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Sainsbury, Roy Derek [orcid.org/0000-0002-1217-6818](https://orcid.org/0000-0002-1217-6818) and Bradshaw, Jonathan Richard [orcid.org/0000-0001-9395-6754](https://orcid.org/0000-0001-9395-6754) (2013) *St Helena Social Welfare Review*. Research Report. Social Policy Research Unit, University of York , York.

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# St Helena Social Welfare Review

Roy Sainsbury and Jonathan Bradshaw

April 2013

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# St Helena Social Welfare Review

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# 1. Introduction

## 1.1 Background

In April 2011 major changes were made to the social welfare system of St Helena following a review by an external consultant from the UK, Alan Thompson. At that time it was the clear intention of the St Helena Government (SHG) that the new system should be reviewed at an appropriate time to assess whether it was meeting its aims and to consider what further changes might be necessary. In addition there has been an ongoing concern within SHG about how best to uprate benefits.

The objectives of the whole review therefore became twofold:

- Provide recommendations for the uprating of benefits (initially for the uprating due in October 2012).
- Review the benefits system and make recommendations.

This review was carried out from August 2012 to March 2013 by Roy Sainsbury and Jonathan Bradshaw from the Social Policy Research Unit at the University of York, UK. Roy Sainsbury visited the island for two weeks in January and February 2013, during which time he met with members of the Legislative Council, officers and staff of SHG, and representatives of St Helena society (including members of the public, employers and civil society groups).

Throughout the review, and particularly in looking to the future, we were asked to take into account the possible effects and impacts of the opening of the St Helena international airport (scheduled for 2016).

In this introductory section we set out the context for the Social Welfare Review. We first describe the social security system in April 2011 after the implementation of the changes recommended by Alan Thompson. Next we explain our approach to the review and the constraints we encountered and summarise the issues that emerged from the review that lead to recommendations for further change. Each of these issues is treated separately, in distinct sections, in the rest of the report.

The main focus of the review was on the changes in 2011 and there is an emphasis in this report on issues relating to adequacy and administration in relation to Basic Island Pension and Income Related Benefit. Other issues connected with the wider welfare system of St Helena also emerged in the course of the review and we have made some observations and recommendations about these too.

In preparing this Report we have had the benefit of seeing a first draft of the 2013-2018 St Helena Social Policy Plan which we understand will not go out to consultation until 10 May 2013. This may need to be taken into account if this Report is intended for wider circulation before then.

## 1.2 The social security system after April 2011

In 2010 the *Social Security Ordinance* was passed. For the first time on St Helena some social security entitlements had a basis in law rather than policy. Two benefits were established by the Ordinance, the Basic Island Pension (BIP) and Income Related Benefit (IRB). The secondary legislation to support the Ordinance was passed in 2011, in the form of the *Social Security Regulations*. Regulations made under the Ordinance also introduced a temporary *Transitionally Protected* award of IRB for claimants who migrated from old benefits to the new system but who would have received a lower award under the new arrangements. A number of other benefits and payments are based only on policy. They were not translated into law in 2011. These included Unemployment Allowance (UA), Disability Allowance (DA), Carers Allowance (CA) and Occupational Therapy payments (OT). The table below sets out the main features of each benefit.

**Table 1.1 The main social security and other benefits on St Helena**

| <i>Benefit</i>                                    | <i>Basis</i> | <i>Main features</i>  | <i>Weekly amounts (in February 2013)</i>   |
|---|--------------|---|--|
| <b>Basic Island Pension</b>                       | Law          | <ul style="list-style-type: none"> <li>- Paid to over 65s</li> <li>- Based on years working on St Helena (or equivalent time spent caring or unavailable due to disability)</li> <li>- Reduced payments where claimant receives other pension income</li> <li>- Stopped after 90 days absence from St Helena</li> </ul> | Full: £49.07<br>75%: £36.80<br>50%: £24.54 |
| <b>Income Related Benefit (IRB)</b>               | Law          | <ul style="list-style-type: none"> <li>- Available to all people with low incomes</li> <li>- Based on household means test</li> </ul>   | £47.22 (basic level for a single person)   |
| <b>Transitionally protected IRB (known as TP)</b> | Law          | <ul style="list-style-type: none"> <li>- Payable to former recipients of IRB who would have had a lower award under new arrangements.</li> <li>- Levels of award under old system maintained.</li> </ul>  | Variable                                   |
| <b>Unemployment Allowance</b>                     | Policy       | <ul style="list-style-type: none"> <li>- Paid to unemployed people who are required to actively seek work</li> </ul>  | £15.08                                     |
| <b>Disability Allowance</b>                       | Policy       | <ul style="list-style-type: none"> <li>- Paid to people assessed as disabled by an authorised doctor</li> </ul>   | £9.45                                      |
| <b>Carers allowance</b>                           | Policy       | <ul style="list-style-type: none"> <li>- Paid to people caring for a disabled relative</li> </ul>   | £41.00 full rate<br>£26.50 reduced rate    |
| <b>Occupational Therapy Payment</b>               | Policy       | <ul style="list-style-type: none"> <li>- Paid to eligible people working in SHAPE</li> </ul>  | £30.52                                     |

At the time of the visit by Roy Sainsbury in February 2013 the number of people receiving these benefits was approximately as follows:

**Table 1.2 Approximate number of recipients of the main social security and related benefits (February 2013)**

| <i>Benefit/payment</i>          | <i>Number of recipients</i> |
|---------------------------------|-----------------------------|
| Basic Island Pension            | 587                         |
| Income Related Benefit          | 196                         |
| Transitional Protection Payment | 58                          |
| Unemployment Allowance          | 21                          |
| Disability Allowance            | 99                          |
| Carers allowance                | 17                          |
| Occupational Therapy Payment    | 24                          |

The majority of St Helenians over age 65 receive the Basic Island Pension. It is not possible to provide an exact percentage because of the lack of up to date data on the population of the Island. However, in the 2008 Census there were 714 over-65s. Using this as the latest accurate figure we can estimate (based on the current number of recipients, 587) that between 80-85% receive BIP. In addition a further 50 over-65s receive IRB (but not BIP) meaning that around 90% of over-65s receive some income from the social security system. The characteristics of the remaining 10% is not known but will include people with incomes high enough to exclude them from BIP and IRB, and people who do not qualify for BIP but are in households with an combined income too high to qualify for IRB.

Of the 196 IRB recipients 112 (57%) were retired people. Only 41 (21%) were couples or single people with children. Twenty-two were unemployed. Ninety-four per cent of Transitional Protection payments were made to retired people (66%) or people in receipt of Occupational Therapy payments (28%).

In total only 32 people were unemployed and receiving a benefit (some on Unemployment Allowance alone, the rest receiving UA and IRB). This represents under 1% of the population of St Helena and is therefore extremely low compared with most other countries.

### **1.3 The purpose of the Review**

Throughout the Review we have attempted to address the following questions set out in the original terms of reference drawn up by SHG.

1. Is the policy intent appropriate?
2. Is the new system effectively targeted at those groups and individuals who need protection?
3. Are the benefit levels appropriate and are they set against clear poverty criteria?
4. Are eligibility criteria appropriately defined and implemented?
5. Are uprating procedures clear and how can they be improved?

6. Are the legislative, institutional and social policy frameworks fit for delivering welfare benefits?

#### **1.4 Approach taken to the Social Welfare Review; constraints; summary of issues emerging**

In carrying out the review we wanted to give all the key stakeholders the opportunity of raising any issues about the social welfare system that they wanted. We posed all the people consulted the questions:

- What is working well?
- What is not working well?
- What are the problems with the current system?
- What could be done to address the problems?

From the answers to these questions we identified the key areas of concern and drawing on the ideas of the people we spoke to and on knowledge of social security in the UK and elsewhere we developed a number of options for change.

Throughout the review we have also drawn on a range of official and other documents, including:

- Legislation
- Policy documents
- Papers prepared by Alan Thompson and by the former Social Policy Planner, Ann Muir
- Management information provided (or produced specifically for the review) on social security claimants.

Papers by Alan Thompson were difficult to obtain and it is not clear whether we had access to all his work prior to the April 2011 reforms. In addition, in the course of the review it became apparent that statistical data on social security is currently limited and not easily accessible. This hampered the review and we have views on how this can be improved later in the report (in section 6.2 on 'Computerisation').

As expected, a wide range of issues was raised in the discussions with the key stakeholders. They are listed in the table below with reference to the relevant section in this report.



| <i>Section</i> | <i>Issues</i>  |
|----------------|--|
| 2              | Adequacy and uprating of benefits, including Child Benefit   |
| 3              | Targeting of benefits: Definition of household   |
| 4              | Targeting of benefits: Basic Island Pension qualifying criteria  |
| 5              | BIP and IRB: evidence issues   |
| 6              | The wider social policy framework: Unemployment Allowance, Disability Allowance, Carers Allowance, Occupational Therapy payments |
| 7              | Operational issues – computerisation; the role the Claims Office; appeals  |

### **1.5 Outstanding issues not covered in this Review**

As mentioned earlier, the focus of the Review has been on the changes introduced in 2011 although there were a number of other issues that emerged in the course of our work. Some of these issues were closely associated with BIP, IRB and Unemployment Allowance and we have therefore made some attempt to explore them in this report. Unfortunately, it was not possible to investigate a number of other issues in any depth and we restrict ourselves here to the suggestion that they should be included in the policy development work that will continue after the submission of this Review.

