Security Department has a very large caseload that will firstly require assessment and then require job-seeking agreements and services. It should be noted that a significant proportion will not be required to seek full-time work, including all of those single parents who are currently out of work, one half of couple parents out of work and a significant proportion of those who are currently identified as having a “medical condition”.

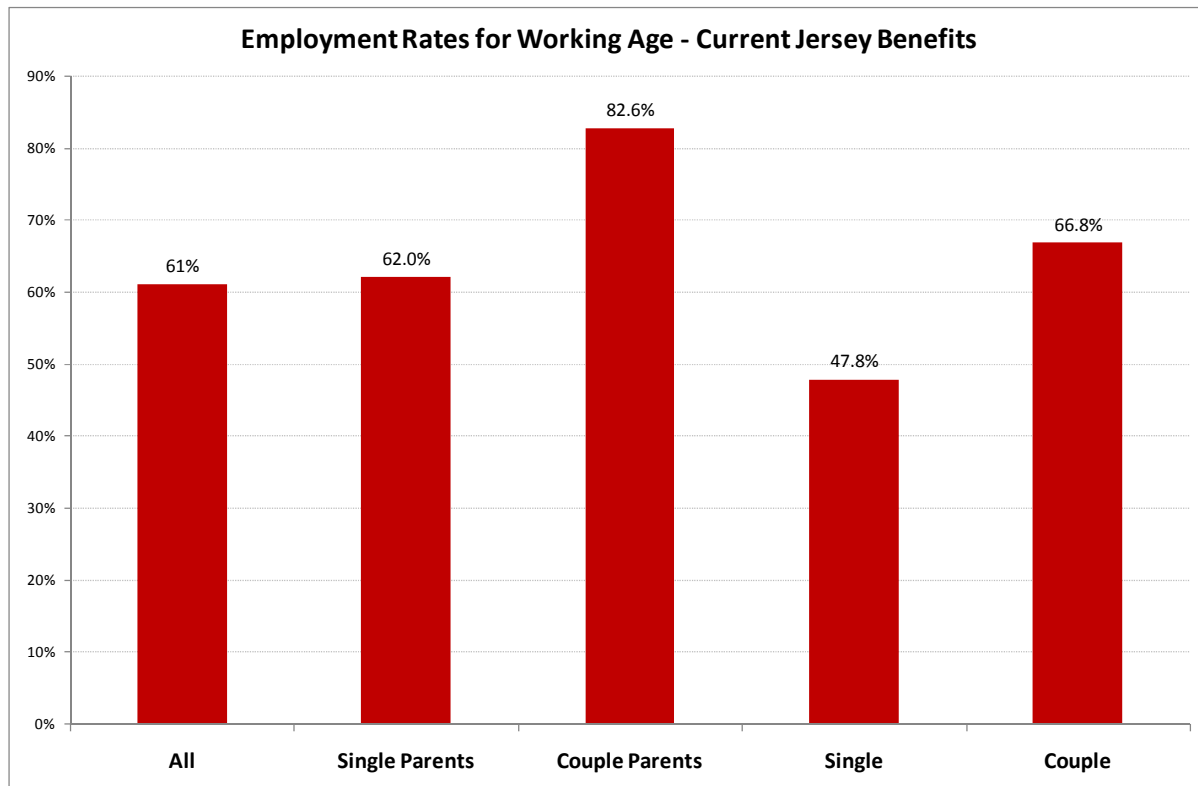
**Table 1****Individual Caseload for Work Conditionality**

	<b>Workless Households</b>		<b>Households with Earnings</b>		<b>Total</b>
	Currently claiming because of "Medical Condition"	Other	Currently claiming because of "Medical Condition"	Other	
Single Parents	53	162			215
Couple Parents	46	178	105	357	686
Single Working Age	322	290			612
Couple Working Age	108	126	139	96	469
<b>Total</b>	<b>529</b>	<b>756</b>	<b>244</b>	<b>453</b>	<b>1,982</b>

*Source Social Security Department Data*

Furthermore it should be noted that the current system of benefits is already supporting high levels of employment. Figure 1 shows that the majority of current benefits go to those households where there is already someone in work. These rates, however, will include those in part time work and those couples where one partner is not in work who will also require individual assessments of work conditionality.

**Figure 2**



Source: Social Security Department data

## **8.2 Capacity of the Social Security Department to deliver the work focus: Employment Services**

The Law, Regulations and Order say nothing about obligations of the Minister to provide appropriate and effective employment services to IS recipients. There are some rather vague statements in P.90 Draft Income Support (Jersey) Regulations 200- that allude to such services:

***“The new Income Support system will lead to more people using Employment Services at the Social Security Department and the interactions will be monitored to provide more data on both the Income Support system and unemployment. Changes to the organisational structure and computer systems are being made to help meet these expected increases.” (P.90 Draft Income Support (Jersey) Regulations 200-, Page 6, last paragraph).***

The size of the workload is illustrated as follows:

The Social Security Department will have to undertake detailed individual level assessments of conditionality for work for all working age people who are not “mothers” of children aged under 5 to see if the “full time” work conditionality applies to them - they may have health conditions that make full time work unsuitable, for instance, or they may be attending training or further education.

For all those that have work conditionality imposed on them there is a need to set up appropriate employment services to arrange meetings between an adviser and each

job-seeker to agree and monitor work search activity and to provide services to job-match and improve employability as required.

The populations of those involved are large, and there are not currently sufficient resources in place to assess the stock of claimants that will come into Income Support in January 2008, nor to develop the support and training services that they will require.

The job-market in Jersey is not in a position to respond immediately to the new influx of a considerable stock of Income Support jobseekers. The Sub-Panel has seen no evidence that the Social Security Department has identified either a) the skills base of these new jobseekers or b) the sectors of the economy in which there is demand.

All of the above suggests that the underlying need for, and costs of, provision will rise. No discussion of costs of such services and no Policy Guidelines on their provision have been made available to the Sub-Panel.

This absence of any detail, the lateness of Ministerial Policy Guidelines, together with some rather worrying statements in P.90 that put forward strange patterns of intervention give us grave concerns. It states that:

***“In difficult cases the officers would provide a plan, or “job seekers agreement” negotiated with the person in question as to the appropriate way to get back into work”***

International evidence<sup>[2]</sup> from a variety of “welfare to work” programmes clearly shows that universal agreements for all claimants facing conditionality are the basis of providing employment services. Even the most able will have to agree to actively seek and be available for work – and this is simply put into every situation in an agreement. Of course, those most able to return to work will not require service-heavy provision. But they should:

- sign an agreement to fulfil the conditions;
- be given a period of review; and
- be given a clearly stated outline of what help they can expect to receive (for instance Special Payments to help in job-entry costs).

**This comprehensive approach is the cornerstone to the gains in efficiency and effectiveness obtained in employment services in the UK with the introduction of “job-seekers agreements” (an approach that is now copied in many countries in EU).**

Such an approach would allow the Social Security Department to target services to those most in need at an appropriate time during their period out of work.

The most cost-effective programmes avoid interventions that are too early for those who can self-service but will also recognise those who have additional needs for services early and not allow them to spend time unproductively in unstructured or unsupported job-search.

One to one “advisor” interviews are the most successful and economical interventions. High cost training provision has to be extremely carefully provided to ensure improved outcomes.

The Sub-Panel believes that this proven approach to the use of job seekers agreements is essential to producing improvements in job entry and maintenance. However it would further

increase the workload in the Department. The Minister has provided no evidence that the resources required for successful job seeker outcomes have been sufficiently thought through.

#### **KEY FINDING 1:**

**The Sub-Panel believes that the Minister has seriously underestimated the work required to enable Income Support applicants to enter and maintain full-time work, and that the incremental approach adopted to cater for this problem is inadequate.**

**The Sub-Panel has seen no evidence that the Social Security Department has identified either a) the skills base of these new jobseekers or b) the sectors of the economy in which there is demand.**

#### **RECOMMENDATION 1:**

**We therefore recommend:**

- 1. the reduction of the definition of full-time work from 35 hours to 25 hours**
- 2. the acceptance that those in long-standing part-time work of 20 hours should not be targeted to increase their hours**

(These are to be found in the Sub-Panel's amendments to P.90)

- 3. that the comprehensive approach applied by employment services in the UK to the use of job-seekers agreements be adopted**
- 4. the Social Security Department should as a matter of priority identify in conjunction with the Economic Development Department the skills base of new job-seekers and the sectors of the economy in which there is demand.**





## 9. MAKING WORK PAY

### 9.1 Better Off in Work

The incentives with the greatest success at moving people back into work are economic ones. Simply, people must be better off in work than out of work. This provides the most clear and understandable “carrot” in a “carrot and stick” approach. For example, I know that if I look for a job at £200 per week I will be £X better off because my Social Security Department advisor told me so. This understanding alters the ‘reservation wages’ people have in targeting jobs when they are looking for work. Research in the UK by the Institute of Fiscal Studies on the US system of tax credits and the Canadian Self-Sufficiency programme show this to be true across all systems.

However, all these systems depend on separating in-work and out-of-work benefits into separate but inter-linking systems. Jersey has instead chosen to create a single Income Support scheme rather than to have separate systems.

This means that the Minister has made it very difficult to balance the poverty and work trade-offs at the heart of Income Support. In short it becomes impossible to achieve both a reduction in poverty and to make work pay within the prescribed budget. Unfortunately, as we shall demonstrate, neither of these fundamental targets, which have been at the heart of nearly 2 decades of work, has been met.

### 9.2 Income disregards and replacement rates (Objectives III & IV)

The simplest way to create incentives to work is to put in place monetary disregards on earned income before support is withdrawn. The original draft schemes put to the Scrutiny Sub-panel contained no such disregards. The Minister has reflected on our earlier advice and the disregards set out in the Order (on which The States have no power to debate or amend) are in some ways an improvement on the original proposals.

Paragraph 5(e) of Schedule 2 of the Order puts forward a fixed monetary disregard against all earnings of £15 per week. There is an additional stepped disregard for Single Parents allowing them some gains beyond the first £15— specifically, an additional 50% (maximum of £5) of earnings up to £25 and an additional 25% (maximum of £5) for other earnings up to £45.

This amounts in total to disregards of £25 for the first £45 of earnings. Above this point, no earnings are disregarded unless 6 per cent of earnings results in a higher disregard.

Table 2 shows the position of several hypothetical claimants of Income Support and compares their position in work at 35 hours at the minimum wage to their position not working. The gains from working 35 hours a week at the minimum wage are small when compared to the income gained from not working at all (reflected in high replacement rates). The lack of incentive to return to work over living on benefits, are perhaps most clearly illustrated by the effective hourly rates of pay which range from 70p to 97p per hour.

**Table 3 Income in and out of work: replacement rates for Income Support**

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	Single non-householder	Single Householder	Couple Householder	Lone Parent 1 child	Couple with 2 children
Income Out of Work	£80.01	£121.03	£201.04	£210.49	£308.98
Income Support In Work	£0.20	£114.72	£194.73	£250.54	£364.20
Total Income In Work	£104.57	£145.59	£225.60	£244.45	£333.54
£ gain for 35 hours work	£24.56	£24.56	£24.56	£33.96	£24.56
Effective hourly pay	£0.70	£0.70	£ 0.70	£ 0.97	£0.70
Replacement Rate	77%	83%	89%	86%	93%

Source: Own Calculations

Notes: Income is After Housing Costs; housing costs are based on rent limits for flats appropriate to size of household.

However, it must first be remembered that these calculations do not take into account any expenses from work – such as travel, out of pocket expenses, wear and tear etc. - that will reduce the net impact of earnings on overall income differences. Indeed, it is clear that the proposed fixed £15 a week disregard is more likely to be a reflection of underlying expenses of work rather than any attempt to “make work pay” and be a positive incentive to work. The sum is clearly insufficient to make work attractive and thus to act as an incentive to job entry at anything but the margins of part-time work.

The reasoning behind the proposed disregards is difficult to establish. The disregards themselves seem to have been adapted from existing provisions in Parish Welfare. No apparent consideration has been given to looking at incentive structures afresh from first principles or to reflect the needs of an Income Support system that supports both in-work and out-of-work populations. Indeed, these provisions make little sense alongside the emphasis on full time work of 35 hours a week because they reward **any work** by the fixed disregard (of £15) for the majority of cases.

The more generous disregards for single parents are also difficult to fathom.

First, it is not clear why only single parents have been singled out for additional disregards. Table 1 has already shown that a large proportion of the out of work Income Support population have constraints from children or from poor health/disability. It makes no sense whatever to give one group with constraints (single parents) additional job-entry incentives to enter into part-time work when the need to promote part-time work will also be necessary for these other equally constrained groups.

Second, it is not clear what level of work is being promoted and how that fits with the types of constraints on hours that parents of children have – essentially to work around school hours or to work longer and pay childcare. Given that Jersey has a minimum wage of £5.40 an hour, the highest incentives to enter work are at the margins of 8 to 10 hours a week. It would be expected that hours of around 20 or more would make more sense for those with younger primary school aged children.

**The current proposals are seriously flawed in the matter of disregards and making people better off in work.**

### 9.3 Incentives to earn more (Marginal deduction rates)

Whilst the Minister has slightly improved disregards and job-entry incentives as a result of his discussions with the Sub-Panel, he appears to introduce proposals in P90 to raise tapers for withdrawal of Income Support from previous drafts. The 90% tapers, as proposed in P.86 have been raised to 94%.

In simple terms, tapers claw-back existing benefits as earnings rise and produce high marginal deduction” rates. A marginal rate of 94 per cent (as proposed for Income Support) gives a return of six pence for every additional pound earned. A rate of exactly 100 per cent means that income remains the same (no gain), and a marginal rate of over 100 per cent means that income goes down as each pound of additional earnings rise.

In 1998 there were two reports from the Task Group on Marginal Deduction Rates that clearly pointed out the deficiencies of old benefit structures where Parish Welfare, Family Allowance and Rent Abatement and Allowances interacted to produce withdrawal rates that were over 100 per cent in some instances. Indeed, P.86 showed Members an instance of a couple with two children and the changes to their income as earnings rose. We reproduce this example below as **Figure 4**.