These are:

- Support for housing costs within IRB
- The case for a *Guardians Allowance* (for people who are not natural parents bringing up children)
- Setting the National minimum wage
- Tax thresholds and rates.

## 2. Adequacy and uprating of benefits, including Child Benefit

### 2.1 Introduction

In this section we present our findings on some of the principal questions of the Review:

1. Are the benefit levels appropriate and are they set against clear poverty criteria?
2. Are uprating procedures clear and how can they be improved?
3. Is the new system effectively targeted at those groups and individuals who need protection?

We first consider the questions of adequacy and uprating in relation to Basic Island Pension and Income Related Benefit. This leads to the strong recommendation to adopt a **minimum income standards** approach to setting benefit levels and uprating benefits.

We then consider an important issue of relevance to the third question above. The issue is whether families with children are adequately supported through the social security system. The conclusion reached here is that there is a strong case for introducing a payment to families along the lines of universal Child Benefit in the UK.

### 2.2 Views on adequacy of BIP and IRB

At the time of the Review BIP was being paid at three rates:

- Highest rate (for 30+ qualifying years) £49.07
- Middle rate (for 25-30 qualifying years) £36.80
- Lower rate (for 20-25 qualifying years) £24.54

Because IRB is a means tested benefit it is paid at the appropriate for each individual claim based on a 'poverty line' for the household that takes into account the number of people in a household, any disabilities they might have, and housing costs. Transitional Protection (TP) payments also varied by individual claim.

In broad financial terms the two new benefits BIP and new IRB were designed to have a combined cost equivalent to the cost of IRB in year 2010/2011. TP expenditure was additional. It was clear therefore that the BIP and IRB levels had been determined by a financial limit and not based on any objective assessment of poverty levels or needs.

We received evidence from members of the Legislative Council, representatives of civil society organisations and from individual members of the public that for many people and their families the level of benefit they received created hardship for them. There were particular concerns about the cost of food and utilities, and imminent and persistent increases in the latter. In the absence of any recent data on incomes and expenditures it was not possible to quantify the extent of hardship, but the evidence that was collected suggested that a more objective method of setting benefit levels was needed.

## 2.3 Adequacy, uprating and minimum income standards

Because there was an urgent need to advise SHG on the uprating of benefits due in October 2012 this work was carried out by Jonathan Bradshaw ahead of the rest of the Review. A report<sup>1</sup> was produced for SHG in September 2012 and the October uprating was carried out. Of relevance for this wider Social Welfare Review however is the report's recommendation that

... more work is done on living standards and poverty thresholds, the relationship between in-work and out-of-work income and adequacy. The development of a St Helena Minimum Income Standard would greatly help consideration of these issues.

This recommendation in September 2012 has already led to development work on a St Helena minimum income standard initially by Jonathan Bradshaw and staff of the Corporate Policy and Planning Unit, and more recently by the Social Policy Planner.

We endorse and support this development work. In our view a St Helena minimum income standard can provide the basis for setting adequate BIP and IRB levels as well as providing a mechanism for uprating benefits in the future. It is also possible for minimum income standards to be used to help inform decisions about the level of the national minimum wage in future years.

The fundamental principle of minimum income standards is to define and cost a basket of goods and services that represents an adequate standard of living for members of society. Importantly, deciding on what constitutes the goods and services in the basket is based on consensual methods that draw on the views of all members of society not just policy makers, officials or external experts. (This is similar to, but different from, a basket of goods used in the calculation of a retail price index. An RPI basket is based on what people actually spend their money on. It is a measure of spending that can be used to assess inflation not adequacy.)

The minimum income standard approach has the advantage of being flexible. Separate standards can be developed for different groups of society. Given the current structure of the St Helena social security system we recommend that a minimum income standard is developed initially for (a) single people, (b) families, and (c) retirement pensioners. These can be used as the basis for deciding the levels of IRB (using (a) and (b)) and levels of BIP (using (c)).

It is recognised that setting benefit levels must also consider other factors particularly the resources available to SHG, but the minimum income standard approach provides a rational and transparent basis for such considerations. If it is not possible to set levels that meet minimum income standards immediately then it might be possible to build them in to longer term plans and objectives for SHG.

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<sup>1</sup> *Uprating Benefits. Policy Paper for the St Helena Government* by Jonathan Bradshaw, Social Policy Research Unit Working Paper 2544, September 2012.

We are aware of the ongoing work on minimum income standards in SPPU. This will take time to complete but if there is a need for further input from the University of York we will happily discuss this.

## 2.4 The case for a child benefit/allowance

The case for supporting families bringing up children is widely accepted across the world and does not need to be rehearsed in detail here. Almost all countries in the developed world and increasing numbers in the developing world have devised mechanisms for making cash transfers to people raising children. Until recently the UK had a universal Child Benefit payable to all families regardless of income or resources (though this was changed in 2012 when Child Benefit became means tested). Other countries target assistance on people with low incomes through the benefit or tax systems. Most countries provide support regardless of employment status.

St Helena has provided financial support for raising children in the past through a means tested child allowance of £8.75 for each child (though this was abolished in 2011). It continues to do so through IRB where the calculation of the 'poverty line' used in the assessment of awards includes allowances for all children in the household. This poverty line becomes the maximum amount that can be paid. An actual award is reduced where there is other income or capital resources. The table below shows the effective cash value to people on IRB of having children in the family.<sup>2</sup>

**Table 2.1 IRB additions for children**

| <i>Number of children</i> | <i>Value to IRB claimant (£ per week)</i> |
|---------------------------|---|
| 1                         | 18.89                                     |
| 2                         | 37.78                                     |
| 3                         | 56.66                                     |
| 4                         | 70.83                                     |

These amounts are clearly helpful to the families that receive IRB. However no support is available to families not in receipt of IRB, including working families on low wages and older people looking after children (such as grandparents who receive a full Basic Island Pension).

The lack of support for working families is particularly perverse. They are worse off working than being out of work and receiving IRB, as the following table illustrates,

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<sup>2</sup> The addition to the 'poverty line' for a claimant is based on the 'minimum income level' for an individual, currently £47.22 a week. The Social Security Regulations state that the poverty line is increased for children as follows:

- for each of the first three children in the household, 40% of such minimum income level per child;
- for each additional child, 30% of such minimum income level per additional child.

based on the National Minimum Wage of £2.30 that will come into force on 1 June 2013.

**Table 2.2 Comparison of earnings and IRB for families with children**

| <i>Family</i>          | <i>IRB (£)</i> | <i>Earnings (one adult, 40 hours @ £2.30)</i> | <i>Net effect</i>   |
|------------------------|----------------|---|---------------------|
| Couple plus 1 child    | 89.72          | 92  | Better off by £2.28 |
| Couple plus 2 children | 108.61         | 92  | Worse off by £16.61 |
| Couple plus 3 children | 127.49         | 92  | Worse off by £35.49 |
| Couple plus 4 children | 141.66         | 92  | Worse off by £49.66 |

To earn the same amount through working as they could receive in IRB a couple with two children would need to work a total of 47 hours a week between them at the minimum wage of £2.30 an hour. The equivalent number of hours for couples with 3 and 4 children would be 55 and 62 hours a week.

This is an unemployment trap of some severity and clearly the result of the lack of a child benefit/allowance for working families. It is a potential barrier to any family on IRB contemplating work and to families thinking about returning to St Helena from countries where Child Benefits are paid, and will do nothing to persuade families to stay on the Island rather than moving off Island to work. The current arrangements can be seen therefore as detrimental to the aims and aspirations of the 2012-2015 St Helena Sustainable Development Plan, which includes a 'vibrant economy providing opportunities for all to participate' as one of its *National Goals*.

It is recommended that SHG works towards the introduction of a child benefit/allowance as soon as possible. There are many ways in which this can be done. A paper in 2011 by the former Social Policy Planner sets out the main options and provides some indicative costs (appropriate to the time)<sup>3</sup>. There are advantages to adopting a single allowance payable for all children and regardless of parental employment status or income. It is an explicit recognition of the value of child rearing for the whole of society and it is very simple and cheap to administer. It does not contribute to the employment trap as entitlement is maintained when moving into work. However, targeting child benefit/allowance on the less well off is a common (and cheaper) approach in many countries achieved by means testing the untargeted subsidy or making the benefit taxable.

There is much to consider in designing a child benefit/allowance that is appropriate to St Helena society and culture. However, the lack of such a benefit is a glaring omission in the current social welfare system contributing to hardship and damaging incentives to work.

<sup>3</sup> Muir, Ann (2011) *Information to support discussion about a child benefit in St Helena*.

## 2.5 Conclusion

This section has tackled two of the most important issues for the St Helena welfare system: the adequacy of benefits and the lack of a child benefit/allowance. Both of these issues are related to one key aim of St Helena social policy – the alleviation of poverty.

Our recommendations for the use of minimum income standards to provide the basis for benefit levels and uprating policy are already being acted upon. As mentioned above, we endorse and support this response from SHG. The recommendations on child allowances have serious financial consequences and need to be considered carefully. However, without the introduction of some form of financial support for families bringing up children then the long term aim of tackling poverty in families will be severely held back.

### **Summary of recommendations**

- 2.1 Continue the development work on a minimum income standard for St Helena and as soon as practicable adopt a minimum income standards approach as the basis for setting and uprating benefit levels.
- 2.2 SHG should work towards the introduction of a child benefit/allowance as soon as possible.

### 3. Targeting of benefits: Definition of household

#### 3.1 Introduction

One of the key questions for the Review was:

- Is the new system effectively targeted at those groups and individuals who need protection?

We received a number of representations from members of the Legislative Council, representatives of civil society organisations and from individual members of the public that the way in which household income is treated in the rules of entitlement for Income Related Benefit has led to a range of problems for IRB claimants and for recipients of Transitional Protection (TP) payments.

This section explains the issue and the consequences for IRB and TP claimants and suggests a remedy.

#### 3.2 Issues for Income Related Benefit

Under the Social Security Ordinance a household is defined in the following way:

**“household”** means one or more persons (whether or not related), who live together in a dwelling and maintain a common living, sharing normal domestic tasks and expenditures, including the purchase, cooking and eating of food, and for purposes of determination of any benefit under this Ordinance, includes only such persons who are physically present in St Helena and who actually reside in such dwelling; and **“member”** in relation to a household shall be construed accordingly.

For the purposes of IRB only one claim per household can be made, and eligibility for an award and the amount of an award are based on the income and resources of ALL members of a household.

The practical effect of this is that some types of household are excluded from entitlement to IRB even though one or more of its members have no source of income. One example will suffice to show the resulting problem.

A common form of household on St Helena is grandparents living with their grandchildren. Under current benefit rules if one of the grandchildren is in work and earning above the household ‘poverty line’ then the household will have no entitlement to IRB. The grandparent can therefore be left with no independent income at all and be totally financially dependent on a grandchild. We received evidence of a number of households where this situation existed. We were also told that this relationship of dependence created tensions and was a source of embarrassment and shame for many older people. In some instances it led to the break-up of the household.

From the draft policy papers prepared by Alan Thompson it is possible to identify a clear expectation that families should provide for each other. For example, one paper

argues that "... all members of the family living together as one household should support the family as a whole." This is a normative view that no doubt would find a level of support within most societies not only St Helena. However, when translated into social security legislation it imposes an obligation on some members of a household to support others totally, as in the example above of a working grandchild living with a non-working grandparent.

From discussions on St Helena it is clear that making some people dependent on others in this way was not, from their perspective, an intention of the 2011 changes. It is not possible however to put a figure on the number of people affected.

In our view the current IRB Ordinance and Regulations do not deliver the desired policy outcome and should be changed. We suggest a different basis for entitlement based on the following principles:

- Claims for IRB should be based on the 'family'
- A 'family' consists of an adult, any partner living with them, plus any children.

The effect will be that grandparents living with grandchildren can make a claim for IRB in their own right that is based on an individual, not household, means test. This will give them an independent income and they would not be dependent on others for the costs of food, clothing, personal items etc.

An objection to this recommendation is that it does not promote the aim of families supporting each other as much as possible, absolving younger members of a family from any obligation to their elders. There are two possible responses to this:

- a) take no action and accept that the distribution of costs and resources within households living together is not important enough an issue (either financially or politically) to be concerned with, or
- b) introduce regulations that reduce a claimant's IRB award to reflect the economies of scale of people living together.

Option (b) would have the effect of reducing the income of the IRB claimant in a household and could therefore continue to create the tensions noted above that can lead ultimately to the break-up of households. Option (a) could be argued therefore as a policy lever to keep family households together. Alternatively, option (b) could be argued to be avoiding unnecessary public expenditure. Choosing between these options is a decision for SHG and the Legislative Council but if (b) is preferred then the minimum income standard approach will be able to provide a rational and transparent estimate of the appropriate level of any deduction (which we could call the 'shared household deduction').

For example, in a basket of goods and services for a couple there will be amounts allocated for the costs of rent and utilities. In a household comprising two independent adults (a grandparent IRB claimant and a working grandchild, for example) these costs could be deemed to be incurred equally and so an amount equal to half the rent and utilities components could be deducted from the IRB award.



Using this approach the deduction could be adjusted for different numbers of adults in the household.

### 3.3 Issues for Transitional Protection payments

The implementation of the household rules in the Social Security Ordinance has also had a negative impact on some people awarded a Transitional Protection payment of IRB. The problem has arisen when a person with a TP lives in the same household as a person getting BIP. The two new benefits have been subject to upratings in April and October 2012.

The Transitional Protection rules are intended to protect *household* income at April 2011 levels. The rules do not protect the level of awards to individuals however. Households with a member in receipt of TP will always be better off than similar households that made new claims for benefit after 2011 until such time that the new levels of benefit catch up with the old. This seems to have been poorly understood at the time.

What has happened in both April and October 2012 is that in households where someone has experienced an increase in their BIP the person receiving TP has experienced a corresponding decrease in the (protected) IRB. In this way the household income is maintained although the amounts that each person brings to the household changes.

The perception of many households is that they are being disadvantaged by a decrease in benefit (i.e. TP) when (a) others are receiving an increase and (b) when prices are continuing to rise. Many have felt that the promise in 2011 that no-one would lose out from the reform of IRB and the introduction of BIP has proved to be false.

A separate but related complaint has been made by some people on only TP (i.e. with no other benefits coming into the household). They too perceive that they are being penalised because their benefit has not risen during a time when prices have gone up. However, again in objective terms, their household income has been maintained at a level higher than people in similar circumstances.

The total number of TP recipients in February 2013 was 59. It is not known how many people have experienced either of the problems described above.

The problems with Transitional Protection payments are particularly delicate. It could be argued that TP is having exactly the intended policy intention of maintaining household incomes at April 2011 levels when they would have fallen under the new system. However, in practice people have undoubtedly experienced a fall in living standards because of the combination of a constant level of benefit income and inflationary increases in the costs of goods and services since 2011. There appear to be three main options in response to the problem:

- a) maintain the current arrangements for TP, or
- b) amend the Social Security Regulations to provide increases in TP, or
- c) offer a one-off compensatory payment.

Option (a) requires no legislative or administrative action. What it would require however is a campaign of education and persuasion to explain to the affected claimants that they are being treated fairly despite not having any increases in overall benefit income for the household. The fairness argument is based on a comparison with other claimants in the same circumstances as themselves who claimed after April 2011. Protected claimants would need to be convinced that they are actually getting preferential treatment by being better off than new claimants.

Option (b) undermines the rationale for introducing transitional payments. It would effectively introduce a two-tier IRB system with higher payments for the fortunate few who were IRB recipients before April 2011. Because it would set a precedent for increasing TP at the same time as uprating other benefit levels it would also prolong the period (potentially indefinitely) for which TP would be paid.

The third option is a compromise. A *ex gratia* payment could be made in recognition of inflationary price rises. This would mean that TP could still be phased out in the next few years as intended.

### 3.4 Conclusion

There needs to be a political decision on whether or not to implement the recommendation to replace the household means test for IRB above. The decision will need to be informed by an assessment of the additional costs of changing the Ordinance and Regulations in the way suggested. There will be costs from increasing the value of awards to some existing IRB claimants and by making a number of others newly eligible for an award where currently they are not entitled.

It should be possible to make an assessment of the cost of increased awards but it is also likely that changes would prompt some new claims from people (such as grandparents) who currently do not receive any IRB at all. The number of new claims that might arise is less easy to predict. Nevertheless an attempt will need to be made, utilising as far as possible data from the last Census and Household Expenditure Survey. The number of disallowed claims to date might also be a useful indication of the scale of new awards.

If the recommendations here are accepted then work on amending the Ordinance and Regulations should be commenced as soon as possible.

A policy decision is needed on which of the options presented above in relation to Transitional Protection payments should be taken.

Options (b) and (c) could be costed if either is seen as politically desirable. Transitional payments are not part of the Social Security Ordinance. Any changes would therefore only require changes to the Regulations.

### **Summary of recommendations**

- 3.1 Change the basis of IRB awards from household to families (defined as claimant, partner and children).
- 3.2 Draft changes to the Social Security Ordinance to effect this change.
- 3.3 Undertake further work on a possible 'shared household deduction' to take into account the economies of scale of people living together and sharing household costs.
- 3.4 Undertake further work on options whether or not to increase the income of TP recipients in recognition of rising prices.

## 4. Targeting of benefits: Basic Island Pension qualifying criteria

### 4.1 Introduction

One of the key questions for the Review was:

- Is the new system effectively targeted at those groups and individuals who need protection?

As part of the Social Welfare Review we collected evidence from a range of sources on whether the Basic Island Pension was actually achieving this aim of targeting people who need protection.

It is worth noting at this stage that the Basic Island Pension was a popular policy innovation among all the stakeholders consulted in this Review. People found it easy to understand and supported the rationale that entitlement should be based on useful contributions to the life and society of St Helena, either through working or caring.