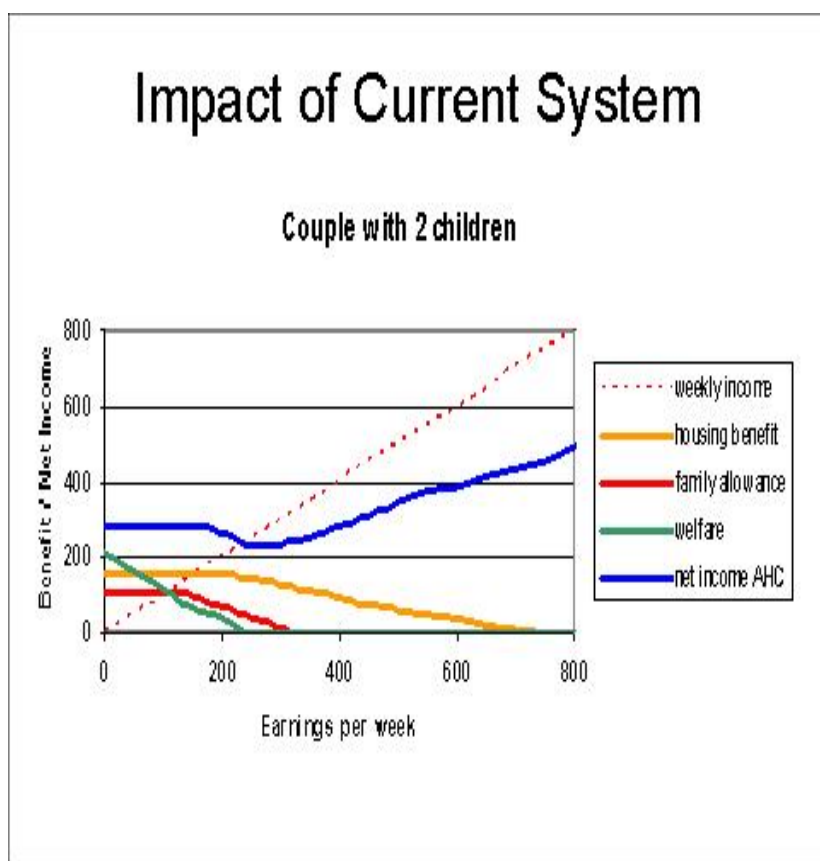


Figure 4 clearly shows the problem of perverse work incentives – under the old benefits/welfare system, the illustrated family face a fall in income between earnings of around £180 to £220 and then face little reward for earnings until around £300 a week. This arises because tapers claw-back existing benefits as earnings rise and produce high “marginal

deduction” rates of 100% or more.

The Minister proposes that the move from the old system which has the potential to impose marginal rates of withdrawal of over 100 per cent to Income Support, which has a fixed marginal rate of 94 per cent is an improvement of overall work incentives. He is clearly mistaken in this.

He is mistaken because the impact of work incentives depends not just on the underlying rates, but on how many people are faced with what rate of marginal deduction. For instance, under the proposed Income Support rules there are several marginal rates – 94 per cent for most claimants, but those earning small amounts will have the offset of the £15 and thus have a lower rate. Single Parents on the other hand will have the potential for lower marginal rates for those earning at the margins of £45 a week, but will face an effective 100 per cent marginal rate for all earnings between £45 and around £420 a week.

If the Minister looks at the Social Security Department data on current claimants he will see the range of earnings that they have. These may well be influenced by current incentive structures. When this range of earnings is then subjected to the Income Support proposed incentives the outcome is shown in Table 3.

**Table 5**

**Marginal Deduction Rates: Proportions of Working Claimant Populations with Children Before and After Reform**

	Current System MDRs		
	<50%	100%	Over 100%
Single Parents	55%	20%	25%
Couple Parents	84%	4%	12%
	Income Support MDRs		
	<75%	94%	100%
Single Parents	4%	17%	79%
Couple Parents	2%	98%	-

Table 5 shows the position of working parents who currently receive benefits and their position after the introduction of Income Support.

**Lone parents**

55% of lone parents face a marginal deduction rate of under 50p in the pound,

20% face a pound for pound rate (no gain)

25% face rates of over one pound for each pound earned.

This is not very good.

**However, Income Support is worse:**

Only 4% face a marginal rate of 75p in the pound or less  
17 % face a 94p in the pound rate, and  
79% face a pound for pound rate.

**Couple parents**

The situation is worse still.

Currently, 84% face rates of 50p in the pound or less,  
4% face a pound for pound rate and  
12% face rates greater than a pound for pound.

**Under Income Support:**

98% will face a 94p in the pound rate and  
only 2% will face a rate of 75p in the pound or less.

Put simply, the populations facing high marginal rates of tax/deduction grow under Income Support but the highest rates are no longer over 100%. What the Minister proposes is to squash support further down the earnings distribution and then taper it more severely for the majority, thereby pulling more people into poor work incentives.

The results of this can be fairly accurately predicted from existing evidence and evaluation elsewhere. Combined with the very poor incentives to enter work these proposals are highly likely to:

- severely curtail the benefits of entering work for those with working partners
- result in more job exits and lower job retention
- result in reductions in hours currently worked

**The result of these structural defects in the delivery of Income Support means that articles III and IV set out previously as internationally recognised essential conditions in constructing an in-work benefit system have not been met. The Income Support System as currently proposed cannot either:**

- **Ensure people are better off in work, or**
- **Ensure that incentives for people to improve their earnings are maintained**

**This must be regarded as a serious failure.**

## 9.4 Stability of Support in Work (Objective V)

This means avoiding rules that revise entitlement for all and any changes in earnings. This rewards work by giving a period of certainty for households as they rely on a mix of earnings and benefits. It can most simply be done by having fixed periods of benefit lasting say 6 months.

The Sub-Panel is pleased to recognise that this objective has now been addressed by the Department (on page 55 of its Guide to Income Support) as detailed below:

### a) Changes in earned income

Many households experience small changes in earnings from week to week. Earned income is subject to review on a regular basis. Changes to earnings between reviews are disregarded.

Claimants do need to advise the Department of major changes between review dates but, as long as this is done, no account is taken of any increase in earnings until the end of the review period.

For someone in regular employment, the review period is a minimum of three months. The exact length of the review depends on the individual's circumstances.

#### Example

Ted normally earns £380 per week. His IS claim is reviewed on a six monthly basis. His boss asks him to do some overtime during a busy period. Over two months he earns an extra £800. He also receives a pay rise of £10 per week. He reports this to the Department.

At his review the £800 is disregarded. His earnings are now assessed at £390, to take account of the pay rise.

#### KEY FINDING 1:

**In attempting to deal with the poverty trap affecting a small group of workers under the old system of benefits, the Minister has spread poor replacement rates to a wider group of those in work.**

**The Minister has therefore failed to construct an 'in-work' benefit system to ensure that:**

**a) people are better off in work, or**

**b) incentives to improve earnings are maintained**

<b>KEY FINDING 2:</b>
<b>The Income Support scheme as currently designed:</b>
<b>a) will severely curtail the benefits of entering work for those with working partners</b> <b>b) is likely to result in more job exits and lower job retention, and</b> <b>c) may result in reductions in hours currently worked</b>

<b>RECOMMENDATION:</b>
<b>The Sub-Panel recommends that the implementation of the Income Support scheme is deferred to allow further specialist advice and research, in order to improve incentives to make work pay.</b>





# 10. POVERTY

The Poverty threshold in Jersey was last measured in 2002 using the Jersey Income Distribution Survey. This report adopted EU and UK practice to construct poverty lines at 60 per cent of median income. Additionally, it adopted the UK practice of having two measures of income poverty before and after housing costs. This approach makes sense for Jersey where high rents are a real problem for low income households and where liability for rent gives rise to a means-tested benefit for housing costs for those on the lowest incomes.

As mentioned earlier in our Report, the alternative approach produced by the CRSP research into minimum standard budgets has now been abandoned. The consequences of this decision are illustrated by reference to the following extract from R.C.48/2004 (our emphasis):

## 10.1 Components

The level and range of components identified within the CRSP surveys remain the basis for the components. However CRSP has been asked to look at some of the rates relating to children and single parents. CRSP has also been requested to look at any additional cost of being a carer and asked to explain how its methodology differentiated between disabilities into moderate, severe and very severe categories.

In essence there are 3 types of component –

- (i) basic living
- (ii) dependant living
- (iii) extra such as disability
  - health
  - residential care
  - rent subsidy
  - childcare
  - carers

Within this structure a level of benefit could be tailored to fit almost any household. **The rates themselves should keep up with inflation** on an annual basis by increases in line with the cost of living (RPI) but periodically the elements of the budget should be re-valued and the budgets reassessed. In between, additional costs can be included within the budget, for example, to reflect new government policies such as the introduction of any new user charge.

One example of a **basic budget based on 2002 prices**, is given in the following tables with the additional costs of differing degrees of disability.

**Table 6: Minimum essential weekly standard budgets for an adult and additional**

## cost for different degrees of disability

	Basic adult budget	Additional cost of disability		
		Moderate	Severe	Hearing
	Weekly Budgets in £'s			
Food	29.44			
Clothes	11.75	1.04	2.56	
Toiletries	6.18			
Activities	35.00		15.00	
Holidays	5.76		4.81	
Christmas	2.16			
Healthcare	3.24	4.51	7.46	1.29
Other	34.50	51.00	88.29	7.30
Total	128.03	56.55	118.12	8.59

After 2004 CRSP figures and Oxera models to implement the new Income Support System were abandoned. The Sub-Panel feels this is where the fundamental principles set out in R.C.48 of 2004 started to change.

The current figures for Income Support as proposed in P.90 are set at the following rates for components:

**Table 7**

Component	Amount
Adult	£83.58
The basic components are those amounts of benefit paid on behalf of each of the members of the household to meet their individual needs, such as food, clothing, travel, energy and basic medical costs.	
Household	£42.84
This is paid to each separate household to reflect reasonable fixed costs.	
<b>Total</b>	<b>£126.42</b>

It is immediately obvious that **the new rates are significantly lower than those proposed as a minimum in 2004** (based on 2002 rates). Uprating the CRSP basic adult budget by the annual RPI figure over the intervening five-year period produces a figure of £147.90 as the minimum budget today.

## 10.2 Work, Poverty and Family Poverty

The Minister faces a dilemma when setting levels of components for Income Support for all those who can potentially work. A commitment to have Income Support lines at poverty levels

would be a mistake for those of working age who are able to work, because incentives to work would be seriously threatened. This is part of the issue of making people “better off in work” discussed previously as benefit levels at poverty level would potentially worsen “replacement rates”.

This problem is particularly true for families with children because poverty measurement reflects the number of people in the household but underlying wages do not. Having children thus raises the risk of poverty because needs are higher (additional mouths to feed) at the same time as the earning ability of the family decreases as mothers leave work for a substantial period and/or reduce their hours of work.

How does the proposed Income Support scheme protect against poverty in and out of work? We estimate a contemporary poverty line by using earnings inflation since 2002 to update median income in Jersey. This approach gives us poverty lines for 2007 of £387 before housing costs (BHC) and £297 after housing costs (AHC). These poverty lines are based on a couple with no children and continue to use the McClements equivalence scale to make incomes of different sizes of households consistent and comparable<sup>[3]</sup>.

**Figure 8**

**Poverty and Work: Families with Children under Proposed Income Support Scheme**

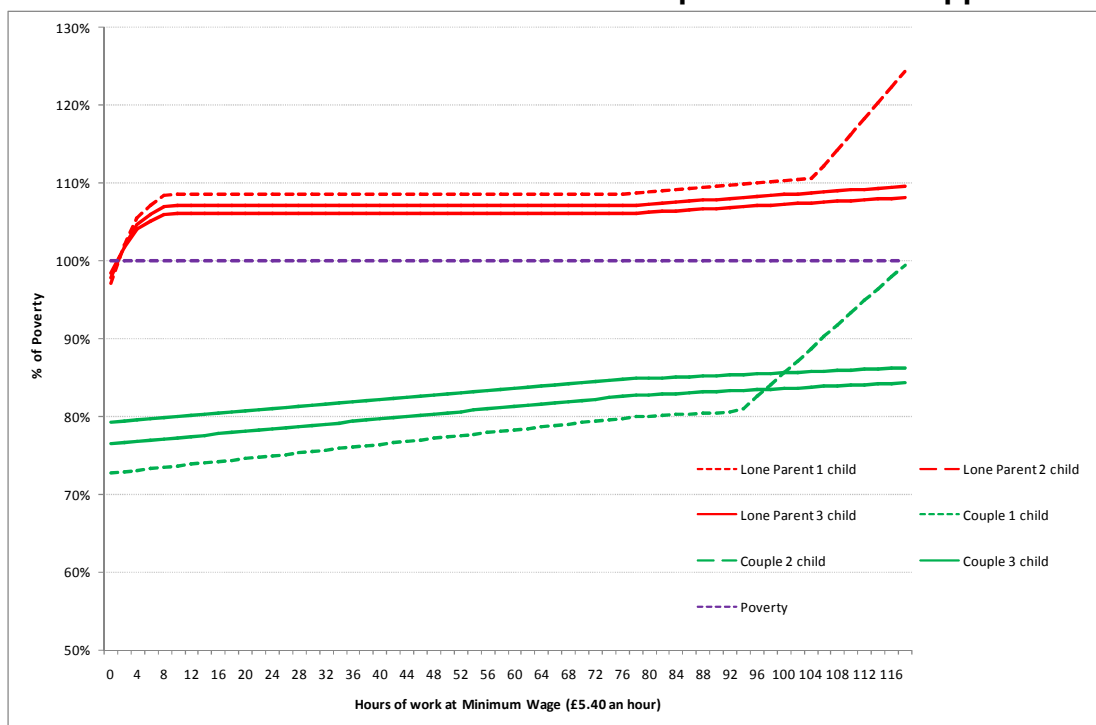


Figure 8 shows the poverty profiles for families with children under the new Income Support scheme and how this alters as they increase the number of hours worked at the minimum wage. Single parents and couples are each shown with one, two and three children. The Income Support calculations come from the Social Security Department model and are based on the original rates of Income Support put forward by P.90.

### 10.3 Single Parents

Non-working single parents will have levels of Income Support that are at the margins of poverty, approximately 98 per cent of poverty line, and when they start work they will cross the poverty line and, depending on the number of children they have, have incomes between 6 and 9 per cent above poverty.

However, gaining greater poverty clearance as they work more hours is virtually impossible at the minimum wage. The high marginal deduction rates mean that they will not be able to escape the margins of poverty. The examples in Figure 8 show that the lone parent with a single child could only manage to obtain 10 per cent poverty clearance by working 96 hours a week at the minimum wage – an impossible task with children to look after.

### 10.4 Couples with Children

Figure 8 shows that couples with children will be in a permanent “poverty trap” under Income Support. When no-one in the household is in work, Income Support will only lift their income to within 73 to 80 per cent of the poverty threshold. Where members of the household are in work the combination of poor disregards and high marginal rates of deduction mean that it is

**impossible for the household to escape poverty.** The illustrated example of a couple with a single child suggests that it will take 120 hours of work per week at the minimum wage to cross the poverty line.

The Minister states in P.90 that Income Support will lift families out of poverty and promote work:

***“The new system will help and enable people to both avoid poverty and to take appropriate actions and life decisions to get out of poverty. The system will do this by effectively tackling real needs whilst promoting work and encouraging self-reliance.”*** (our emphasis)

Figure 8 clearly shows that this statement is incorrect. The system manages to lift single parents marginally out of poverty, at the expense of the two other groups where poverty is a problem, namely households with children and those including pensioners.

The average gains to those of working age that are out of work are shown in Table 9 along with the proportion of those who lose who are in work. The Minister argues that such changes are targeting money on the “most needy” – but as we have previously shown in Figure 8 all of these families are likely to be within 20 per cent of the poverty line. The reform is taking money from those in work who are in fact supporting children and paying high rents.