In principle BIP had unanimous support although there was dissatisfaction with some aspects of the benefit (discussed below). No-one advocated a return to the previous system where people who had retired only had access to Income Related Benefit. It is our view therefore that BIP as defined in the Social Security Ordinance and Regulations should be maintained as a core component of the St Helena welfare system.

The essential components of BIP relevant to this Review are as follows:

- Paid to over 65s
- Based on years working on St Helena (or equivalent time spent caring or not able to work due to disability)
- Reduced payments where claimant receives other pension income
- Stopped after 90 days absence from St Helena.

The maximum pension is available to Saints who have accumulated 30 'qualifying years' during their working lifetime. 25 to 30 qualifying years entitles a claimant to a 75% pension, and 20 to 25 years to a 50% pension. Below 20 years there is no entitlement.

In the course of the Review evidence was put forward about the following perceived problems with the current rules for BIP:

- a) There is no BIP entitlement for people who have worked fewer than 20 years.
- b) Work off island, including on Ascension Island and the Falkland Islands, does not count towards 'qualifying years'.
- c) Work after the age of 65 does not count towards qualifying years.
- d) Retirement age of 65 adversely affects some current 60-65 year olds.
- e) Loss of entitlement if the claimant is off island for over 90 days.

- f) Reduction in BIP award if claimant receives pension from another source.
- g) Difficulty in providing evidence of working, caring or being disabled.

The rest of this section deals with each of these issues in turn.

## 4.2 The impact of the current definition of qualifying years

As noted above a person only has entitlement to Basic Island Pension if they have accumulated at least 20 ‘qualifying years’. The effect of the current rules on Basic Island Pension eligibility is that some claimants, although they are over 65 years old are excluded from benefit receipt because they do not have the minimum 20 qualifying years.

We received representations that this is unfair on people who had under 20 qualifying years. The argument that was made is that any number of qualifying years represented some contribution to St Helena society and deserved recognition. In particular the rules were criticised for being harsh on people who had near to but still below 20 years.

Others receive either the middle or the lower rate of pension because they do not reach the 30 qualifying years needed to receive the maximum pension. All of these types of claimant may therefore need to claim Income Related Benefit instead of or as well as BIP.

As mentioned above the core principle of linking pension entitlement to useful contributions to St Helena life and society was strongly supported by the people consulted in this Review. One way of strengthening this support would be to introduce additional bands of benefit to recognise 15, 10 and 5 qualifying years. For example, BIP could be awarded according to the following tariff:

**Table 4.1 Possible extension of entitlement to Basic Island Pension**

| <i>Qualifying years</i> | <i>Rate of Basic Island Pension (%)</i> |
|-------------------------|---|
| 30+                     | 100                                     |
| 25-29                   | 75                                      |
| 20-24                   | 50                                      |
| 15-19                   | 40                                      |
| 10-14                   | 25                                      |
| 5-9                     | 10                                      |

It is recommended that making changes along these lines (or some variation) should be debated and considered within SHG and the Legislative Council. On one level the change would be largely symbolic, extending the provision of a pension to more people. In practice, anyone who received one of the lower rates would probably still need to apply for IRB so there would be no effect on their overall total income or the cost to the social security budget.

A possible disadvantage is increased administrative work because people with between 5 and 20 qualifying years would most likely need two claims processing - for BIP and for IRB - instead of just one at present (for IRB).

### **4.3 Work off island**

Many people work off island at some point in their working lives. Such work does not contribute to 'qualifying years' at present<sup>4</sup>. There was some dissatisfaction with this. The argument was made that working off island was actively encouraged in St Helena society as a means of supplementing the incomes of family members who remained on the island. These remittances were seen as a positive contribution to the economy of St Helena therefore. As far as we know however there is no comprehensive measure of such remittances. However, some partial figures supplied by the SHG Statistics Office show that in 2011/12 around £2.4 million was transferred from individuals working on Ascension Island to accounts in the Bank of St Helena. It is also estimated that a further 10% (i.e. around a quarter of a million pounds) is transferred informally, via gifts and purchases. The contribution to the economy of St Helena of people working abroad is therefore seemingly quite substantial.

The policy option arises therefore to include time spent working abroad as valid qualifying years for people who return to the island. Taking this option would reflect one of the features of St Helena life that is distinct compared for example with the UK. For St Helenians working abroad is far more common than the UK and seen as a mix of desirable and necessary in order to increase the incomes of workers themselves and their families back home, and to increase the skills base of Saints.

There would be a cost to the social security budget of taking this option as more people would be entitled to Basic Island Pension compared with the present. However, this cost would be partially offset by a reduction in the IRB paid to people not currently receiving BIP. It is recommended that further work is undertaken within SHG to estimate the net costs. However, costing would only be necessary if a decision is taken in principle that overseas work should count towards qualifying years.

### **4.4 Work after the age of 65**

Under current BIP rules 'qualifying years' are only counted between the ages of 18 and 65 (the retirement age). There was some dissatisfaction with this, particularly in the context of (a) people commonly spending some of their time working abroad, and (b) the difficulty in providing evidence of working from many years before.

The scenario was presented to us of a person who had worked away from the Island for a number of years so that they had only accumulated, say, 18 qualifying years up to the age of 65. They then worked for a further five years to the age of 70. Under current rules these final five years would not count as qualifying years and so there

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<sup>4</sup> It is possible for example for someone to spend a large part of their working life on Ascension Island then return to St Helena to work perhaps 18 or 19 years before retirement and qualify for no pension at all despite a full working life.

would still be no entitlement to Basic Island Pension even though the person had been working on island for a total of over 20 years.

The second scenario was that because of the difficulty of proving an employment record a person may only be able to show, say 18 years verifiable employment up to the age of 65. Similarly to the example above they could then work another five years and still not have an entitlement to BIP.

In principle there is a strong argument for changing the definition of 'qualifying years' to include work after 65 years of age. The current rules do not appear to satisfy any discernible policy aims. On the contrary they convey the message that working beyond retirement age is not valued. It is not known how many people are adversely affected by the current rules in this way, but it is unlikely to be many.

#### **4.5 Retirement age of 65 adversely affects some current 60-65 year olds**

Income Related Benefit prior to 2011 was available to any person over 60 years of age. In practice this led to many Saints retiring at 60 and claiming IRB (which acted therefore as a *de facto* retirement benefit). When BIP was introduced for the over 65s only there were a number of 'retired' people in the 60-65 age bracket who were not eligible for BIP and so became eligible to IRB in its post-2011 form. Because many of these were receiving higher amounts of IRB under the old system than they were entitled to under the reformed IRB they became eligible for a Transitional Protection payment. Hence there is a group of older Saints on TP who will not have experienced an increase in their benefit income since 2011. This is another dissatisfied group who feel disadvantaged by the 2011 changes.

In addition a problem arises because of the official retirement age within SHG, which is currently 60 (though set to rise incrementally to 65 commencing in 2014). This has meant that many people have been obliged to stop work but who are not eligible for the Basic Island Pension. They can only claim the means tested IRB, and for some their retirement income is too high to qualify. Many feel aggrieved at effectively losing their main source of income by 'being forced to retire' but simultaneously being denied the state pension.

This is a particularly difficult and sensitive issue. It does not seem a proportionate response to reduce the qualifying age for BIP to 60. (In contrast many countries, including the UK, are in the process of raising the pension age in response to the growing costs of pensions and the improving health and longevity of older people that mean they are capable of extending their working lives.)

The mismatch between occupational pension ages and state pension ages is common to many countries and the anomaly is often accepted and tolerated as a slightly inequitable consequence of generous occupational schemes rather than as a failure of retirement policy. Taking no action and maintaining the status quo is an option therefore that would find some precedent in other countries.

However, there is a policy response that might have some merit in considering. There is an option to introduce an age-related rate of IRB for the over-60s. This might help some people by giving them an increase in income but it would be small

and would not address the fundamental issue of denying people BIP whilst being 'pensioners' of SHG.

#### **4.6 Loss of entitlement if the claimant is off island for over 90 days**

Under current BIP rules entitlement ceases after a recipient is temporarily absent for more than 90 days (roughly three months) or immediately if they are leaving St Helena permanently. This rule has no equivalent in the UK. UK pensioners who satisfy the eligibility criteria can continue to receive their pension during absences abroad. If they leave the UK permanently however the level of the pension does not increase from its initial value.

It is hard to find a justification for the St Helena restriction, which attracted some criticism during the Review. In particular it was seen as unfair because it was not uncommon for pensioners sometimes to spend between three and six months visiting family abroad (and occasionally longer). Such long visits were planned and undertaken because of the high cost of visiting places like the UK and South Africa. They could only be undertaken rarely.

According to figures supplied by the Claims Office there have been 22 cases to date where BIP has been stopped because of the 90 day rule. It is unclear what policy purpose is served by the rule apart from saving a small amount of money for the social security budget. It is recommended therefore that consideration is given to abolishing the rule. It is unpopular and perceived as unfair. There are few cases so the cost of change would not be great.

#### **4.7 Reduction in BIP award if claimant receives pension from another source**

Under current BIP rules the amount of an award of BIP is reduced if a claimant has income from a separate pension source (such as from SHG, Solomons, or a UK pension fund). Some people contributing to the Review objected to this rule in principle. The argument was that it was a disincentive to participation in an occupational or private pension scheme and was perceived as a 'punishment' for prudent financial behaviour in the past.

The current rules are effectively a form of means testing, reducing the amount of BIP for people with higher levels of resources. For comparison, the situation in the UK is that the basic retirement pension is not means tested and entitlement is not affected by other forms of income including occupational and other pensions. Having said that, it is possible to see some rationale for the St Helena policy. For example, SHG pensions until 2010 have been non-contributory. Ex SHG employees therefore have enjoyed a considerable advantage compared with other workers on the Island. A means tested BIP is therefore a way of targeting scarce resources away from people who are privileged in this way.

Nevertheless, there is a clear policy option of changing the current rules in St Helena so that additional pension income is not taken into account in the calculation of BIP. This is likely to be one of the more costly options considered in this report. It might



be possible to estimate the cost of paying full pensions (i.e. based on qualifying years) to existing BIP recipients, but it might be more difficult to estimate the number of new claimants who would become eligible by removing the current means test.

#### 4.8 Evidence rules for working, caring or being disabled

As mentioned above the principle on which a person becomes entitled to BIP is that they have contributed to St Helena life and society by working, bringing up children or caring for others, or have been prevented from doing so for reasons of disability. This principle is well-supported on St Helena.

However, turning this principle into workable legislative and administrative rules is not easy. The rules that were introduced in 2011 can be seen as reasonable because they reflected what was feasible at the time. The table is an attempt to summarise the current rules and evidence requirements.

**Table 4.2 Current evidence requirements for Basic Island Pension**

| <i>Valid activity/status</i> | <i>What counts</i>   |
|------------------------------|--|
| Working in paid employment   | Any year in which 6 months were spent in a combination of paid and unpaid employment counts as a 'qualifying years'.   |
| Working in unpaid employment |  |
| Bringing up children         | All years spent looking after a child up to the age of five are 'qualifying years'. Total qualifying years can therefore exceed five when more than one child is being raised. |
| Caring for a dependant       | Years spent looking after a person whilst ALSO in receipt of a Carer's Allowance are counted as qualifying years   |
| Being disabled               | Years in receipt of a Disability Allowance count as qualifying years   |

The difficulties in producing evidence that is satisfactory for audit purposes are the subject of section 5.

An additional issue arises in the way that the rules on caring and on being disabled tend to disadvantage some people and exclude them from benefit. We were cited examples of people who had been caring for a dependant before the introduction of Carer's Allowance in the late 1980s. These early years spent caring could not therefore be counted as qualifying years. Similarly, Disability Allowance was only introduced in the late 1980s, so any years before then cannot count towards qualifying years.

The overall impact is that some people cannot qualify for a Basic Island Pension (or only qualify for a 75% or 50% pension) even though they were actually caring or were themselves disabled for parts of their working age years. Confronted with this

outcome it seems that the question of whether BIP is reaching its intended target population has to be answered “not 100%”.

One policy response would be to accept different evidence for caring or being disabled. Such evidence need not be specified in regulations but should include ANY evidence that can support a claim. For disabled people this might include hospital or other medical records. The use of the balance of probabilities, as discussed further in section 5, could then be used to assess the evidence and decide cases.

## 4.9 Conclusion

This section has addressed a range of issues that have arisen in the nearly two years since the introduction of the Basic Island Pension. The introduction of BIP has clearly been a popular and effective policy innovation. However, as it was originally configured in 2011 it has to be questioned whether it is really acting in entirely the way that policy makers intended.

This Review has revealed the extent to which some people are disadvantaged by the current rules and has suggested remedies. All of these remedies have costs associated with them. Choosing which, if any, changes should be made, and *when* these can be made is not the task of the Review Team however. The choices are ultimately political decisions about affordability and priorities. However, some options have a stronger underpinning and we present them as recommendations here. Others have a wider range of pros and cons and we do not feel sufficiently confident to be able to make firm recommendations on them. They remain options for consideration and debate.

### Summary of recommendations

- 4.1 Extend BIP entitlement to people working fewer than 20 years on St Helena.
- 4.2 Count work off island as contributing to BIP ‘qualifying years’.
- 4.3 Count work after the age of 65 towards ‘qualifying years’.
- 4.4 Remove the rule imposing loss of entitlement for claimants off island for over 90 days.
- 4.5 Allow a greater range of evidence of working, caring or being disabled.
- 4.6 Give further consideration to:
  - Increasing the incomes of retired 60-65 year olds.
  - Abolishing reductions in BIP award for claimants receiving pension from another source.

## **5 BIP and IRB evidence issues<sup>5</sup>**

### **5.1 Introduction**

In the course of the visit to the Island by Roy Sainsbury in February 2013 the important issue of the quality of evidence on BIP and IRB claims was raised. The issue had become urgent because of the likely prospect of the SHG Financial Statements for 2011-12 being qualified on the basis of a lack of supporting documentation for claims to IRB and BIP following the first audit of the new system carried out in Summer 2012 (and reported in July 2012).

### **5.2 Background: The imminent qualification of the SHG financial statements**

The audit perspective is clearly set out in July 2012 Audit Report and the August 2012 Memo from the then Chief Auditor to the Financial Secretary. The lack of supporting information in the records of BIP and IRB means that a basic task of audit - to check assessments and ensure that correct payments have been made - has not been possible. Hence it is our understanding that the accounts for 2011-12 are likely to be qualified when they are finalised in due course.

In our view there is no practicable way of affecting this outcome. In February 2013 there were around 602 recipients of BIP and 196 recipients of IRB. Based on the audit report finding that only six of the 31 cases (roughly 20%) scrutinised had any supporting information it is reasonable to estimate that perhaps around 480 of the existing BIP awards and around 160 IRB claims are lacking supporting information. The only way in which audit requirements could be met therefore would be to reassess all of these awards and requesting evidence of entitlement from the recipients. In our view this would be a lengthy, time-consuming and costly exercise that could not be done in time to have an impact on the audit assessment.

We suggest therefore that no action is taken in response to the forthcoming audit report. Instead efforts should be made to make changes to the adjudication process that will ensure that evidence in support of claims is sought in the future and recorded (and therefore available for audit inspection later).

### **5.3 Avoiding qualification of accounts in the future**

To address the issue of avoiding qualification in future we propose an Action Plan comprising immediate, medium term and longer term changes to the St Helena social security system.

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<sup>5</sup> Because of the urgency of this issue an interim report was prepared and submitted in March 2013. This section largely reproduces this report but is integrated here so that the Social Welfare Review has a single, comprehensive output.

**Table 5.1 Summary of evidence issues on BIP and IRB**

|    | <i>Issue</i>   | <i>Recommendations</i>  |
|----|--|---|
| 1. | Lack of supporting evidence for BIP claims in the future | 1.1 Introduce a 'BIP decision making protocol' to establish a clear and auditable process for collecting and considering evidence and for making decisions.<br>1.2 Adopt the principle of the 'balance of probability' as the standard of proof in social security decision making. |
| 2. | Lack of supporting evidence for existing BIP claims      | 2.1 Consider the feasibility and timing of a review of the stock of BIP awards based on the decision making protocol  |
| 3. | Prospective lack of evidence of employment in the future | 3.1 Consider the option of establishing a St Helena employment record that could form the basis of BIP decision making in the future.   |
| 4. | Manipulation of bank accounts to avoid tariff income     | 4.1 Amend the Social Security Ordinance to include a section on 'deprivation of resources'.<br>4.2 Mount education and publicity campaign to explain why changes are justified.   |
| 5. | Incomplete administrative instructions                   | 5.1 Revise current drafts to include other changes consequent to the Social Welfare Review.   |

The following sections set out an analysis of the problem issues and the rationale for the recommendations in the Action Plan.

## 5.4 The information problems of BIP

### 5.4.1 Basic Island Pension information requirements

Qualification for BIP relies on a claimant satisfying the following conditions:

- a) being aged 65 years or older,
- b) being physically present in St Helena, and
- c) having completed at least 20 qualifying years in St Helena.

'Qualifying years' are defined as:

- i) being engaged in employment (including self-employment) in St Helena and (in the case of self-employment) filing appropriate tax returns;
- ii) having worked on a family farm or in a family business, regardless of whether or not the work was paid;
- iii) having had a child under the age of five years or caring for a disabled child; or
- iv) having been in receipt of a disability pension or carer's allowance paid by the Government of St Helena.

The amount of an individual's BIP award depends on the number of qualifying years and on receipt of other pension income (such as from SHG or from overseas).

These conditions and requirements is that they have a powerful logic to them that is appropriate to St Helena culture and society. Eligibility is clearly based on people having made a contribution to St Helena society in the form of paid and unpaid work, and time spent caring or, in contrast, being effectively denied those opportunities through long term disability. Because there has never been a National Insurance system on the Island (unlike in the UK where National Insurance was introduced in 1911) it was never an option to base entitlement on insurance contributions. As mentioned in section 4 it was clear that the basis of the Basic Island Pension was both widely understood and supported by Councillors, officials and the public.