**Table 9**  
**Gainers and Losers From Reform – Working Age and Employment**

	Out of Work		In Work	
	Average Gain	% Gainers	% Losers	% who are not entitled
Single Parents	£40.16	93%	34%	16%
Couple Parents	£19.75	83%	47%	30%
Single	£9.43	74%	84%	62%
Couple	£6.64	55%	74%	52%

## **10.5 Pensioner Poverty**

Policy makers have different concerns when it comes to supporting the basic income needs of the elderly and there is no reason why basic income support levels cannot be at the poverty level for those of pension age (aged 65 and over) as long as incentives to save and rewards for having a pension are not nullified.

**In the UK, Guaranteed Pension Credit, the equivalent of Jersey’s Income Support, is paid at approximately poverty levels. The main reason for UK pensioner poverty is the failure of pensioners to claim their entitlement, not the failure to have sufficiently high**

**rates of benefit support.**

The rates of Income Support contained in P.90 are the same for pensioners and non-pensioners: the basic components for pensioners are thus £80.01 for a single pensioner and £160.2 for a couple. Most pensioners will live in their own homes and this means that with household component their Income Support levels after rent will be £121.03 and £201.04.

Comparison of these rates to poverty thresholds means that **Income Support will only produce underlying incomes at 74 per cent of the poverty threshold and at 68 per cent for single and couple pensioners respectively.**

**10.6 Savings and Disregards**

However, most elderly people in Jersey currently have other income and savings. The States of Jersey pension (at full rate) provides an income higher than basic Income Support rates for single people and most pensioners have some level of savings. The key question for Income Support is how the proposed rules treat the combination of Jersey Pension and savings for pensioners.

Pension income attracts a disregard of £25 a week and a second pension in the household attracts a further disregard of £13 a week. Savings are ignored in full up to set limits, £10,950 for a single person and £18,150 for couples. Above this limit Income Support will be reduced by an assumed income of £1 for every £250 in capital held above these limits.

Table 4 shows the levels of Income Support and resulting incomes for pensioners who have a Jersey States pension and some savings for single and couple pensioners. Even where elderly people have their own pension income and savings the proposed Income Support system will not prevent them from being in poverty.

A single pensioner with no savings will have an income at 89 per cent of the poverty threshold.

Using a savings interest rate of 6 per cent, a single pensioner with £15,000 in savings will be no better or worse off – the tariff income taken by Income Support is roughly equivalent to their actual income from savings.

However, if this single pensioner has £25,000 in savings then the tariff income under Income Support rules is more than their actual interest from savings and they will receive less Income Support and their income will fall to 72 per cent of the poverty line. Of course, to keep their living standards constant they may be forced to draw from their savings to meet their daily needs.

**Table 10**  
**Pensioner Incomes and Poverty**

Single Pensioners			Couple Pensioners		
				SOJ	

	SOJ Pension only	SOJ Pension and £15K savings	SOJ Pension and 25K Savings	SOJ Pension only	Pension and £15K savings	SOJ Pension and 25K Savings
<b>Income Support Components</b>						
IS component	80.01	80.01	80.01	160.02	160.02	160.02
Householder component	41.02	41.02	41.02	41.02	41.02	41.02
IS rent component	143.50	143.50	143.50	143.50	143.50	143.50
<b>Other Income</b>						
SOJ Pension	158.27	158.27	158.27	262.78	262.78	262.78
disregard	25.00	25.00	25.00	25.00	25.00	25.00
Actual interest from savings	-	17.31	28.85	-	17.31	28.85
IS Tariff income	-	17.00	57.00	-	-	28.00
Income support	131.26	114.26	74.26	106.76	106.76	78.76
<b>Outcomes</b>						
Net Income after housing costs	146.03	146.34	117.88	226.04	243.35	226.89
% Income compared to HC Poverty	89%	89%	72%	76%	82%	76%

*Source: Own calculations using Income Support rates proposed in P.90. In the table above we have used the higher pension for a single pensioner with a dependant's addition. (This attracts the same disregard as a single pensioner, if the wife had her own pension then it would attract a further disregard of £13 a week.)*

Couple pensioners have higher Income Support rates (but not double those of a single pensioner) and also will receive higher States of Jersey Pension. For simplicity, the same profiles of savings are used for the couple as were previously used for the single pensioner. This leads to the position where the couple with no savings have an income after they have paid their rent at 72 per cent of the poverty threshold. If the couple have £15,000 of savings this is ignored and they are better off and only at 82 per cent of poverty. However, if they have £25,000 of savings they have exactly the same income as if they had no savings at all.

**This shows that the design of Income Support for the elderly is seriously flawed, both in the level of underlying support and its relationship with poverty. The treatment of income and savings results in reduced incentives to save for those who are currently planning their retirements and watching the introduction of Income Support.**



The overall impact of Income Support as currently drafted is to make over 40% of pensioners worse off than they are under the current system, while doing little to alleviate pensioner poverty at the lower end.

**Table 11**

**Pensioners: Current Benefit Caseloads that are Structural Losers under Reform**

	All Losers		Those Who Lose All Entitlement	
	Number	% age	Number	%age
Single Pensioners	669	43.8%	378	25%
Couple Pensioners	337	56.6%	223	37%

When we look at the losers and gainers from structural reform, the difference in targeting between the current system and that after reform means that pensioners who have significant savings lose, and those below pension age who work mostly lose. The gainers are mostly those who have no earnings and little pension or savings.

Of course, transitional protection will obscure such structural losses and will ensure that nominal losses are next to zero for the first year. But it is crucial to remember that underlying structural losses are the true indicator of the outcome of reform as transitional protection will disappear over a period of three years of thereabouts. The number of structural losers is considerable, although our estimates are only based on around 5,000 current cases in the Social Security Department model and will therefore probably understate underlying numbers.

**KEY FINDING 1:**

**The Sub-Panel finds that in moving away from the minimum budget standards recommended by CRSP, the Minister has failed to alleviate poverty for most households on Income Support.**

**KEY FINDING 2:**

**The Minister has succeeded in lifting lone parents marginally out of poverty; however he has failed to address child poverty or pensioner poverty.**

**KEY FINDING 3:**

**In moving from the old benefit system to the proposed Income Support scheme it is those in work and those with children who will be losers, along with pensioners with savings.**

**RECOMMENDATION:**

**The Sub-Panel recommends that the implementation of the Income Support scheme is deferred to allow further specialist advice and research, in order to better target pensioner and child poverty and to encourage saving for the future.**



## 11. HEALTHCARE AND INCOME SUPPORT

The current HIE system provides free access to primary healthcare for those who qualify at very low levels of income. Its defects are well known. The income levels are set too low, and HIE does not target those with the greatest need for healthcare.

Access to primary healthcare is an essential consideration for any social assistance scheme and there must be the ability to ensure that costs are not an up-front barrier to access for either treatment or preventative care. The evidence of the effect of such user-charges for low income individuals is now clear and unambiguous.

The British Medical Association reviewed the evidence in the 1990s and showed clearly that the combination of low income and user-charges produced poor health outcomes. Delayed access and diagnosis and lower uptake of screening and other preventative treatments had significant effects on the costs of treatment down the line. In the USA the RAND experiment showed clear behavioural avoidance of primary health care associated with low income health user charges and more recent evidence from developing countries supports this finding.

Currently Jersey is also attempting to prioritise changes that give a higher profile to preventative healthcare and to promoting healthy behaviour in the *New Directions* report. The proposals put forward by Income Support appear to be neither equitable nor to support preventative health care in their potential effects.

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### 11.1 Proposals

The *basic component* of Income Support for each person (adults and children) is stated as being designed to meet :

*“their individual needs, such as food, clothing, travel, energy and **basic medical costs**”* (P90 Report p.7 – our emphasis).

Later P.90 makes it clear that the unspecified element within basic components that cover basic medical costs are based on four visits to a G.P per annum on average:

*“The basic adult and child components allow for the average number of visits to a doctor per year (4)”* (P90 Report p.9)

Persons having higher than average medical costs are catered for through a separate ‘clinical cost’ element.

*“The clinical cost element seeks to direct more money to those people on low income who have chronic medical conditions that warrant higher than average visits to a general practitioner .... (to) people with a chronic or progressive condition”* (ibid).

The clinical cost element can be paid at two additional rates, a lower rate, enough to cover an extra 4 visits a year (8 in all), and a higher rate for those people who have conditions that clinical guidelines recognise need at least a further 4 consultations a year (12 in all, or one a month).

Needs for clinical costs that arise above and beyond those outlined in weekly IS components will be considered under the IS “Special Payments”.

There are real strengths in these proposals as they give recipients of Income Support equal

status to other users of health services in that they have to make “co-payment” charges when they visit the G.P. This means there is equity of status with other health consumers and promotes what is termed a “*principle of self-dependence*” (P90. Report p.8)

However, the policy as currently proposed is extremely crude and the assumptions about average consumption, the circumstances under which additional resources are given and the range of primary health care provision envisaged are open to significant criticism, especially when one considers the characteristics of IS claimants and their propensity to ill health.

## 11.2 Normal and Exceptional Health Needs

Evidence from the Social Security Department’s 2006 Report and Accounts reveals that the figure of four GP visits per year is the average for the population as a whole. The average for those on Health Insurance Exception is twelve visits per year. For both groups there is an average of around four prescription items related to each visit.

The higher demand amongst current HIE recipients is not surprising.

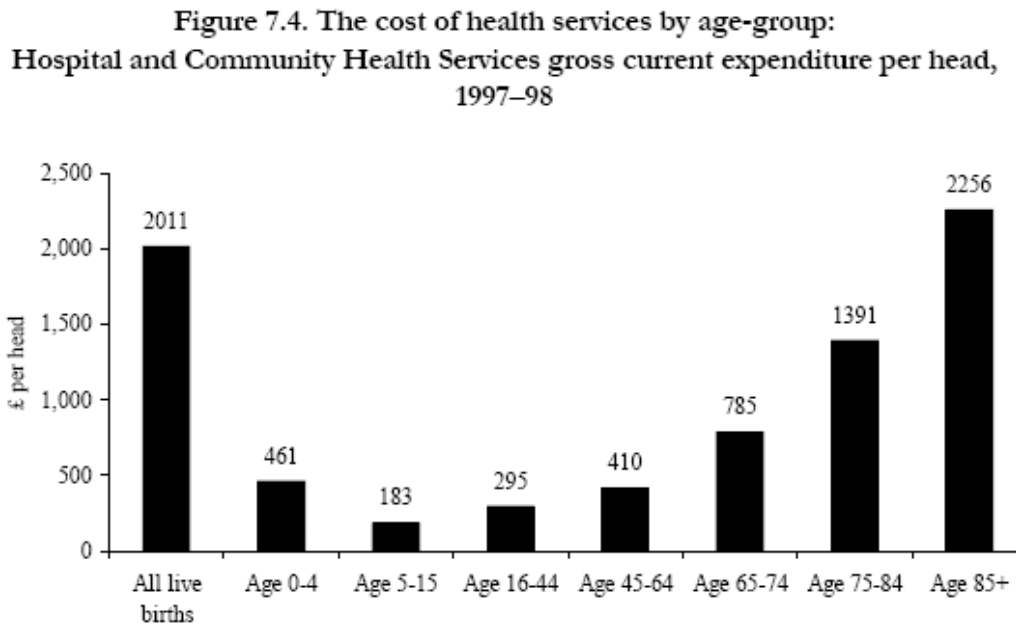
The international evidence on the correlation of ill-health and low income is clear. Those on low income have **higher incidence** of ill health and thus have higher than average needs for health services. Setting any average to the whole population therefore underestimates need and uptake significantly. This point is directly relevant to Jersey’s future public health policy which seeks to increase preventative and screening primary health services.

*New Directions* states:

*“ People who are ill tend to be poor, and people who are poor tend to be ill. Tackling inequalities (in health) will mean targeting services at the neediest islanders” (page 19).*

Furthermore, it is contrary to all evidence on uptake of health services to set an average that is not weighted to age as health service usage by age is u-shaped – highest around birth and the end of life and higher more generally for children and elderly people. To allocate an underlying average of 4 visits to all recipients of IS is thus completely contrary to all evidence and good practice, as is illustrated by the figure below.

**Figure 12: Pressures in UK Healthcare: Challenges for the NHS – The Institute for Fiscal Studies May 2000**



*Note: Figures are estimates.*

*Source: Department of Health, 2000.*

This is further illustrated by figures received from the Social Security Department on the 21<sup>st</sup> September 2007. These show that amongst HIE recipients there is a large increase in the number of visits per GP certainly for the elderly and for young children. It must be noted that these are average figures and that for every individual who attend their GP less than the average there is one person attending more than the average (thus of the 1130 over 75s averaging 13 visits 550 will visit more often). Significant numbers of the elderly will therefore have to apply for special payments especially in the light of the fact that, on average, every visit to the GP results in four prescription items costing £8.40:

**Table 13: HIE – Visits to GP**

<b>Age group</b>	<b>Number of HIE recipients</b>	<b>Individual's average number of visits to the GP per annum</b>
0 – 4	212	6.4
5 – 14	532	2.8
15 – 17	122	2.6
18 – 24	159	7.9
25 – 44	590	12.2
45 – 64	685	12.6
65 – 74	726	12.1
75+	1130	13.1

The proposed impairment component will link serious and chronic conditions to additional resources and thus be indirectly targeted to the elderly, who will have more chronic conditions.

However, the effect of the current proposals is effectively to ration regular healthcare more stringently to children on IS (and to those elderly who have high incidence of ill health but no underlying chronic conditions). The proposals are likely to routinely push IS recipients who are elderly and who have children to Special Payments provisions – with their more stringent test of means and assets and greater discretion.

The argument of the Minister is that “non-normal” usage is covered in the provision of additional “clinical cost” elements of the Impairment Component. But on careful reading this is not the case as to trigger such help the medical needs have to be based on the underlying qualification for Impairment Component that:

*“medical circumstances have lasted, or are likely to last for a period of not less than 6 months (unless the individual is terminally ill)”*.(P.90 Report p.8).

Furthermore entitlement to the “clinical cost element” is limited to those who have a “*chronic or progressive condition*” (ibid).

There are however many reasons why the “average” usage may be higher than have nothing to do with chronic conditions. These cases will receive no additional weekly IS to help with GP consultation costs. A person, especially a child, may be “sickly” without having a single chronic condition and succumb to numerous infections, for instance.

Additionally, it is not always possible to predict what is a chronic or long-lasting condition at the outset – a child may have a lung infection that appears to be a one-off but recurs and then is not diagnosed as chronic until 3 to 4 months have passed because the test of chronic is in this case is *post-facto*. For the first period of the treatment the child will not have any entitlement to an Impairment Component or to receive additional help with clinical costs. Thus the additional visits to the GP will be paid for and not recognised by IS until a diagnosis is made and no back-payment to cover the costs (other than through Special Payments) will be available.

Pregnancy and Post-Natal care are good examples of where non-normal circumstances will lead to the need for more than 4 annual GP visits. It also provides a clear example of incentives problems. There is a choice between using GPs and using community maternity services through the hospital or other providers. Clearly, an expectant mother faced with a choice between GP – with a rationed 4 visits and co-payments- and the community maternity

services with no charges will choose the latter.

The change from HIE to the proposed new rules can be expected to lead to a behavioural change towards free services. This means that the “IS budget” may be protected but costs risk being transferred to Department of Health. That would not seem to represent strategic or “joined up” thinking, particularly if one is aiming for continuity of care with GP at the centre of primary health provision.