#### *5.4.2 Information deficits*

The difficulties with BIP arise because of the evidence requirements. Claimants declare their employment record on the claim form but according to the former Chief Auditor: “it is nearly impossible to obtain evidence (of) the number of years worked on the island.”<sup>6</sup> It must be remembered that for the first wave of current BIP recipients (aged 65 and over in 2011) some periods of relevant employment will have been in the 1960s and earlier. It is clearly unrealistic to expect claimants to provide much or any concrete evidence of employment so many years in the past, though SHG employees might have some relevant written records. Furthermore this situation is unlikely to change for many years.

#### *5.4.3 A way forward – a new BIP decision making protocol and process*

In the immediate future we suggest that a ‘**BIP decision making protocol**’ is defined for the Claims Officers that will help them collect as much evidence as possible and which will provide a sound basis for their decision making. This process must recognise the realities of St Helenian life over the previous decades, particularly the fact that employment records outside SHG are rare and frequently were not created or kept at all, especially as much employment, including unpaid work, was undertaken within family units where such records were an irrelevance.

The decision making protocol will need development work, including input from the Law Office and Audit Department, but the principles should be as follows:

- The decision making process should be clearly defined as having three stages:
  - Collection and scrutiny of evidence
  - Establishing the facts on which a decision will be made
  - Applying the relevant social security law to the facts.
- For the first stage, the protocol should set out a range of evidence types that are appropriate. These will include:
  - Documentary evidence - for example, wage slips, long service awards, references, employer’s letter of confirmation
  - Oral evidence - for example, a statement given verbally (such as in a telephone call)
  - Other tangible evidence – for example, photographs.

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<sup>6</sup> Memo from (former) Chief Auditor to Financial Secretary, August 2012 (accessed March 2013).

The oral evidence could come directly from the claimant, or indirectly through a third party. It should be the job of the Claims Officer to help the claimant supply as much evidence as possible, although it will not be necessary to look for examples of all of them. Some types of evidence (such as written confirmation from an employer) will be sufficient without having to collect anything further. All evidence, and attempts to find evidence, should be recorded on a claimant's case file. It is recommended that a standard 'record of evidence' form is designed for this purpose

Having collected the evidence the next stage is to decide the facts of the case. This might be very straightforward in some, but probably only a minority of cases. The main facts to be decided in BIP claims are the periods of employment on St Helena. In deciding the facts we recommend the adoption of the '**balance of probability**' as the standard of proof. This is a well-established standard of proof used in civil law and has been used in social security decision making in the UK for many years.

The balance of probability involves the decision maker deciding whether it is more likely than not that an event occurred, or that an assertion is true. It does not mean that the claimant can be given the benefit of the doubt. If the evidence is incomplete or contradictory the decision maker must decide whether there is enough evidence in favour of one conclusion or another and to show which is the more likely.

The proposed 'record of evidence' form should contain a final section that summarises the facts of the case and the reasons for them. This provides a transparent link between efforts to produce evidence and the decision on a claim that can be scrutinised internally by Managers within the Health and Social Welfare Directorate and externally by the Audit Department.

For BIP the final stage of applying the law to the facts of the case is straightforward; the number of qualifying years dictates the level of the BIP award (before adjustments for other pension income, that is).

#### *5.4.4 Looking further forward*

The recommendations for a BIP decision making protocol are intended to apply to future claims for BIP not the current stock of cases. Ideally, the protocol should be applied to all cases to ensure that decisions made so far can be seen to be robust. However, as mentioned earlier this would be a lengthy, time-consuming and costly exercise. It is hard to estimate how long such an exercise would take but based on how long was needed to complete the latest uprating of benefits (20 person weeks for a relatively straightforward exercise) it can only be suggested that a review of all BIP cases would take many months. Current resources and levels of staffing suggest that this is not feasible at present but the option does remain of planning such a review in the future. However it does not seem to be a high priority at present.

A more future-looking option is to introduce into St Helena some form of official employment record that could be maintained over a person's working lifetime and which could eventually be used as sufficient evidence for deciding BIP claims. The record would also include periods of child-rearing, caring and periods out of the labour market due to disability. There may be some merit in investigating whether St Helena tax records could serve the same purpose but in my understanding tax

records do not cover the whole working age population and in any case do not include periods of the other activities just mentioned.

## **5.5 The information problems of Income Related Benefit**

### **5.5.1 IRB Information requirements**

IRB is affected by the level of a claimant's savings and other assets. Savings under £3,000 do not affect the calculation of an award. Savings over this amount are deemed to generate a notional ('tariff') income of £1 a week for every £1,000. Adjudication officers need therefore to obtain evidence of bank balances.

### **5.5.2 Information deficits**

The information problems with IRB raised in the Audit Report concern:

- a) Verification of UK bank balances.
- b) Manipulation of on-island bank accounts to avoid the tariff income from savings.

Problems in all these areas have contributed to the conclusion in the Audit Report to qualify the accounts for 2011-12.

The problem with UK bank balances is firstly whether a claimant has one, and secondly gaining access to a bank statement. The existence of a UK bank account relies on the claimant declaring it on the IRB claim form. If no such declaration is made and the adjudication officers have no reason to suspect a false declaration then there appears to be no problem. If there is suspicion however a fraud investigation should be the appropriate response. If a UK bank account is declared then a bank balance can be requested, and failure to produce one will mean that the claim cannot be decided.

### **5.5.3 A way forward – introducing 'deprivation of resources' into the Social Security Ordinance**

The problem of manipulating bank balances in order to qualify for or maximise benefit income is a familiar one from the UK and is referred to as 'deprivation of resources'. It is identified from bank *statements* that *must* be provided by the claimant. The claim form requires the claimant to supply the 'most recent' statement without specifying the period covered though it must include the date of the claim. As in St Helena the figure for the amount of savings used in the calculation of an award relates to the date of claim only. If an unusual or suspicious movement of savings is found then the claimant is asked to justify it. There can of course be many legitimate reasons for using large amounts of cash so it cannot automatically be assumed that a claimant is trying to avoid a tariff income. However if no satisfactory explanation is forthcoming the adjudication officer can decide to use a different figure that reflects the claimant's savings before the 'deprivation of resources'.

One obvious response to the problem identified in the Audit Report is to include in the Social Security Ordinance a section on 'deprivation of resources' modelled on the UK legislation, and to make the provision of a bank statement a condition of receiving benefit. However, this should be handled sensitively. From my experience

on island it became apparent that some people consider their bank accounts to be very private and not the business of SHG. It would seem wise therefore to inform and educate the St Helena public in advance about the reasons for making changes which they otherwise might react against.

## 5.6 Conclusion

It should be noted that this section is intended to inform the final Audit Report for 2011-12 by suggesting an Action Plan that addresses the problems it identified with current decision making processes. It hopefully provides some reassurance that the problems are not insurmountable although some will require some time and effort to overcome.

The balance of probability approach to decision making should probably not require legislation. It is not in the UK legislation as far as we know. The advice and views of the Law Office would help clarify this but my view is that the suggestion for a 'BIP decision making protocol' could form part of a new set of Administrative Instructions rather than needing a legislative base.

### **Summary of recommendations**

- 5.1 Introduce a 'BIP decision making protocol' to establish a clear and auditable process for collecting and considering evidence and for making decisions.
- 5.2 Adopt the principle of the 'balance of probability' as the standard of proof in social security decision making.
- 5.3 Consider the feasibility and timing of a review of the stock of BIP awards based on the decision making protocol
- 5.4 Consider the option of establishing a St Helena employment record that could form the basis of BIP decision making in the future.
- 5.5 Amend the Social Security Ordinance to include a section on 'deprivation of resources'.
- 5.6 Mount education and publicity campaign to explain why changes are justified.



## **6. The wider social policy framework: Unemployment Allowance, Disability Allowance, Carers Allowance, Occupational Therapy payments**

### **6.1 Introduction**

The main focus of this Social Welfare Review has been on the major changes to the social security system brought in in April 2011: the introduction of Basic Island Pension and the reform of Income Related Benefit.

However, there are a number of other social welfare payments that were left unchanged in 2011 but which form part of the wider welfare system. These are:

- Unemployment allowance
- Disability allowance
- Carers allowance
- Occupational therapy payments.

All of these benefits are based on policy documents rather than being formalised in legislation. In this section we review some of the issues raised by stakeholders in the course of the Review and make suggestions for change.

### **6.2 Unemployment Allowance**

Unemployment Allowance has no basis in legislation. The rules of entitlement and levels of award are matters of SHG policy.<sup>7</sup> The Unemployment Allowance is for residents of St Helena aged between 16 and 64 who are actively seeking employment and have been out of employment for over six weeks. It is also available for those in employment but earning under £27.50 per week. Cases are reviewed every six weeks to ensure that the claimant is complying with the requirement to be actively seeing work. The current rate of payment is £15.08 a week for a single claimant. Because this rate is low, many recipients of Unemployment Allowance also make claims for Income Related Benefit. In February 2013 there were 21 recipients.<sup>8</sup>

In our view Unemployment Allowance is an anomaly with the St Helena Social Security system. It could be abolished such that in future there would be a single benefit, IRB, that could be claimed by all working age claimants who are out of the labour market for whatever reason. This would simplify the current system and remove a layer of administration. To maintain a separate benefit for so few claimants does not seem justified.

The main difference between Unemployment Allowance and IRB is that recipients of the former are required to actively seek work. There is a clear policy aim to make receipt of Unemployment Allowance conditional upon taking steps back to work. This

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<sup>7</sup> We were supplied with a copy of the current Unemployment Allowance policy document. It is nearly two pages long only and has no accompanying Administrative Instructions comparable to those drawn up for BIP and IRB.

<sup>8</sup> A later figure supplied by the Claims Office on 2 April 2013 put the number of claimants at 13.

policy intent could be introduced into IRB using the mechanism of a different levels of conditionality’.

Such a mechanism has been a feature of the UK system for a number of years. The principle is that each claimant is assessed as being in one of three categories of job readiness, each category having separate conditions attached.<sup>9</sup> The table below illustrates how this might be done, recognising that the categories and conditions can be fine-tuned.

**Table 6.1 Possible conditionality regime for reformed IRB**

| <i>Category of job readiness</i>   | <i>Conditions</i>   |
|--|---|
| Job ready. No significant barriers to work. Capable of taking a job immediately  | Must actively seek work   |
| Not job ready immediately. Some barriers to work (such as health problems) that need addressing before becoming 100% job ready | Must be undertaking appropriate activity in order to become job ready |
| Permanently unable to work   | No conditions attached  |

The categorisation of a claimant would be the responsibility of the Claims Office staff. An individual Action Plan would then be drawn up so that there is a transparent benchmark against which a claimant’s efforts can be assessed. Failure to comply with the Action Plan requirements would result in the imposition of a sanction. Sanctions already exist in the St Helena social security system but these should be reviewed separately. Sanctions need to meet a number of requirements. They should act as a warning and disincentive to future claimants, but should also effect changes in behaviour in the person receiving the sanction.

A conditionality regime would apply to all IRB claimants. The policy aim would not be to impose punitive requirements on claimants but, on the contrary, be a mechanism that generates a dialogue and relationship between claimants and Claims Office staff oriented towards helping people find work. The role of the staff would change from predominantly processing claims and policing the system to one of active support and engagement with claimants.

A further drawback in having Unemployment Allowance defined only in policy documents is that claimants have no formal rights of appeal comparable to claimants of BIP and IRB whose rights are clearly defined in the Social Security Ordinance.

Amalgamating Unemployment Allowance and IRB is a logical development now that the two principal benefits of the social security system are defined in legislation. It is not necessarily a pressing reform but one that could be built in to medium term plans. It would require amendments to the Social Security Ordinance.

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<sup>9</sup> Changes to these arrangements will be made when Universal Credit is introduced in the UK in Autumn 2013.

## 6.3 Disability allowance, carers allowance and occupational therapy payment

### 6.3.1 Disability Allowance

Disability Allowance was introduced in the 1980s as a policy of SHG. It has no basis in legislation. Also it is not formally part of the social security system but a payment made from the budget of the Health and Social Welfare Directorate.

A person is entitled to a Disability Allowance if they have a 'permanent physical or mental impairment that has a substantial and long term adverse effect on his or her ability to carry out normal day-to-day activities as defined by the Senior Medical Officer'. It is not available to people who are assessed as having a temporary disability or who are living in full time residential care. It can be claimed by people in work as long as income from work does not exceed £30.52. People who are participating in the Occupational Therapy Scheme are exempt from this earnings limitation.

At the time of the Review visit in February 2013 there were 99 Disability Allowances in payment.<sup>10</sup> The value of an award was £9.45 a week.

We received some representations that the allowance was confusing, and administered inconsistently. It was unclear to many what the purpose of the Disability Allowance was, and what it was meant to achieve. The level of the award was considered very low and had not been updated for a number of years. There were also concerns that the strict test of *permanent* disability excluded a number of people who had a long term condition but might hope to recover (for example after medical treatment).

Members of civil society organisations who worked with disabled people said that there was inconsistency in the decisions of the medical practitioners who had Disability Allowance claimants referred to them for assessment. They reported that people with very similar levels of disability sometimes attracted opposite assessments.

It was not possible with the constraints of the Review to investigate Disability Allowance more fully but there is a strong case for a separate review that considers some fundamental policy questions, including what is the allowance for? What is it trying to achieve? What is the appropriate level of benefit needed to achieve its aims? How should eligibility be assessed? Who is best placed to make assessments of disability? How can consistency in decision making be achieved?

An additional reason why such a review is important is that receipt of Disability Allowance is used in decision making on Basic Island Pension. Years in receipt of Disability Allowance currently count towards the 'qualifying years' that are used to determine a person's eligibility and level of pension. There is a concern that the current policy on Disability Allowance does not necessarily identify all those people who are prevented from entering the labour market because of long term health and

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<sup>10</sup> Figures supplied by the Claims Office on 2 April 2013 show that this figure had fallen to 94.

disabling conditions. Some people who cannot work *temporarily* get no recognition of that fact in the assessment of BIP.

The recommendation that can be made at this stage is that a review of Disability Allowance is carried out and that the outcome of that review should be draft legislation rather than a new policy.

### 6.3.2 *Carer's allowance*

Like Unemployment Allowance and Disability Allowance entitlement to Carer's Allowance is defined in SHG policy rather than legislation. To be accurate the appropriate policy document does not use the term 'Carer's Allowance' but refers to a payment that can be made to people who provide care for people who are assessed as being in the 'Critical Support Category' under the Home Support Policy of the Public Health and Social Services Department.

Like Disability Allowance, Carer's Allowance is not formally part of the St Helena social security system. In February 2013 there were 17 people receiving a Carer's Allowance.

An eligible 'home support worker' receives a payment of £41 a week unless they are a family member (parent, spouse or civil partner) in which case the payment is reduced to £26.50 a week. The rationale for this reduction is that family members are expected as part of familial obligations to 'attend to domestic chores' such as cleaning and cooking. There is an exception for working age family members who give up paid employment to provide care. They are entitled to the full amount of £41.

There were no particular critical comments about Carer's Allowance compared with Disability Allowance and whether there is any need to alter the basis on which it is paid is unclear. Carer's Allowance can be seen as a *wage* and therefore not part of the benefits system. On the other hand it could be seen as an *income replacement benefit* for people prevented from participating in the open labour market by their caring responsibilities. This latter scenario is certainly appropriate for people who do give up work to care for family members.

It was not possible within the constraints of this Review to investigate Carer's Allowance in any depth and during the visit of Roy Sainsbury people in receipt of Carer's Allowance were not identified as a group to interview.

It is recommended though as a medium to long term project that a separate review of Carer's Allowance is undertaken.

### 6.3.3 *Occupational Therapy Payments*

Occupational therapy payments are made to people working in SHAPE (St. Helena's Active Participation in Enterprise). SHAPE is a Social Enterprise established in 2008 to offer training, support and employment opportunities to disabled and vulnerable adults. The current value of the payment is £30.52 a week.

OT payments are not formally part of the social security system and are not administered through the Claims Office or the social security payments system. Nevertheless they were discussed by stakeholders as a form of income that served as an alternative to income from the mainstream labour market.

Occupational therapy payments did not form part of the terms of reference for this Review and we have no recommendations or suggestions for change at this stage. However should there be a review of Disability Allowance carried out as recommended above then the relationship between the two payments should be included in that Review.

## 6.4 Conclusion

This section has reviewed as far as possible within the constraints of the Review some elements of the wider social welfare system some of which extend beyond social security.

The main conclusion is that after the major changes introduced in 2011 there is now a need to consolidate the social security and define as much as possible in legislation rather than in policy documents.

As mentioned above we recommend a separate review of Unemployment Allowance, Disability Allowance, Carer's Allowance and Occupational Therapy Payments. However, we do think that there is a case already for merging Unemployment Allowance with IRB, and for creating a legislative basis for Disability Allowance.

### **Summary of recommendations**

- 6.1 Merge Unemployment Allowance and Income Related Benefit.
- 6.2 Introduce a new conditionality regime for IRB that replicates to requirements on current Unemployment Allowance recipients.
- 6.3 Set up a review of Disability Allowance, Carer's Allowance and Occupational Therapy Payments with the long term aim of including them in social security legislation rather than maintain them as instruments of policy.

## 7. Operational issues – computerisation; the role of the Claims Office; appeals

### 7.1 Introduction

In the course of the Review a number of operational issues arose that were not anticipated from the terms of reference. These include the computerisation of the social security, the role of the staff of the Claims Office and the utilisation of the appeals process. These are all worth serious consideration as they afford opportunities for improving the performance and delivery of the social security system that should produce benefits for social security claimants and for SHG.

### 7.2 Computerisation

The current processes for deciding claims, calculating awards and recording information on claims are essentially manual and largely paper-based. They are labour intensive and time consuming, and not designed for the easy analysis of the social security data. One striking example of the effects of a non-computerised system is the time that was taken to revise around 900 BIP and IRB claims in payment after the announcement of the uprating of benefits in October 2012. Every claim had to be manually revised and the process was not complete until the end of January 2013.

It was also striking that even some seemingly basic questions that were raised by the Review Team proved impossible to answer quickly and easily. For example it was not straightforward to provide analyses of basic characteristics of the BIP and IRB populations.<sup>11</sup>

There is a compelling case for full computerisation of the benefit system. This means developing a computer system that takes data input from the Claims Office staff and makes benefit calculations automatically.