**These two points suggest that if the proposals go forward in their current form, they must be reformulated to better target high medical usage by children and the elderly.**

### 11.3 Primary Care Services Covered

The absence of any explicit stated assumptions about meeting the costs of dental care and ophthalmic services is worrying. Regular dental check-ups are recommended by the National Institute for Clinical Excellence (NICE) and supported by the British Dental Association and should occur every 3 to 12 months for under-18s. The majority of this group in Jersey will come under the school dental services and incur no costs to IS recipients. For adults the recommended interval is between 3 and 24 months and should be set according to individual needs by the dental practitioner. Common practice is bi-annual check ups for adults.

Eye tests by an optometrist at regular intervals are recommended every 2 years in general and especially for those aged 40 and over and are also recommended more regularly for those with diabetes or hypertension (NICE). However, there is no explicit recognition of the costs of such examination in regular IS components even for those on IS who qualify for an impairment component on the grounds of diabetes or hypertension – both chronic illnesses that would satisfy the conditions for entitlement.

More generally, the whole approach of the Regulations is founded on one that apparently places no importance on encouraging preventative healthcare. This is partly a problem of current primary healthcare provision through Jersey’s GPs as reported by the *New Directions* Paper. However, considering the IS population are likely to be over-represented both in terms of current and future risk of ill-health and to be over-represented for smoking-related, diet-related and other behavioural health risks, associated with low income, this clearly implies that structural changes to HIE and income related transfers have not been adequately considered alongside health reform.

Moving to a system that prioritises preventative and screening treatments, of potentially costly conditions would help cut costs, encourage early diagnosis and prevent acute hospital usage. But this needs to be underpinned by the right incentives and rewards to promote access for those on low incomes whilst preventing frivolous uptake or abuse.

**The wrong combination of costs and incentives may deter IS recipients from accessing primary care optimally and thus delay diagnosis. Such delays could be expected to result in increased costs of treatment being transferred from IS to the health budget. The associated additional costs for drugs and hospital treatment may lead eventually to longer periods of debilitation with potential knock on costs in the form of higher and more prolonged IS payments.**

### 11.4 Incentives, Costs and Payments – HMA



The underlying assumption in Income Support that the costs of GP visits are “lumpy” forms of expenditure and could be difficult to budget for on IS levels of income is correct. GPs will presumably be concerned at the loss of the old system where HIE clients could receive consultation with no patient co-payment but with a subsidy payment direct to the GP from the Social Security Department. The proposal as outlined in P.90 is thus to hold back portions of IS that relate to the underlying clinical costs, “*an agreed proportion of benefit*” is the term used in P.90., and pay them into a “*Household Medical Account*” (HMA). The HMA would then be used to pay the costs of GP consultations. The detail in P.90 proposes a three way flow of money:

- 1) IS recipient pays GP a co-payment of £5
- 2) HMA pays GP balance of net consultation fee (otherwise IS claimant pays this in addition)
- 3) Health Fund pays GP £15 from Medical Benefit Refund

The relationship between the HMA and the IS recipient is put forward as voluntary. Sums of IS will be held back with the claimant’s consent – although it is not clear if the funds are household or individual and whether all individuals have to agree to have reductions made from their components. The IS held back from payment would be put into the HMA; that could be drawn from as needed and that could be overdrawn if GP visits exceeded the amount contained in the fund at any point of time.

*“The account will be allowed to go overdrawn to cater for incidences of chronic or family illnesses but this would be monitored and reviewed with the general practitioner and the family”.* (P.90)

There are no details of how under-claimed HMAs will be treated and whether the deduction from Income Support would be reviewed and reduced if significant balances accrue.

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## 11.5 Incentives

The incentives for the HMA are not straightforward. First, anyone who is likely to have good health has no incentives to join it. They would be better off saving their money in an interest bearing account in a bank or building society.

Second, it is not clear what will trigger the lower level of co-payment – purely the status of receiving Income Support or the additional requirement to hold an HMA. It is thus not clear whether IS claimants who do not join the HMA also have the reduced £5 co-payment or whether they will be expected to pay a higher normal co-payment charge.

Third, whilst the motivation underpinning the creation of HMAs is laudable it ignores likely human behaviours. If joining HMA is **voluntary** any claimant, irrespective of their perceived health risk, can be myopic and decide not to join the fund, spend the money on other things and then run into debt when they visit the GP. The clearest option for those with income constraints is to chance it – and to keep maximum income in their pockets today not join HMA and **put off** going to the GP. At this point the HMA rapidly becomes a way of paying off GP

debt though direct payments of benefit rather than a healthcare saving plan.

Additionally, the clear incentive for those on low income is to avoid any up-front cost – even the reduced co-payment and obtain medical care at the Hospital. This is either as an alternative early on in any illness or, more likely, once the condition becomes critical and gives rise to an A&E visit or some other elective admission **at higher medical cost**. All these options mean that the healthier and/or myopic claimant with little perceived risk could face a positive encouragement to keep the money in their pocket and thus undermine any “pooling” that the fund attempts by limiting the pool to the worst risks.

**All these options also mean that the opportunities for the sort of preventative primary healthcare envisaged by the “New Directions – Discussion Paper” are completely undermined.**

Furthermore, and in any case, the IS system has a fall-back – Special Payments. It is not clear whether Special Payments will be paid to those who join HMA because if they do HMA would be an alternative source of funds and thus potentially disqualify any applicant from payments for GP or related costs. This places potential disincentives to join HMA if Special Payments are an alternative “lumpy” reaction to periodic GP spending. However, the Department is in double jeopardy on Special Payments because it sees a need.

*“to ensure that those who genuinely need general practitioner services are not denied them purely because of cost. This may entail payments through the Income Support (Special Payments) (Jersey) Regulations 200-.” (P.90).*

Overall, the consideration of incentive effects in the Income Support and HMA proposals is really at odds with what is known about access and uptake of primary and elective hospital care. All focus has been centred on the perceived problems of over-use of GPs that are currently identified in HIE.

Finally, for those receiving Transitional Payments or other **small entitlements** to IS there is a larger doubt that IS claimants will have sufficient sums of benefit that can be allocated to pay for GP visits through HMA. For example, think of future claimants of IS who are a couple with 3 children on low earnings and are let’s say entitled to £10 a week IS. They will receive *less* in IS than the underlying assumption about the cost of four annual visits to the GP – which is currently assumed to be £2.52 per week and which for five people comes to £12.60. How will such claimants participate in the HMA – will they be able to pay in additional sums above and beyond their entitlement – and if so, what do they gain by doing so that are not better served by a bank or building society that gives them interest on such savings? HMA in these instances would only hold the Income Support element and thus be insufficient to pay the GPs the full shortfall of treatment costs.

#### **KEY FINDING 1:**

**The Sub-Panel finds that the proposals to reform HIE have missed an opportunity to design a system which properly gives access to medical services for those with high medical needs: young children and the elderly.**

#### **KEY FINDING 2:**

**The Sub-Panel finds that insufficient consideration has been given to:**

- a. incentives that divert care from primary to hospital based provision among a low income risk-adverse population;**
- b. short-term versus long-term costs of health provision arising from delayed access to primary care; and**
- c. the proposed strategic re-orientation towards enhanced preventative primary healthcare services envisaged by ‘*New Directions*’.**

**KEY FINDING 3:**

**The Sub-Panel are unconvinced that the HMA, as designed, will not succeed in delivering medical benefit appropriately and may result in additional costs through Special Payments.**

**RECOMMENDATION:**

**The Sub-Panel recommends that the implementation of the Clinical Cost element contained in Article 8 of Schedule 1 of the draft Income Support Regulation 200- is deferred in order to better deliver access to health care to Income Support claimants.**

## **12. ADMINISTRATION: ACCOUNTABILITY, FAIRNESS AND DISCRETION**

Earlier the Sub-Panel outlined some of the general concerns we have about the apparent problems of governance and lack of fairness and the introduction of huge areas of discretion in the new Income Support scheme. In this section we discuss these and other issues in more depth.

### **12.1 Claiming Income Support**

In our discussions with the Minister for Social Security and his Department we put forward suggestions that claims for Income Support should be made in a simple and co-ordinated manner with other benefits – so that, for instance a pensioner receiving their States of Jersey Pension could be deemed to have made a claim for Income Support and supported to provide information for determination of entitlement. However, the Order and current provisions in the Guide suggest that onus on claiming will be left solely to individuals, with the Social Security Department seeing their role as primarily one of information providers. The evidence from means-tested schemes across the world suggests that this approach depresses levels of up-take of entitlement. Many who are entitled to Income Support will not come forward because the claim process is onerous.

Unfortunately, the claim forms produced in early 2007 were the opposite of user-friendly and had none of the design recommendations used by the UK benefit system to encourage claiming at the same time as ensuring probity. These have led to a poorer public perception of Income Support than we would welcome.

Generally, too much discretion on the nature of and acceptance of valid claims is being given to the Minister and thus outside of appeal. The Determining Officers will have oversight of what information and evidence is required and incomplete claims should be referred to them as the core issue is where there is a dispute on what evidence and information is required. The Social Security Department acting as the “Minister” should not be in a position to procedurally stop claims being acted on or referred to a Determining Officer in a way that is not accountable.

The point is surely that the Determining Officer refuses the claim because it has insufficient information and then the claimant can appeal this. Of course, a claim should be accompanied by a declaration that the claimant verifies the facts put forward and understands the consequences in terms of overpayment and potential criminal consequences of deliberate false facts and the Minister can defer payment until such a declaration is received but this is a separate matter from determining “entitlement”.

In general the Data Protection Commissioner has expressed reservations about the use of Orders rather than Regulations in deciding what information is required from applicants for HIE.

*‘My main comment relates to the power of the Minister to decide on the nature and procedure of all information requirements for the scheme [contained in the Income Support (General Provisions)(Jersey) Order 200-, Articles 7 and 8] bearing in mind we are dealing with an awful lot of personal data here, I am unconvinced that the lack of scrutiny-democratically speaking-over the rules of this collection is satisfactory from either an ECHR or DP perspective.’*

**The Scrutiny Panel agrees that decisions as to what information is required from applicants and what questions might be asked of them should be subject to a democratic audit that is they should be brought in Regulations to the States and not merely prescribed in Orders.**

## **12.2 Overpayments**

All systems overpay and underpay benefit. However, the proposed approach of Income Support is to put all risks of overpayment, no matter if caused by official or claimant error on to the claimant. The situation should be clarified. If a claimant receives more than they are entitled to they have been overpaid. This is a civil matter and recovery of any overpayment should be linked to a clear understanding of its cause.

Any overpayment that is caused by official error, such as delay in acting on information or losing information, should be borne by the Minister. Any overpayment that results from a failure to disclose or misrepresentation of facts by the claimant should be recoverable from the claimant.

All the above relate directly to Determining Officers’ decisions about entitlement conditions and levels of award and their revision and must therefore be subject to appeal. Any matter that related to deliberate falsification should be treated as fraudulent overpayment. However, at

the moment, non-deliberate failure to notify is deemed an offence under Article 16 of the Law. This approach is obviously overstated and the hypothetical instance of this occurring with a “confused” pensioner in the early stages of dementia but still in charge of their affairs raises an obvious and probably instance where the law will be completely unfair.

### **12.3 Backdating**

The Law (Article 4(3) (b) says that Orders may prescribe circumstances in which a claim for IS may be backdated. However, in discussions the Minister has set his mind against any provision for backdating on the grounds that Income Support is an entirely current calculation and cannot consider past events. However, Income Support is also a minimum income safety net that is designed to alleviate poverty. A person through ignorance, the example of a confused pensioner again springs to mind, may not claim even though they are entitled. Indeed, this is an inherent characteristic of means-tested schemes as income and asset rules are complicated.

Pensioners are particularly at risk if they have incomes that do not rise with inflation and thus Income Support rates will rise over time and they will float into entitlement. Pensioners are also clear examples of people who have situations that deteriorate and thus are subject to changing entitlement due to ill health and impairment etc. However, in all cases, where a person is entitled to Income Support but does not claim immediately it means that they are living below the level of income that Jersey has set as a minimum standard and may mean that they build up significant debts. Backdating payments in certain but not all circumstances is thus a rational way to respond and has existed in UK schemes since 1948.

It is worth restating the relevant principles that were stated in P.86 at the outset of proposals for Income Support: to *avoid poverty*, be effective in tackling real needs, be easily understood and accessible.

There are good reasons for allowing backdating of late claims for the first six months of the operation of Income Support to the first point of entitlement due to the confusion that will occur on implementation of the new scheme. A more general and long term rule for backdating could match that in the UK of the claimant showing, “Reasonable cause for late claim”. This means that changing ones mind from “I can’t be bothered” or “I’m not going to claim because I don’t want to” is ruled out but all the other sources of poor information and misinformation are open to argument.

### **12.4 Ministerial Powers and Discretion**

The promotion of a less discretionary and more rights-based system that is fairer and more transparent is a key aspect of the introduction of Income Support. The Sub-Panel welcome the introduction of independent Determining Officers in Income Support and the right of appeal against decisions that they make. However, we have increasingly become concerned about the operation of Income Support and the relationship between Ministerial operational decisions which are not appealable and “determinations” that are. Fairness depends on a transparent separation of powers and open administration.

The governance of Income Support is largely determined by structures in the Law that distinguishes between matters that can be subject to Regulations, and thus have full debate by States, and Orders, which cannot. The problem with this is that essential matters of policy are

made in Orders – matters such as the treatment of capital and income, the system of tapers and disregards that are key to incentives and some key elements of claiming – such as backdating and the treatment of overpayments. These are examples and there is much else of real importance that essentially falls outside of the jurisdiction of States. Orders are not able to be amended but merely struck out and replaced in full, making oversight cumbersome and constrained.

The other important distinction in the law is that of determinations made by “Determining Officers” and other administrative decisions made by the Minister, which hopefully are operational rather than impinge on matters of entitlement and related matters. Only determinations made by “Determining Officers” are subject to appeal. However, the Minister is also in charge of operating the whole scheme and therefore will put forward operational directions that allude to both how his decisions will be made and will give “guidance” to Determining Officers on his interpretation of the law and the intention of the draftsman.

*The most transparent and open way of ensuring good governance, tenable rights and operational fairness is thus to ensure that the majority of matters are subject to Regulations (and hence overseen most directly by States) and also determined by Determining Officers (and hence appealable and subject to case law).*

In such an approach the Minister’s Guidelines will show clearly how underlying operational decisions (mostly procedural) will be made and will additionally give guidance on all other matters of “determination”. At the time of writing we are far from this position and are faced with a less than coherent picture. Our concerns are threefold:

- a) There are some important and crucial areas of discretionary “determination” where it is clear that the determination officer has legal powers but there is no guidance. Instances of this are: the treatment of assets and incomes for Special Payments and the treatment of all those non-working claimants of less than pension age who are not expected to work full-time.
- b) There are areas where there should be clear “determinations” to be made but where there are no clear regulations to focus and guide determination. These are often in areas governed by Orders and where the distinction between operational procedure and the role of determination officers is vague. Two important instances of this are in the treatment of “backdating” of claims and in determining whether overpayments have occurred and are recoverable.
- c) Areas where Ministerial operational decisions seem to constrain or pre-determine proper independent determination of matters that are clearly set out as matters for Determining Officers. The clearest example of this is the current position in regard to direct payment of rent for those tenants of Jersey Housing who will receive Income Support, where concrete assurances have been given by the Minister to the Housing Department that direct payments will be made in all but the minority of cases.

The Minister in the Guide states that this will be through an assumption of all tenants “opting in” to direct payment unless they state a preference otherwise. In their evidence to us, the Director of Housing and the Minister appear to have differing interpretations of their agreement but both views appear to contradict the clear discretionary powers given to Determining Officers to decide whether payments of Income Support (for rent or any other matter) should be made to a third party based on the individual circumstances of the case.

There is a clear lack of Ministerial impartiality. While it will obviously be necessary to pay directly to ensure that payment of rent is made where individuals are not responsible or are

unable to budget, this assumption cannot be made for all claimants and applied across the board. Any attempt to do so may well “fetter the discretion” given to Determining Officers by Article 11 of the Law and be ruled as a breach of administrative law.

## **12.5 Administrative Efficiency**

The basic goal of achieving greater administration efficiency through the co-ordination of several benefits into one centralised system remains valid. However to suggest that the IS scheme as currently proposed will achieve this aim is weak for several reasons. The gains from a centrally unified administration will obviously take time to come into play after implementation.

However, the continued involvement of Parish-based staff in the running of Income Support is questionable on cost grounds in anything other than short-term reasons; that is for implementing the change allowing it to bed down and retaining the support of Constables for reform. Because of the political sensitivity of changing from a Parish to a States based service we consider the true costs of a continued Parish involvement have been presented tactically rather than accurately assessed.

The proposals that all Parish Halls will have some part to play in the delivery of Income Support and that the Parishes of St Brelade, St Clement and St Saviour will deal with applications. The proposal is we feel regrettable. We take the opportunity here to repeat our reservations, set out in S.R.6/2006, about continued Parish involvement as follows:

## **12.6 Parish Involvement**

The Sub-Panel feels that no argument has been made to support the view that job seekers need satellite offices.

The Sub-Panel believes that a single, centralised, appropriately staffed office is the way forward to:

- Allow maximum resources to be focussed on Income Support benefit rates and the Citizen’s Fund; and
- Ensure the administration of Income Support will be simpler, more efficient and more cost effective.

The Sub-Panel is convinced that the assessment of “costs” has not been comprehensive. It is clear that staff training, assessing and monitoring, as well as IT and ongoing service costs of Satellite Offices have not been taken into account in a transparent and comprehensive way.

The Sub-Panel is of the opinion that the simplest way of achieving consistency of assessment and administration is by having all staff at one central location.

Early on in the development of Income Support the Sub-Panel were told that the first time that anybody applies for Income Support this must be done at Social Security. The Minister for Social Security has now said he feels the main three Parishes can deal with “straightforward” applications.

To create a unified and consistent Income Support scheme it is crucial that service levels and information points are entirely consistent and come under a single line management structure that answers solely to the Minister and his appointed delegated officers.

The Sub-Panel would like to make it clear, as already stated by the Minister, that under the new IS system as already stated there will be many more claimants who must be job-seekers. These job-seekers must attend the Social Security Department, because the Parishes will not have the staff trained to the appropriate level to deal with these claimants. The Sub-Panel have checked this again with the Social Security Department and they have confirmed that it is the case that anyone who is classed as a job seeker will have to attend their Department.

Furthermore, no evidence has been put forward to show the effect of Income Support on the overall change in administrative costs where they are potentially *displaced* across Departments. For example, Jersey Housing may have higher rent collection costs through the replacement of rebates with Income Support.

At present, Jersey Housing appear to have been given unrealistic assurances about the coverage and levels of direct payments of rent from Income Support by the Social Security Department.

This is a matter where 3<sup>rd</sup> party payments are constrained by the Income Support Law as follows:

Article 11 of the Income Support (Jersey) Law 2007 Part 4 Administration and Enforcement gives unfettered discretion to a Determining Officer to decide whether or not payment should be made direct to a third party **solely dependent on an individual’s circumstances**.

We believe that there is a question whether the procedures outlined constitute a disproportionate fettering of discretion which we understand would be open to legal challenge.

Similarly, the proposals for replacement of HIE with a combination of IS components, co-payments, GP subsidy and a Social Security Department-run Household Medical Account suggest a set of inefficient administrative structures that may give rise to a substantial increase in administrative costs.

Finally, there are areas where the newly prioritised “work focus” and the resulting mandation of a larger population of benefit claimants to seek work and be monitored while doing so will



place new and additional burdens on the Social Security Department staff resources and administration costs. Mandatory work tests have to be accompanied by employment services for the majority of those below pension age who will be required to actively seek employment under the proposed and there is agreement by the Minister and Social Security Department that they currently do not have the capacity to meet such demands, nor are likely to be able to do so for at least 12 months after implementation of Income Support.

Overall, the Sub-Panel are not convinced about the purported level of administrative savings to come from Income Support as outlined briefly below. There may be savings from unified administration and separate benefits, but we are not convinced that a significant level of such savings will not be eaten up either by the new structures and requirements or by displacement to other departments. We strongly advocate a more detailed audit of claimed administrative savings and some cost-benefit analysis to ensure that such claims are valid.

#### Efficiency Savings 2008 -2010

The department will make efficiency savings of £20,100 through a range of measures. This will be achieved through the introduction of Income Support and other administration costs.

*Source: Annex to the 2008 Business Plan*

#### **RECOMMENDATION 1:**

**The Scrutiny Panel recommends that decisions on questions to be asked and information required from applicants for Income Support should be contained in Regulations and not in an Order.**

#### **RECOMMENDATION 2:**

**The Sub-Panel recommends that all first application for Income Support must be carried out by Officers of the Social Security Department.**

#### **RECOMMENDATION 3:**

**The Sub-Panel recommend that an external independent cost-benefit analysis be undertaken of the claimed administrative savings to include involvement of the Parishes.**



## 13. APPENDIX

### 13.1 Draft Income Support (Jersey) Regulations 200- (P.90/2007): Second amendments – lodged au Greffe on the 26th September 2007 by the Health, Social Security and Housing Scrutiny Panel.

#### STATES GREFFE

#### DRAFT INCOME SUPPORT (JERSEY) REGULATIONS 200- (P.90/2007): SECOND AMENDMENTS

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PAGE 45, REGULATION 1 –

*In paragraph (1) after the definition “child day care component” insert the following definition –*

“ ‘day care’ means the looking after a child –

- (a) by a day carer, or in day care accommodation, in circumstances regulated by the Day Care of Children (Jersey) Law 2002; and
- (b) by a nanny accredited by the Jersey Child Care Trust;”.

PAGE 47, REGULATION 2 –

*In paragraphs (1) and (2) for the words “35 hours a week” substitute the words “25 hours a week”.*

PAGE 47, REGULATION 2 –

- (a) *After paragraph (1) insert the following paragraph and renumber the subsequent paragraphs accordingly –*

“(2) A person who works for at least 20 hours a week is treated as being engaged in full time work if the person has worked those hours for at least 12 months prior to a claim being made for income support by a member of the person’s household.”;

- (b) *in the renumbered paragraph (3) after the words “35 hours a week” insert the words “(or for 20 hours a week if the person comes within paragraph (2))”.*

PAGE 48, REGULATION 4 –

*For the word “immediately” substitute the words “as soon as reasonably practicable”.*

PAGE 48, REGULATION 5 –

- (a) *Renumber the existing text as paragraph (1);*
- (b) *in paragraph (1)(b) delete the word “and”;*
- (c) *in paragraph (1)(c) for the full stop substitute the word “and”;*
- (d) *after paragraph (1)(c) insert the following sub-paragraph –*

“(d) either not received a written notice from the Minister in the form specified in paragraph (2) or, if the person has received such a notice, has, during the 28 days since receiving it, complied with sub-paragraphs (a), (b) and (c).”;

- (e) *after paragraph (1) insert the following paragraph –*

“(2) The notice mentioned in paragraph (1)(d) shall warn the person that, in the opinion of the Minister, the person has not, during the past 28 days, been actively seeking work and unless he or she does so during the next 28 days he or she will be treated as not actively seeking work and will be liable to lose entitlement to income support.”.

PAGE 48, REGULATION 7 –

*After Regulation 7 insert the following Regulation –*

**“8 Article 5 of Law amended**

In Article 5(3)(c) of the Law after the word “household” there shall be inserted the words “or employing a nanny accredited by the Jersey Child Care Trust to look after that child”.

PAGE 50, SCHEDULE 1, PARAGRAPH 1 –

*After sub-paragraph (1) insert the following sub-paragraph and renumber the remaining sub-paragraphs and internal cross-references accordingly –*

- “(2) However, a household shall continue to be entitled to that component in respect of a member of the household who comes within sub-paragraph (1)(c) or (d) only on account of needing medical treatment.”.

PAGE 51, SCHEDULE 1, PARAGRAPH 3 –

*In sub-paragraph (2)(a) for the words “aged 25” substitute the words “aged 21”.*

PAGE 51, SCHEDULE 1, PARAGRAPH 3 –

*In sub-paragraph (2)(b) for the words “whether in Jersey or elsewhere” substitute the words “and the parent or other person lives in Jersey”.*

PAGE 52, SCHEDULE 1, PARAGRAPH 4 –

*For sub-paragraph (5) substitute the following paragraph –*

- “(5) In this paragraph a dwelling is appropriate to the needs of the household –
- (a) if it is no larger than is reasonably necessary for that household;
  - (b) if, having regard to all the circumstances, it would be unreasonable to expect the household to move from that dwelling; or
  - (c) where –
    - (i) it has become larger than reasonably necessary for the household because the household has become smaller within the last 12 months, and
    - (ii) the household is taking all reasonable steps to find alternative accommodation that is appropriate to the needs of the household.”.

PAGE 54, SCHEDULE 1, PARAGRAPH 7 –

*Delete sub-paragraph (2) and renumber the remaining sub-paragraph and internal cross-references accordingly.*

PAGE 55, SCHEDULE 1, PARAGRAPH 9–

*In sub-paragraph (b)(ii) delete the words “if the education or training being undertaken is likely to result in an increase in the member’s earning capacity”.*

PAGE 55, SCHEDULE 1, PARAGRAPHS 9 AND 10 –

*(a) In paragraph 9 (b) –*

- (i) in clause (i) delete the word “or”;*
- (ii) in clause (ii) for the full stop substitute the word “; or”;*
- (iii) after clause (ii) add the following clause –*

*“(iii) Article 3(1)(g) of the Law.”;*

*(b) In paragraph 10(2)(b), for the words “or education or training commitments” substitute the words “, education or training commitments or job-seeking commitments”.*

HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL

**REPORT**

This report starts by drawing attention to the fundamental reasons underlying the introduction to Income Support as outlined in both P.90/2007 Draft Income Support (Jersey) Regulations 200- and P.102/2006 Draft Income Support (Jersey) Law 200- concerning both the Law and Regulations:

### ***‘Reasons for change***

*Currently over £60 million (2007) is spent annually in Jersey on means-tested benefits to support over 20% of households (circa 8,000). Available research suggests that even though the total estimated sum spent on social protection in Jersey is less than the European average, the incidence of poverty is about the same but the severity or depth of poverty is less.*

*The existing benefit systems –*

- are often not easy for residents in Jersey to understand;*
- do not always target money to best effect;*
- cause duplication of effort by officials and customers which leads to frustration amongst those trying to get support at difficult times of their lives.*

*The combined effect of the current benefits is an uneven distribution of assistance and, in some instances, the creation of disincentives conspiring to make people worse off as they earn more.*

*Redesigning the current systems to create one benefit with one consistent income assessment will create a fairer, more transparent and accessible system which will be a major step in the drive to minimize the impact of poverty in Jersey.*

*The new system will help and enable people to both avoid poverty and to take appropriate actions and life decisions to get out of poverty. The system will do this by effectively tackling real needs whilst promoting work and encouraging self-reliance. It will be equitable, consistent, sustainable, easily understood and accessible whilst taking account of the whole needs of the family.’*

The Sub-Panel fully accepts the reasoning and the logic of this passage to create ‘*a fairer more transparent and accessible system to minimise the impact of poverty in Jersey.*’ However, we have severe reservations that the overall impact of the IS law and regulations as currently drafted will fail to achieve the aims of ‘*promoting work and encouraging self reliance.*’ In particular, we believe that the resources required to deliver sufficient support for increased numbers of applicants to seek and maintain work are insufficient. For a full discussion of these serious reservations members are directed to examine our Scrutiny Report S.R.17/2007 which is due to be presented to the States shortly.

#### **1. Page 45, Regulation 1 – Child Day-Care Component**

The first amendment concerns the child day-care component of Income Support. This is an essential element in enabling parents, particularly mothers, to undertake work, and Income Support is defined as an ‘in work’ benefit. Regulation 1 limits payment to carers regulated by the Day Care of Childrer

(Jersey) Law 2002. This Law does not cater for day care provided by accredited nannies; the amendment seeks to extend payment to this form of day care.

The Jersey Child Care Trust in their submission to the Sub-Panel have pointed out that they run an accreditation scheme for nannies, and that in their view there is no reason why a parent should not choose nanny-based day care in their own home for their child or children. Furthermore they have researched the situation and find that there is no obstacle to the sharing of a nanny by 2 or more families. They have been in discussions with Senators Routier and Le Sueur to promote the use of accredited nannies as a legitimate expense under the Income Support system.

The Chairman of the Jersey Child Care Trust, Colin Powell, wrote to Senator Routier on 12th July this year to again ask him to include Accredited Nannies in the new scheme. The Minister for Social Security has responded in the negative as follows –

*‘I can now confirm that the use of accredited nannies has not been included in the Income Support Legislation and this expense will not be considered in any Income Support calculations.’*

The Sub-Panel fully endorse the views expressed by the Jersey Child Care Trust that the inclusion of accredited nannies would be a sensible and useful addition. The Sub-Panel’s first amendment changes the definition of “child day care component” to include a nanny accredited by the Jersey Child Care Trust. This then allows for a “household” to employ an accredited nanny for Child care and if on Income Support to receive the childcare component.

This amendment is straightforward and has the full support of the Child Care Trust. The Sub-Panel believe that the position of the JCCT will widen the opportunities for appropriate childcare to the many more families that will be required to become job seekers under the new system.

In order to enable this Regulation to be adopted, Article 5 of the Income Support Law also needs a consequential amendment contained in page 48, Regulation 7.

This amendment is neutral as far as manpower and financial resources are concerned.

## 2. Page 47, Regulation 2 – Work Requirements/full time work

*Regulation 2* proposes that the definition of “full time remunerative work”, participation in which is the underlying condition for entitlement to Income Support under Article 2(1)(c) that applies to all adults in families that claim, be defined as 35 hours a week.

The Sub-Panel agrees with the Minister’s attempt to promote employment as a fundamental aim of Income Support. However it has grave concerns about the manner in which it is being done. If Regulations 2 to 5 are passed as proposed they will have a range of effects on employment that are not optimal if taken together.

The Minister for Social Security has set a very high threshold in Regulation 2 for the definition of full time work, of 35 hours a week. The Regulation of Undertakings Department defines full time remunerative work as 25 hours.

The adoption of the high threshold of 35 hours will increase the workload of those involved in supporting Income Support claimants in full time work very significantly.

The workload required to enable Income Support applicants to return to full time work is indeed onerous. For example the operation of the job seekers agreement places many conditions on the jobseeker. The reasonable steps that the jobseeker should complete within a timescale (normally 1 to 4 weeks) include –

- Applying for three to four jobs per week (depending on the labour market at the time);
- Preparing a CV;
- Undertaking appropriate training provided by the Department;
- Attending a careers appointment;
- Obtaining references from previous employers; and
- Undertaking appropriate voluntary work.

Furthermore, the approach of producing exact definitions of full and part-time work as well as outlining detailed conditions may prove to be too prescriptive to implement and it will necessitate putting in place –

employment advice and job matching;  
 soft and hard skills training services to reflect the needs of the Income Support population- many of whom may have considerable constraints on the type and hours of work they are able to do; and in addition  
 imposing tough work conditions places the responsibility on the Minister to deliver a range of services for a whole new population.

In an e-mail of 24th August 2007 to the Sub-Panel the Social Security Department admitted that they will be unable to deliver all of the work related elements required (our emphasis) –

1. 1. The Department has an in-house trainer who is providing most of the Income Support training. Social Security are also using other senior members of staff to deliver specialised training. As Income Support is a purpose-built benefit for Jersey, external trainers would be of little use in delivering training in this area;
2. 2. The Work Zone will be increased by 2 FTE to help with its additional responsibilities. Within the Department, all customer services advisors (the majority of the customer-facing staff) have generic job descriptions;
3. 3. Over the first year or so of Income Support the Department will aim to redistribute staff within the various zones, if identified areas are under-resourced;
4. 4. ***In the first few months of Income Support the Department will not be enforcing the job seeker requirements rigorously on all claimants.*** They will target groups that need particular help (youngsters, people made redundant, etc.) and continue to provide help to anyone who requests it;
5. 5. ***As the system settles down, the Department will write to other groups (parents of older children, individuals with less serious medical conditions, etc.)*** to explain the new system and offer them help in getting back into the work place; and
6. 6. ***Guiding individuals into training and employment will gradually be introduced over the first year or so*** of the new system, to ensure that everyone does receive all the support that they need.

The addition of several thousand employees currently working between 26 and 34 hours is likely to render these targets undeliverable in any reasonable timescale. A far better approach, in the view of our adviser, would be to lower the proposed definition under Regulation 2 of “full time remunerative work” to 25 hours, to make it consistent with the Regulations of Undertakings rules, thereby allowing the Minister to focus on improving services in his Department in the short to medium term.



This would allow the Minister to return to the States with a future amendment to increase the limit to 35 hours or other appropriate level when he can show that the Department has the capacity to provide sufficient services to support it.

There are no financial or manpower implications.

3. Page 47, Regulation 2 – Work Requirements/part-time work

This amendment adds a further exemption from the requirement to be in full-time employment to those who, at the time of claiming Income Support, have been in established part-time work of 20 hours or more for the preceding 12 months. This is designed to give recognition to such people who are already making efforts to be self-sufficient and for whom it is unreasonable to expect them to change jobs or to work more hours.

*The Statistics Unit confirmed in an e-mail of 29th August 2007 there were 8,200 part-time workers (individuals working 25 hours or less) in the private sector as at December 2006 out of a total workforce of 51,780.*

Of course, the Sub-Panel recognises the value of in-work advice and assistance. But for these part-time workers any increase in their working hours and income received should be voluntary. Until it is clear that the Minister has the required services in place to enable all such workers to have access to the support needed in seeking additional hours or better remuneration. It would be unwise to attempt to apply this regulation universally.

This proposal will enable the Department to replace the admittedly unachievable targets set with much more reasonable aims which can be built on once resource requirements are known.

Part (b) of this amendment is consequential. There are no additional financial or manpower requirements arising from this amendment.

4. Page 48, Regulation 4 – Availability for Work

For the word “immediately” substitute the words “as soon as is reasonably practicable”.

Regulation 4 puts forward the obligations associated with being available for work and puts forward the position that this is fulfilled if “a person is available for work if the person is willing and able to take up immediately any remunerative work that is suitable work”. However, if we consider that people placed under this obligation may well be in part-time work already and that such employment may require notice of resignation, the wording “immediate” is unfortunate. It is certainly the case that anyone who is currently not working and is “available for work” should be immediately able to take up employment but it would be an error in drafting not to distinguish such cases from those already working. Given that “immediately” will probably mean in practice the next day or following week, even for those who are out of work, the amendment more accurately defines the situation for both existing workers and non-workers.

There are no financial or manpower requirements.

5. Page 48, Regulation 5 – Actively Seeking Work

Regulation 5 of P.90/2007 defines a set of conditions which are required to be met by any adult to qualify as actively seeking work in order that the household should be eligible for Income Support. As currently drafted any adult who fails to meet these conditions will cause the household to have its Income Support automatically withdrawn and to be required to apply for special payments contained in P.91/2007.

The Sub-Panel is of the opinion that these penalties are significant and if applied would result in family hardship. The Sub-Panel therefore recommends that a 28 day warning period be put in place to ensure that households are fully aware of the seriousness of these sanctions and can take steps to comply with the requirements to be actively seeking work before any sanctions are applied.

Extensive research in the UK and OECD shows that the use of sanctions most often affects those with learning difficulties who fail to understand the system, rather than those who might be described as work shy.

There may be limited financial or manpower implications, in that payment may continue longer but the administration costs of withdrawal and restoration of benefit may be reduced.

6. Page 50, Schedule 1 Paragraph 1

This simply requests the Minister to allow the Household to keep the basic component after 4 weeks for a person who needs medical treatment but may be receiving this treatment in the U.K. or elsewhere, for example one member of the household (either child or adult) needing treatment for cancer.

To remove this would be unnecessarily bureaucratic to the point of being cruel. In addition it places the burden on the family to reapply when the person returns to the household after the treatment.

There may be limited manpower and financial implications/savings.

7. Amendment Page 51, Schedule 1 Paragraph 3 – Housing Component

For the words “aged 25” substitute the words “aged 21”.

In early drafts of Income Support Regulations – certainly up to June of this year – the Minister for Social Security had committed himself to reducing the age of entitlement from 25 (which was the rule applying to rent rebate and abatement) down to 21. In doing so, he clearly rejected the previous view that parental obligations to children continue well into their young adulthood, that is until 25 years of age. Furthermore, he had also accepted the principle that Income Support was to be a fresh start and not a continuation of previous, inadequate schemes. It is clearly the case that young people who have already left home and established their own independence without recourse to Income Support or rent rebate should be eligible for Income Support should they fall on hard times.

For example, a young person leaves home at 18 because they have a job – then fall unemployed at 21. In these circumstances it is clear that they should be given housing support in their own right. The Sub-Panel therefore finds it surprising that late in the day (July 2007) the Minister chose to move the age of eligibility back to 25. The only argument for doing so put forward by the Minister to the Sub-Panel is that with hindsight introducing a lower age would be too costly.

P.90/2007 however says: “those that have lived away from their parents for a length of time, and having set up a home and then falling on difficult circumstances” would be covered if they “*would not be able to move back to the family home because circumstances in the family home may have changed to prevent this*”.

We consider that such considerations are irrelevant as the young person has achieved independence, is likely to have paid social security contributions and tax and should thus be considered in their own right irrespective of age and with no consideration of availability or reasonableness of parental housing.

The Sub-Panel considered the most simple and effective amendment would be to revert to the age of 21.

Social Security have confirmed that reducing the age limit from 25 to 21 for access to a housing benefit is not anticipated to create many additional claims as the housing department already provides subsidies to most of the household types that would be likely to qualify for income support (vulnerable adults, parents) Additional claimants would be likely to be restricted to single, unemployed people.

About 100 individuals aged 19 – 24 are registered as unemployed at any one time, so it is reasonable to expect that around 70 registered unemployed would be aged 21 – 24. The maximum income support for a single jobseeker would be approximately £250 a week. This would give a total cost of £900,000 based on 100% awards and take-up.

Some of these claimants will be receiving support from parish welfare under the current system.

Some of these individuals will already qualify for housing benefit for other reasons (e.g. is married/has a child).

Some claimants will have household income from other sources.

Not all claimants will receive as much as £250 benefit (living in lodgings or hostel, still living at home).

Estimates have been made on the assumption that the additional cost will be one quarter to one third of the theoretical maximum. Extra cost would thus be in the range of £230,000 – £300,000.

This represents 0.5% of the total Income Support bill and the Sub-Panel believes that this amendment is so important we recommend that Social Security adjust the levels of Income Support components to accommodate this small change.

**The Sub-Panel is of the opinion that maintenance of an arbitrary cut off age at 25 is discriminatory and likely to be open to challenge as unreasonable under the terms of the ECHR provisions included in the Human Rights (Jersey) Law 2000.**

#### 8. Page 51, Schedule 1 Paragraph 3 – Housing Component

The Sub-Panel believes that the wording of 2(b)(b) is too widely drafted and could be interpreted as giving the power to the Minister to request a young person to leave the Island and rejoin his parents in any part of the world. The amendment removes this possibility.

There are no financial or manpower implications.

#### 9. Page 52, Schedule 1 Paragraph 4 – Rent Component

## Restrictions on Rent Component to Reflect Size of Household

The Regulations propose restricting the amount of housing component to reflect set amounts that are deemed reasonable market rents for the size of property that is appropriate for the needs of the household. The Sub-Panel recognises that the concern to avoid subsidising under-occupation is valid and appropriate. However, there is the need for some flexibility to be given a statutory basis in implementation of the approach.

The Sub-Panel considers that it is crucial to allow a period for claimants to move to reduce their housing costs if they are deemed to be under-occupying. This is because tenancy agreements often require a period of notice and such notice can be a month or longer in some instances. If an Income Support claimant has a contractual obligation to pay rent on a property that is larger than Income Support rules allow for, it is entirely reasonable that they be given a period during which they receive the higher amount (still stipulated as the maximum market rent under Schedule 2 of the Regulations) while they make arrangements to move to a smaller property.

The Social Security policy guidelines 7.7 under-occupying a property, to be issued to members of the public to explain the system, already take this into consideration.

The Sub-Panel considers that these guidelines are sufficiently important to appear as regulations, thereby mandating rather than offering guidance to determining officers.

There are no financial or manpower implications.

### 10. Page 54, Schedule 1, Paragraph 7 – Residential Care

The Social Security Department has made a clear statement of intent as to how residential care will be treated under Income Support –

‘When Income Support is introduced, people in residential care will continue to receive the same support as they receive now. Individuals entering residential care in 2008 will also be supported at comparable rates to existing clients in similar establishments.’

Furthermore it goes on to state that –

*‘A range of standard contracts will be negotiated with care providers during 2008.’*

It is clear then that Income Support arrangements for those in residential care will not be finalised until negotiations and consultation are completed by the end of 2008. The Sub-Panel believes that it is inappropriate pending the completion of this process to remove the mobility element from those in residential care.

The Sub-Panel has gathered evidence from several sources that the ability to get out and about independently is of vital importance to the health and well-being of those in residential care. For example at the public hearing of 11th June 2007 the Service Head and Clinical Lead, Psychological Assessment and Therapy stated –

*‘...there is a very high instance of people using anti-depressant medication that are in long term care because they tend to have very few outlets. They do not go out very much, they tend to have few limited social contacts as well. So I think anything which ameliorates that, if you like, which means that they can go out, they can feel they are part of the world and the world is part of them,*

*it would be an excellent idea for that to continue.'*

At another Hearing on 4th June 2007 the Occupational Therapist stated –

*'You know, it is to enable people to become more independent so as they can attend work, or is it to enable them to be more independent and engage in leisure activities or social activities?'*

At the same Hearing on 4th June 2007 the Director and Manager for Mental Health Services states, in answer to the following question –

*Deputy G. S. Southern: 'So, DTA (Disability Transport Allowance) currently plays an important role in enabling people you work with to live a therapeutic life?'*

*Director and Manager for Mental Health Services: 'Yes, I mean, it does.'*

There will be no financial or manpower implications in protecting these payments until the end of 2008 as they will already be covered during that period by transitional arrangements.

11. Page 55, Schedule 1, paragraph 9 – Childcare component (training)

We have asked that the sentence that states if the education or training being undertaken is likely to result in an increase in the member's earnings be deleted.

It was pointed out to the Sub-Panel, again by the Chairman of the Jersey Child Care Trust Mr. C. Powell, that this was very prescriptive, and may limit a person who has one skill training for much-needed other skill either for themselves or for the required demands in Jersey's employment market.

For example, Jenny works in the Finance industry on £30,000 per year and then has children. After the children reach 5 years of age, it may encourage her back to work if she could retrain with a new skill. It could be in childcare, catering or care of the elderly, all of which may not pay as much to Jenny, however any of these jobs could better fit into her family life because they offer more flexible hours. Jenny should be able to receive cost for day care while undergoing training.

There are no financial or manpower implications.

12. Child Care Component – Actively seeking work

The effect of the amendment is to enable a child day care component to be paid not just where a person is exempted from the requirement to be in full time work under Article 3(1)(d) (because of disablement) or 3(1)(9)(e) (because of undergoing education or training) but also where the person is available for and actively seeking remunerative work – Article 3(1)(g). Without this amendment a jobseeker would not be able to get the component but may need to pay out large sums of money in child care while trying to get work.

It will enable a person who is actively seeking work to afford childcare so that he or she is free to attend interviews or meetings with officers of the Social Security Department. It will also give the child an opportunity to meet and settle into a care environment at a reasonable pace and give the child time to get used to his/her new carer before the parent starts work.

There are no financial or manpower implications for the States arising from these amendments.

**13.2 Draft Income Support (Special Payments) (Jersey) Regulations 200- (P.91/2007): amendments – lodged au Greffe on the 26th September 2007 by the Health, Social Security and Housing Scrutiny Panel.**

**STATES GREFFE**

**DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (JERSEY) REGULATIONS 200- (P.91/2007):  
AMENDMENTS**

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PAGE 10, REGULATION 3 –

*After paragraph (1)(a) insert the following sub-paragraph and renumber the remaining sub-paragraphs accordingly –*

- “(b) the cost of any repairs to a dwelling owned by the claimant and occupied as his or her principal residence;”.

PAGE 10, REGULATION 3 –

*After paragraph (4) insert the following paragraph and renumber the remaining paragraphs accordingly –*

- “(5) A special payment may be made to defray the cost of insulating a dwelling owned by the claimant and occupied as his or her principal residence;”.

PAGE 10, REGULATION 3 –

*In paragraph (5) after the word “However,” insert the words “except in the case of a claimant who is a member of a household in receipt of income support,”.*

PAGE 10, REGULATION 3 and 4–

*(a) After Regulation 3(1)(c) insert the following sub-paragraph and renumber the remaining sub-paragraphs accordingly –*

- “(d) mortgage payments made in respect of a dwelling owned and occupied by the claimant as his or her principal residence;”;

*(b) After Regulation 4(2) insert the following paragraph –*

- “(3) Despite paragraph (1), the maximum amount of a special payment under Regulation 3(1)(d

shall be a sum equivalent to the rate payable under paragraph 4(2) of Schedule 1 to the Income Support Regulations for the type of dwelling concerned and such sum shall be payable weekly for a maximum of 12 months”.

PAGE 10, REGULATION 4 –

*Delete paragraph (2) and remove the numbering from paragraph (1).*

PAGE 10, REGULATION 4 –

*After paragraph (2) insert the following paragraph –*

- “(3) The full cost of defraying the expense under paragraph (1) shall be taken to include any reasonable costs of delivery and installation.”.

PAGE 11, REGULATION 5 –

*For paragraph (2) substitute the following paragraph –*

“(2) The amount of a special payment under this Regulation is –

- (a) for the first week in which a special payment is claimed, the amount of income support to which the household would be entitled were that adult member actively seeking work, less 25% of the rate of basic component payable under Article 5(2)(a) or (b) of the Law, as the case may be, that would have been payable in respect of that member;
- (b) for each of the next 3 weeks in which a special payment is claimed–
  - (i) if that adult member has, during the past week, satisfied Regulation 5(a), (b) and (c) of the Income Support Regulations, the amount of income support to which the household would be entitled were that adult member actively seeking work, or
  - (ii) if that adult member has not, during the past week, satisfied that Regulation, the amount of income support to which the household would be entitled were that adult member actively seeking work, less 25% of the rate of basic component payable under Article 5(2)(a) or (b) of the Law, as the case may be, that would have been payable in respect of that member;
- (c) for each week after the first 4 weeks in which a special payment is claimed–
  - (i) if that adult member has, during the past week, satisfied Regulation 5(a), (b), and (c) of the Income Support Regulations, the amount of income support to which the household would be entitled were that adult member actively seeking work, or
  - (ii) if that adult member has not, during the past week, satisfied that Regulation, the same amount as paid in respect of the previous week less a further 25% of the rate of basic component payable under Article 5(2)(a) or (b) of the Law, as the case may be, that would have been payable in respect of that member, up to a maximum deduction of the full rate of that basic component.”.

# HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL

## REPORT

### Draft Income Support (Special Payments) (Jersey) Regulations 200-

#### PAGE 10, REGULATION 3 – Repairs

Whilst this Regulation defines the expenses that can be met by special payments, it is qualified in terms of there being an “urgent need for the goods or services” and that there is “no other reasonable means of meeting the cost”. The list of goods and services is fairly self-explanatory but currently excludes the cost of any repairs to a dwelling. This amendment seeks to redress this apparent oversight.

Urgent repairs may be required to bring the property into an acceptable habitable standard and if there is no mechanism to provide this payment then client welfare may be put at risk.

It is a well-known fact that low income householders are less likely to have house insurance than those on higher incomes. There may therefore be no way for the claimant to meet the cost of repairs due unexpected damage. This may make the home uninhabitable. This facility should not be interpreted as a replacement for home insurance. It is, rather, an emergency payment to enable the claimant maintain acceptable living standards.

#### PAGE 10, REGULATION 3 – Insulation

Because this matter is not necessarily one of an urgent nature it is dealt with separately from items (a) to (e). In this environment-conscious world it is prudent to include a provision that allows claimants to improve the insulation of their dwelling as it may result in substantial energy savings, coupled with obvious health benefits, over the longer timeframe.

#### PAGE 10, REGULATION 3 – Eligibility

This is straightforward. As currently worded, the claimant would not be able to claim a special payment if they were in receipt of income support. Despite being allowed a certain level of savings under Income Support Regulations this would mean that applicants in an emergency situation would automatically be disqualified from receiving a Special Payment and would have to spend their savings. The Sub-Panel believes that discretion should be retained in these cases over eligibility for a special payment.

#### PAGE 10, REGULATION 3 and 4– Mortgage payments

**Table 1:** *Relevant Commitments, Outcomes and Indicators from the States Strategic Plan 2006-2011*

Commitment 3: ‘To promote a safe, just and equitable society’	
• people’	<b>Outcome:</b> ‘social care to protect and support vulnerable
• - -	<b>Indicated by:</b>
• at home	<i>Increased numbers of older people supported to live</i>
•	<b>Outcome:</b> ‘good standard of affordable accommodation for



all'

- **Indicated by:**
    - - - *Increased levels of home ownership*
    - - - *Reduction in the number of people waiting to be adequately housed*
    - - - *A supply of homes that better meets the Island's housing requirements*
    - - - *Equity in access to the housing market*
    - - - *Stable housing market / prices*
    - - - *Increase in provision of Island-wide sheltered housing*
- 

It is extremely difficult for persons on low income to get on the housing ladder, and once they are there we have a duty to make sure that legislation does not work against them. The Strategic Plan aspiration to increase levels of home ownership is very important – especially as the opportunity to reach the first rung of the housing ladder has been denied to many Islanders through our immigration and economic growth policies. This amendment allows special payments to be made to mortgage-holders – ensuring that the family home is not sold at times of what may be very short-term financial pressures.

It is not equitable to have regulations that favour claimants that rent over homeowners. The basic assumption has been made that homeowners will always have equity in the property and therefore this can be realised to cover financial distress. However, this will not always be the case and in times of negative equity, or no equity, it may be better to help in mortgage payments than to allow for repossession.

Furthermore, the loss of the family home can cause life-changing stress to the claimant's family. Children will not understand why they have to move suddenly to rental accommodation from their 'home' – a situation that would not be forced upon a tenant in rented accommodation in similar financial circumstances. The absence of a few months' special payments is likely to force the claimant into the rental sector – potentially increasing the burden on the State. It may also deny the claimant the one chance that they have ever had to own their own home as we have pushed them off the ladder. Instead of encouraging home ownership we are potentially taking the opportunity away which is contrary to our strategic plan objectives.

These are difficult times for homeowners, with interest rates rising and taxation increasing. In general, owning your own home gives you more outgoings than if you are a tenant. The cost of owning your own house and living in it has gone up significantly in the last 10 years. And it is not likely to get any cheaper in the near future.

As homeowners have higher living expenses than tenants, it could be argued that support for owner-occupiers from the State must be better than for those who rent? But this is not the case and it leaves any homeowner who can't keep up with mortgage repayments because their income has faltered in trouble.

Amendment (a) allows special payments to be utilised to cover mortgage payments. Amendment (b) limits both the amount and the length of time of this assistance.

The special payment system is very much a 'stopgap' which allows claimants the opportunity to improve their personal financial situation. It is not intended as a regular payment with an unlimited timeframe. This sensible and considered amendment extends a bottom line safety net to low income owner-occupiers and thus both meets aims of equal treatment and of supporting those who are attempting to be self-reliant. We have put in place a safeguard that such payments may never be excess of the equivalent level of housing component for a year.

## PAGE 10, REGULATION 4 – Second-hand goods

The inclusion of a stipulation that certain goods should be purchased second-hand could lead to both confusion and distress. Arbitrary decisions regarding pricing will ultimately lead to unnecessary disputes. It seems unnecessary to stipulate this ruling. The approach seems unnecessarily prescriptive – especially as it only excludes carpets, mattresses, and electrical items. If a claimant urgently requires clothing do we really need to insist that they buy second-hand underwear?

This amendment strikes out paragraph (2) of Regulation 4 and allows determining officers to decide what is reasonable and appropriate under guidelines from the Minister.

## PAGE 10, REGULATION 4 – Delivery and Installation

This is not unreasonable. The cost of professionally installing a basic hob could be equivalent to the cost of the hob itself. We should not, as a Government, encourage ‘do-it-yourself’ electrical installation in respect of cookers, hobs, and other large electrical white goods. Where does the liability lie if we force self-insulation?

Furthermore, the cost of delivery is, in essence, part of the total cost of the goods. It is something all consumers have to pay. Delivery and installation is ‘one package’ with many white goods retailers.

This amendment seeks to redress this aspect of the Regulations.

## PAGE 11, REGULATION 5 – Sanctions

Regulation 5 of P.90/2007 defines a set of conditions which are required to be met by any adult to qualify as actively seeking work in order that the household should be eligible for Income Support. As currently drafted any adult who fails to meet these conditions will cause the household to have its Income Support automatically withdrawn and to be required to apply for special payments contained in P.91/2007.

Notwithstanding our amendment number 5 to Regulation 5 of P.90/2007, which builds in a 28 day warning period, the Sub-Panel have included these amendments to avoid the harsh sanctions that could be imposed by Minister for Social Security.

The conditions for special payments under P.91/2007 are subject to a stricter test of means, assets and need than those applied to Income Support. This means that households may immediately fail to qualify at all for any support under special payments. This is addressed in the Sub-Panel’s amendment number 3 applying to Regulation 3, paragraph (5) of P.91/2007.

For those households that are eligible to receive special payments, the payment of adult basic component is reduced by 25% in the first week. That is, the adult who has failed to meet the conditions for actively seeking work will lose £20.00 from his allowance. Even if the person recommences actively seeking work immediately, this penalty will be applied continuously for a 28 day period until the household can re-qualify for Income Support.

Under the current Regulations this will result in a total loss of household income of £80.00 over the month.

This amendment removes this automatic requirement for the full 28-day sanction to be applied and permits the restoration of the full rate of the adult basic component as soon as the applicant agrees to return to actively seeking work in (b)(i). For those who persist in not actively seeking work, the sanction is maintained for up to 4 weeks.

An adult that continues to fail to comply after this 4-week period will lose an additional £20.00 per week from their basic household component for each week that they fail to comply. At the end of the 28-day period their personal component will have been completely removed.

The overall outcome of this amendment will give Households up to 12 weeks before the full component of the Adult in the Household not actively seeking work is taken away.

The Sub-Panel hopes States Members will remember after the introduction of Income Support there is no fall back on the Parish. A decision to completely remove an individual's adult basic component is to remove what has been called the basic safety net. Members should understand that the decision to stop families receiving money has not been discussed in the States but this is exactly what the Social Security Department are proposing.

The Sub-Panel has requested that the Minister does not apply this sanction for at least the first year, but at the time of lodging we have yet to receive confirmation that he is willing to do this.

Whilst these sanctions above are, strictly speaking, only applied to the adult basic component, in many cases this component will be treated as part of the overall income of households, that is, families. Removal or reduction of this component will effectively reduce the family income. This may have 2 consequences:

the welfare of the family will suffer, or  
the family will borrow and go into debt

Both of these consequences are to be avoided if possible. Ultimately, the adult in the family not at fault may react by kicking out the work-shy partner, thereby becoming a single parent and eligible for increased benefits. This will push up costs for the scheme.

### **13.3 Health Insurance Exemption cards: free bus travel and Active cards – lodged au Greffe on the 26th September 2007 by the Health, Social Security and Housing Scrutiny Panel.**

#### **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

- (a) to agree that new arrangements should be put in place following the introduction of the new income support scheme to enable those persons who are currently holders of Health Insurance Exemption cards to continue to be able to access –

- (i) free bus travel; and

- (ii) free Active cards and free access to the fitness referral scheme;
- (b) to request the Minister for Transport and Technical Services (in respect of (a)(i)) and the Minister for Education, Sport and Culture (in respect of (a)(ii)), in conjunction with the Ministers for Social Security and Health and Social Services, to bring forward proposals to ensure that appropriate arrangements are put in place to enable this provision of services at no cost to continue.

## HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL

### REPORT

#### **(a)(i) HIE and free public transport**

As a result of an intervention by the former Finance and Economics Committee and following discussions with the former Defence Committee, the States agreed, by Act dated 11th October 1988, that free bus travel should be extended to both Jersey residents of pensionable age and Health Insurance Exception (H.I.E.) card holders.

The Transport and Technical Services Department state the following in correspondence of 29th March 2007 to the Social Security Department –

*‘The subsidy was originally introduced to provide the head of household with free travel to and from work or when looking for work. It has spread a bit and now provides free travel to the adults in an H.I.E. household.’*

The Transport and Technical Services Department has confirmed that there are currently 327 H.I.E. passes issued for free bus travel. It was further confirmed that in 2003 approximately 9% of concessionary journeys were undertaken by H.I.E. cardholders.

Welfare and related schemes were essentially out of work benefit. Income Support is an in-work benefit. With the introduction of Income Support H.I.E. entitlement will cease to exist.

The Social Security Department have assured us that a travel element has been incorporated into the Income Support components and would, as a result, subsume the H.I.E. free transport subsidy (which is actually income forgone by Transport and Technical Services). It is uncertain how much this travel element will be. It is certain though that the travel element will be the same to both job seekers and non-job seekers. The criteria for ‘Actively seeking work’ is set out in P.90/2007 –

*A person is actively seeking work if the person has, during the past 28 days –*

- (a) *taken all reasonable steps (including any appropriate training or work experience) to obtain suitable work;*
- (b) *not unreasonably turned down any offer of suitable work; and*

- (c) *attended every interview with an officer of the Department of Social Security to which he or she has been invited unless he or she had a reasonable excuse for not so attending.*

These criteria are in addition to attending job interviews. Claimants are required to seek work in order to receive financial support. Many will be required to make up to 4 job applications per week. The individual will incur travel costs –

- in seeking job opportunities to apply for;
- in attending job interviews;
- in attending interviews at the Social Security Department; and
- in travelling to and from work should they gain employment.

The significant travel costs far exceed those of non job seekers who receive the same travel element in their components. These costs will have a bearing on claimants and their behaviour.

Many more people will be seeking work in order to qualify for Income Support. For example, as at 23rd September 2007, 693 of the 1,292 open family allowance claimants have children between the ages of 5 and 16 and would become job seekers under the new proposals. If they do not actively seek work, Income Support may be denied to the whole household. Substantial travel costs could result in them being less likely to actively seek work and put their household at risk of losing Benefits. The removal of free bus travel directly contradicts the intention to require applicants to actively seek work and undermine the ultimate aim of Income Support, i.e. to get people into work.

The Minister for Transport and Technical Services has made his view on the subject clear. In e-mail correspondence of 15th August 2007 to the Sub-Panel the Minister for Transport and Technical Services states –

*‘My own view is straightforward. I see little merit in subsidising bus fares for specific groups, such as H.I.E., if funds for travel on Public transport are being awarded to those same groups from another source.*

In a letter of 3rd August 2007 to the Income Support Sub-Panel the Minister for Social Security stated –

‘These schemes (Free bus travel and free Active Cards) are not schemes of the Social Security Department, but are schemes of the Transport & Technical Services and Education, Sport & Culture Departments respectively. My Department is working with Officers of those Departments to provide whatever information they require to enable them to target access to any schemes they may wish to have to supersede their existing schemes.

There has never been any intention to include those schemes within the Income Support Scheme, just as they are not within the current H.I.E. scheme.’

This proposition seeks to ensure continuance of free travel for those actively seeking work in order that the aims of Social Security of achieving higher employment rates is achieved.

**(a)(ii) HIE and Active Cards**

Active cards form part of the Health Department's strategy for promoting healthy active lifestyles in the population in order that Islanders can take control of and improve their health. Under the strategic proposals contained in 'New Directions' this aim will be encompassed in a new strategy called 'Health for Life'.

Previously, holders of H.I.E. Cards received a free induction to the Health and Social Services Exercise referral scheme following recommendation by their G.P.s followed by an initial course of 20 sessions at no charge. When they have completed this programme these clients are encouraged to become independent exercisers. For some, a programme of exercise would be gym-based.

The most convenient means of accessing gym facilities and training programmes is through possession of an Active Card. The Education, Sport and Culture Department had previously agreed to offering up to 50 free active cards to recipients of H.I.E.

Following the introduction of the Income Support scheme H.I.E. will cease to exist.

Both of these schemes form part of an overarching cross departmental initiative to improve the health of the Island's population. The provision of free facilities previously through H.I.E. is particularly useful in reaching those on the lowest incomes.

Under Income Support, the Education, Sport and Culture Department had hoped that the need for a limit on free Active Cards would be addressed through additional financial support. However, the Social Security Department have confirmed that it will not be possible under Income Support to financially support current H.I.E. claimants on Active Cards. As such, the Education, Sport and Culture Department has indicated that they will be reviewing how they operate with a view to limiting support to individuals based on medical conditions.

In a letter of 3rd August 2007 to the Income Support Sub-Panel, the Minister for Social Security stated –

*'These schemes (Free bus travel and free Active Cards) are not schemes of the Social Security Department, but are schemes of the Transport & Technical Services and Education, Sport & Culture Departments respectively. My Department is working with Officers of those Departments to provide whatever information they require to enable them to target access to any schemes they may wish to have to supersede their existing schemes.'*

*'There has never been any intention to include those schemes within the Income Support Scheme, just as they are not within the current HIE scheme.'*

The Sub-Panel is of the opinion that this position adopted by the Minister for Social Security is unsatisfactory. This proposition seeks to ensure that the Education, Sport and Culture and Social Security Departments find a solution so that those recipients of Income Support who would previously have access to these health-based initiatives continue to do so.

This will mean establishing a convenient means for establishing who would most benefit and ensuring a simple mechanism for obtaining free access. It should be pointed out that the previous Education, Sport and Culture scheme was limited to 50 Active Cards. Therefore, financial costs should not be too great unless the Minister chose to expand the scheme.

It should be noted that both Transport and Technical Services and Health schemes attached to H.I.E. resulted in income foregone for the respective departments. This proposition proposes continuation of the situation with revised systems of delivery. There should therefore be no additional financial and

manpower costs.





## **14. METHODOLOGY AND EVIDENCE CONSIDERED**

### **14.1 Methodology**

#### **14.1.1 Call for evidence**

The Sub-Panel has attempted to engage the Public during the course of this review and, to this end, has issued a call for evidence in the Jersey Evening Post on two occasions:

The original terms of reference were placed on Monday 6<sup>th</sup> and Tuesday 7<sup>th</sup> March 2006.

Subsequently at the June meeting with the Department of Social Security we became aware that the income thresholds and levels of support would not be available until early 2007. As a result we sent out revised terms of reference appropriate to this element on Friday 7<sup>th</sup> and Monday 10<sup>th</sup> July 2006:

1. What has been your experience of the current Welfare system?
2. Should the Connétables have direct responsibility for the proposed Citizen's Fund?
3. Should the administration of the new Income Support system be done centrally at the Social Security Department or should the Parish Halls continue to be involved?

### **14.2 Evidence Considered**

#### **14.2.2 Legislation:**

Income Support (Jersey) Law 2007

Draft Income Support (Jersey) Regulations 200- (P.90/2007)

Draft Income Support (Jersey) Regulations 200- (P.90/2007): Amendments

Draft Income Support (Special Payments) (Jersey) Regulations 200- (P.91/2007)

#### **14.2.3 Official Record of the States Assembly:**

11<sup>th</sup> October 1988

13<sup>th</sup> February 1990

24<sup>th</sup> October 2006

#### **14.2.4 Committee Acts:**

Act of the former Defence Committee:

A23 – 24<sup>th</sup> November 1988

Acts of the former Employment and Social Security Committee:

A11 – 17<sup>th</sup> February 2000

A8 – 16<sup>th</sup> March 2000

A2 – 13<sup>th</sup> April 2000

A4 – 11<sup>th</sup> May 2000

B2 – 6<sup>th</sup> March 2003

B6 – 3<sup>rd</sup> April 2003

B5 – 13<sup>th</sup> June 2003

A1 – 25<sup>th</sup> November 2003

A3 – 15<sup>th</sup> Jan 2004

A10 – 12<sup>th</sup> February 2004

A10 – 11<sup>th</sup> March 2004

A2 – 6<sup>th</sup> May 2004

A17 – 26<sup>th</sup> August 2004

A15 – 26<sup>th</sup> August 2004

B2 – 23<sup>rd</sup> September 2004

B1 – 8<sup>th</sup> October 2004

B4 – 21<sup>st</sup> October 2004

A2 – 2<sup>nd</sup> December 2004

B2 – 3<sup>rd</sup> February 2005

B3 – 3<sup>rd</sup> March 2005

B2 – 31<sup>st</sup> March 2005

B1 – 11<sup>th</sup> April 2005

B1 – 21<sup>st</sup> April 2005

A9 – 26<sup>th</sup> May 2005

B4 – 8<sup>th</sup> June 2005

A16 – 23<sup>rd</sup> June 2005

Acts of the former Finance and Economics Committee:

A3 – 19<sup>th</sup> September 1988

A9 – 19<sup>th</sup> September 1988

Act – 11<sup>th</sup> October 1988

A23 – 17<sup>th</sup> October 1988

A7 – 11<sup>th</sup> December 1989

B1 – 31<sup>st</sup> January 2000

A9 – 14<sup>th</sup> February 2000

A13 – 7<sup>th</sup> August 2002

B1 – 24<sup>th</sup> March 2005

A3 – 16<sup>th</sup> June 2005

Acts of the former Housing Committee:

B17 – 18<sup>th</sup> February 2005

B6 – 11<sup>th</sup> March 2005

Act of the former Human Resources Committee:

B8 – 24<sup>th</sup> January 2000

Acts of the former Policy & Resources Committee:

A9 – 13<sup>th</sup> July 1999

A6 – 9<sup>th</sup> March 2000

A2 – 23<sup>rd</sup> March 2000

Act of the former Social Security Committee:

A5 – 10<sup>th</sup> November 1988

#### **14.2.5 Ministerial Decisions:**

Transfer of Parish Welfare and new Island-wide rate (MD-TR-2006-0085, 03/07/2006)

#### **14.2.6 Other Written Material:**

2000 and Beyond Strategic Policy Review 1995 part 1 – States of Jersey Policy and Resources Committee

Report of the Task Group on Marginal Tax Rates, (1998), Benefits and Welfare Working Party, States of Jersey

Supplementary Report of the Task Group on Marginal Tax Rates (March 1998)

The Strategic Policy Review 1998 (R.C.33/98)

Household Budgetary Requirements in Jersey - Centre for Research in Social Policy (CRSP) Loughborough University (December 1998)

Low Income Support, Moving Forward, Formation of Steering Group – Employment & Social Security Committee (11<sup>th</sup> May 2000)

Minimising Material and Social Deprivation: Low Income Support (P.44/2000)

Aiming for a Fairer Society – A Report prepared for the Social Policy Strategy Group, States of Jersey by Robert Walker, University of Nottingham and Institute for Fiscal Studies (October 2001)

Report on the 2001 Census Jersey – Presented to the States of Jersey on 22<sup>nd</sup> October 2002 by the Etat Civil Committee

Tackling UK poverty and disadvantage in the twenty-first century: An exploration of the issues (2003)

Jersey Income Distribution Survey 2002 (September 2003)

States of Jersey Budget 2004, Finance and Economics Committee (4th November 2003)

Personal Responsibility and Changing Behaviour: the state of knowledge and its implications for public policy – David Halpern and Clive Bates with Greg Beales and Adam Heathfield (Prime Minister's Strategy Unit February 2004)

Machinery of Government: Relationship Between the Parishes and the Executive (P.40/2004)

Jersey Income Distribution Survey 2002 (July 2004)

Policy Review of the social Insurance System in Jersey: Interim Report (R.C.49/2004)

Income Support System (R.C.48/2004)

Report & Accounts 2004, The States of Jersey Department for Employment & Social Security

States of Jersey Budget 2005, Finance and Economics Committee (9<sup>th</sup> November 2004)

Report for the Employment & Social Security Committee by Stella Hart (17<sup>th</sup> February 2005)

Pensions at a Glance - Public Policies Across OECD Countries (OECD Publishing 2005)

Income Support System (P.86/2005)

Income Support System (P.86/2005): Comments

Income Support System (P.86/2005): Amendment

States of Jersey Budget Report 2006, Finance and Economics Committee (November 2005)

States of Jersey Budget 2006 Committee Annex, Finance and Economics Committee (November 2005)

Report and Accounts 2005, Social Security Department

2006/8 Business Plan for the Social Security Department

Report on the Jersey Household Expenditure Survey 2004/05 (July 2006)

Further Consultation on Income Support Proposals – Social Security Department (September 2006)

Housing Department Social Security Department Joint Application form for Rent Rebate, Rent Abatement and Income Support (27<sup>th</sup> October 2006)

Housing Department Social Security Department Joint Application form for Rent Rebate, Rent Abatement and Income Support: Guidance Notes (27<sup>th</sup> October 2006)

Review of the Changes to the Incapacity Benefit System: States of Jersey – Professor Bruce Stafford, Nottingham Policy Centre, School of Sociology and Social Policy (February 2007)

The 2007 Childcare Costs Survey Results – Jersey Child Care Trust

Nursery and Pre-School Rates of Pay 2007 – Jersey Child Care Trust

Play Care Rates of Pay 2007 – Jersey Child Care Trust

Everyone Counts: A Social Policy Framework for Jersey (received in confidence February 2007)

Family Day Carer Fee survey March 2007 – Jersey Child Care Trust

Babysitters Fee Survey April 2007 – Jersey Child Care Trust

Family Nursing and Home Care (Jersey) Ltd. Banding – Charges – 1<sup>st</sup> November (4<sup>th</sup> June 2007)

States of Jersey Strategic Plan 2005-2010

Residential and Nursing Care: Issues Paper

Welfare Grants – How your Parish can help you in times of need

Application for Parish Welfare

Welfare Scale Rate from 1<sup>st</sup> Jan 2006

School Aged Discount Scheme – Guide

A claim form for Housing Benefit and Council Tax Benefit

Notes for filling in the Housing Benefit and Council Tax Benefit claim form

Designing claim forms: A good practice guide – The Benefit Fraud Inspectorate

#### **14.2.7 Written Submissions:**

##### **14.2.7.1 Requests made to interested parties**

The Sub-Panel contacted the following groups or organisations inviting them to meet or make a written submission:

- States Tenants Action Group
- Support Through Divorce
- Citizens Advice Bureau
- Jersey Childcare Trust
- Family Nursing and Homecare
- Jersey Association of Carers
- Age Concern
- The Samaritans

The Sub-Panel further contacted Mrs. E. Martins, Data Protection Commissioner, to establish whether she had been consulted with regard to the *Draft Income Support (Jersey) Law 200-*.

**14.2.7.2 Other:**

Mr. M. Lambert – 9<sup>th</sup> July 2006

Dr. Robert A. Kisch, D.Sc (Mech, Eng.) – 10<sup>th</sup> July 2006

Community Savings & Credit Ltd and The Community Charitable Trust – 17<sup>th</sup> July 2006

Jersey Society for the Prevention of Cruelty to Animals – 4<sup>th</sup> January 2007

Anonymous – 5<sup>th</sup> February 2007

Mr. D. E. Payn – 18<sup>th</sup> April 2007

Ms. F. Gray – 23<sup>rd</sup> April 2007

Mr. A. Walton – 2<sup>nd</sup> May 2007

**14.2.8 Meetings with Interested Parties:**

The Sub-Panel met with the following groups or individuals in the course of the review:

7<sup>th</sup> April 2006:

Citizens Advice Bureau, Mr. F. Le Gresley

24<sup>th</sup> April 2006:

Age Concern, Mrs D. Minihane

Senior Citizen's Association, Mr B. Le Brocq

Jersey Childcare Trust, Mrs. F. Breen

2<sup>nd</sup> May 2006:

Jersey Association of Carers, Mrs. F. Hagg

The Sub-Panel also met with the Minister for Social Security and/or his Department on the following dates:

19 <sup>th</sup> May 2006	7 <sup>th</sup> July 2006
11 <sup>th</sup> August 2006	26 <sup>th</sup> January 2007
23 <sup>rd</sup> February 2007	18 <sup>th</sup> May 2007
13 <sup>th</sup> September 2007 (Minister for Treasury and Resources also attended)	

The Sub-Panel attended an Income Support presentation by the Minister for Social Security on 11<sup>th</sup> July 2007.

#### **14.2.9 Public and Private Hearings:**

The Sub-Panel held the following Public Hearings:

25<sup>th</sup> July 2006

Witnesses:

Minister for Social Security, Senator P. F. Routier  
Comité des Connétables, Connétable K. P. Vibert  
Citizens Advice Bureau, Mr. F. Le Gresley

30<sup>th</sup> March 2007

Witnesses:

Minister for Social Security, Senator P. F. Routier  
Assistant Minister for Social Security, Deputy P.N. Troy

29<sup>th</sup> May 2007

Witness:

Family Nursing and Home Care (Jersey), Ms. K. Huchet

The Sub-Panel held the following Private Hearings:

4<sup>th</sup> June 2007

Witnesses:

Director and Manager for Mental Health Services, Mr. I. Dyer

Senior Psychiatric Social Worker, Mr. A. Holt

Occupational Therapist, Ms. R. O'Doherty

11<sup>th</sup> June 2007

Witness:

Service Head and Clinical Lead, Psychological Assessment and Therapy, Dr. T. Wade

2<sup>nd</sup> July 2007

Witnesses:

Jersey Association of Carers, Dr. M. Bayes

Senior Citizens Association, Mr. B. Le Brocq

Age Concern, Mrs. P Nesbit

6<sup>th</sup> July 2007

Witnesses:

Chairman, Jersey Childcare Trust, Mr. C. Powell

Acting Executive Director, Jersey Childcare Trust, Ms. J. Hairon

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[1] Employment and Social Security Committee: Low Income Support 1058/12(464)

[2] Literature on international evidence on employment, making work pay and activation: OECD, Employment Outlook 2007 and Employment Outlook 2005, Paris, OECD

Evans, M.; Knight, G.; La Valle, I. (2007) Literature Review of evaluation evidence for Working for Families, Ministry of Social Development Research Report, Wellington, New Zealand

Grogger J and Karoly L. (2005) Welfare Reform, Effects of a Decade of Change, Harvard University Press, Cambridge MA.

Moffitt R. (ed) (2003) Means-Tested Transfer Programs in the U.S. University of Chicago Press and NBER: Chicago.

[3] The Social Security Department have stated an intention to follow EU and UK practice and move to using the "modified OECD" equivalence scale. To adopt this scale the original JIDS data will have to be re-estimated as underlying median incomes differ considerably when equivalence scales are changed.