The advantages of computerisation would be as follows:

- Shorter processing times
- Reduction in possible errors in calculation
- Uprating would become a quick and easy process taking days not months
- Routine production of management data that can be used to analyse trends in benefit receipt and to produce performance data
- Greater understanding of benefit dynamics
- Information for policy making, especially if linked to other government data sources such as tax records.

At present the only benefits administered by the Claims Office are Basic Island Pension, Income Related Benefit and Unemployment Allowance. A programme of

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<sup>11</sup> To carry out some basic analyses a special statistical exercise was undertaken on behalf of the Review Team by staff of the Statistics Office and the Claims Office.

computerisation should therefore commence with these. However in time it is recommended that other benefits, such as Disability Allowance and Carer's Allowance are integrated into the computerised system.

There is also an issue of timing. This Social Welfare Review is recommending changes to the rules of BIP and IRB, and the abolition of Unemployment Allowance. It would make sense to start computerisation only after any structural changes are made. Having said that, preliminary work on computerisation, such as the basic architecture, should be possible in the meantime.

At present the St Helena social security system is relatively uncomplicated (certainly compared with the UK and other developed countries) and this is one of its strengths and virtues. It should therefore not be a major technical challenge to design a bespoke computerised system for the Island.

### **7.3 The role of the Claims Office**

The Claims Office has only two staff. The Manager combines a management role with the roles of front line claims processor and fraud officer. The Claims Officer deals exclusively with the administration of benefits. The Claims Office comes under the managerial oversight and direction of the Director of Health and Social Welfare.

Between them the two Claims Office staff maintain over 800 claims for BIP, IRB and Unemployment Allowance. As noted above this is largely manual work and is labour intensive and time consuming. The last report from the Audit Department dealt in detail with the administration of the social security system and made a number of recommendations for improvement. It was not the intention of this Review therefore to replicate this work.

From our consultations with the staff themselves and others in SHG plus first hand observations of the work carried out we can make a number of observations intended to contribute to future developments.

#### **7.3.1 Volume of workload**

The volume of work for the Office appears considerable, particularly during the periods of uprating. The nature of the work, as mentioned above, is predominantly benefit processing with some monitoring of Unemployment Allowance claimants, and for the Manager, some additional fraud work.

One of the outcomes from the computerisation of the system should be that the processing of new claims and the maintenance of existing claims will become quicker and easier. There should be more time therefore to devote to maintaining a relationship with claimants to ensure that they are receiving all their due entitlements and complying with the conditionality requirements. This latter task will certainly become more prominent if the recommendation in this Report to merge Unemployment Allowance with IRB is put into practice.

There is an opportunity at this time to reconfigure the role of the Claims Office to become more active in this way, including offering help and advice to people

currently out of the labour market to start or return to work. Such a role would go towards meeting one of the social objectives of the 2013-2018 Social Policy Plan: “employment for all those who need and are able to work with support for those who need additional help to enable them to find work”.

### *7.3.2 The isolation and vulnerability of Claims Office staff*

Because the population of St Helena is small and maintaining any sort of anonymity in work is virtually impossible the two staff of the Claims Office are in a potentially vulnerable position.

The staff are acting as independent adjudication officers on behalf of SHG. Although they may be required to make a number of judgments in the course of their work, the Ordinance and Regulations do not grant them any formal discretion to make payments. This is a situation that is seen as desirable by the stakeholders consulted during the Review including members of the Legislative Council. It is inevitable however that some people are unhappy with the outcome of their claim. At present there are two common responses from claimants. They either make direct representations to the Claims staff by visiting the office or phoning, or direct a complaint via their elected Councillor who then makes representations on their behalf.

This form of direct engagement with adjudication staff would be considered inappropriate in most other countries. It exposes them to direct pressure which in a small community can be particularly difficult to deal with. It is appropriate however for any claimant or their representative to request an explanation of a decision or ask for more information about a claim. But if any challenge to the decision is intended, either immediately or after further information has been supplied, this should be made using the current procedures established by the Social Security Ordinance 2010. How this should work is discussed further in section 7.4 below.

### *7.3.3 Incomplete Administrative Instructions*

The Social Security Ordinance and Regulations set out the legislative framework of BIP and IRB but these are not appropriate or adequate working documents for directing Claims staff in how to administer claims. Recognising this, the former Social Welfare Consultant had begun to draw up two sets of ‘Administrative Instructions’ but does not appear to have completed the task. They are still in draft form.

These are important documents that need to be revised and completed and kept up to date as changes to the system are made in the future. In the absence of a Consultant to do this work it is suggested that the Health and Social Welfare Directorate is the most appropriate part of SHG to take responsibility for the task drawing on the day-to-day experience of the Claims Office staff, SPPU staff, and staff in the Audit and Law Departments.



## 7.4 Appeals

In the course of this Review we received representations about the lack of an effective and fair appeals process. However, after investigating this further we have come to the view that an adequate process already exists and that therefore any problems arise from a lack of knowledge about what has been provided. What is also lacking is a set of Administrative Instructions that can guide the Claims staff when they receive any follow up contact about individual claims after decisions have been made.

The appeals process, which also covers reviews of decisions, is clearly set out in section 14 of the Social Security Ordinance 2010. It is replicated in the box for clarity.

### **Review and appeal**

- 14. (1)** Any person who is aggrieved by a decision of the adjudication officer -
- (a) to refuse an application for payment of any benefit;
  - (b) with respect to the rate or amount of entitlement to such benefit; or
  - (c) to withdraw, adjust or suspend the payment of such benefit, may, within 14 days of being informed of the adjudication officer's decision, request that such decision be reviewed by the Head of the Department of the St. Helena Public Service in which such adjudication officer is employed.
- (2)** A person who is aggrieved by the decision of the Head of Department under subsection (1) may, within 14 days of being informed of that decision, appeal to the Magistrates' Court against such decision.

There is no single source of information for claimants and representatives about what to do when they are not happy about a decision on their claim. Publicity leaflets on BIP and IRB produced by the Health and Social Welfare Directorate contain the same short paragraph on appeals and the separate leaflet on overpayments has more detailed information about how the review and appeals processes work. As mentioned earlier in the report, there are no formal rights for claimants of Unemployment Allowance.

In conclusion St Helena has perfectly adequate procedures for dealing with reviews and appeals on BIP and IRB claims. These need to be publicised more widely among all stakeholders. A dedicated leaflet would be useful. A clear set of Administrative Instructions is needed setting out the roles of the Claims staff and the Director of Health and Social Welfare (as the current 'Head of Department' as defined in the Ordinance). The Claims staff should feel confident in passing appropriate cases to the Director.

## 7.5 Conclusion

This section has considered three different operational issues: computerisation of the social security system, the role of the Claims Office and use of the Appeals system. Following the reform of IRB and the introduction of BIP there has been a period of settling in and adjustment to the new arrangements among the claimants and the staff of the Claims Office. Now that the staff have settled in to a familiar and streamlined pattern of working it has become clear that there are now opportunities for change and development. The computerisation of the system must be a firm priority. This will release staff time to develop their roles away from mainly processing benefits and more towards becoming active advisers and helpers to people who are currently out of work.

### **Summary of recommendations**

- 7.1 Commence as soon as possible the computerisation of the social security system.
- 7.2 As a consequence of computerisation redefine the role of the Claims Office staff so that more support can be offered to people out of work to enter or return to the labour market.
- 7.3 Ensure that the complaints and appeals procedures are more widely understood and properly implemented so that Claims Office staff are not inappropriately approached by claimants and their representatives.
- 7.4 Provide Claims Office staff with comprehensive and up to date Administrative Instructions (completing the work commenced by the former Social Policy Planner).

## 8. Conclusion and summary of recommendations

The conclusions from this Social Welfare Review are divided into recommendations for policy decisions that we make with some confidence and suggestions for further work on some issues before policy decisions are taken. Our conclusions are based on the recognition that all policy decisions are ultimately political decisions that must be taken in the context of a variety of influences and constraints, not least the limited resources that are available on St Helena to make changes.

Also in making these recommendations we are aware that not everything can be achieved at once or indeed soon and that hard decisions need to be taken about the level of resources that can be made available to fund any desired changes. In considering these recommendations therefore we hope that none are rejected as impossible purely on cost grounds. A sensible outcome from this review process would be a plan of action that takes in the next five years. This is the approach taken in the 2013-2018 St Helena Social Policy Plan and we recommend it as appropriate to making changes to the social welfare system.

### Summary of recommendations

#### **Adequacy and uprating**

- 2.1 Continue the development work on a minimum income standard for St Helena and as soon as practicable adopt a minimum income standards approach as the basis for setting and uprating benefit levels.
- 2.2 SHG to work towards the introduction of a child benefit/allowance as soon as possible.

#### **Targeting of benefits: Definition of household**

- 3.1 Change the basis of IRB awards from household to families (defined as claimant, partner and children).
- 3.2 Draft changes to the Social Security Ordinance to effect this change.
- 3.3 Undertake further work on a possible 'shared household deduction' to take into account the economies of scale of people living together and sharing household costs.
- 3.4 Undertake further work on options whether or not to increase the income of TP recipients in recognition of rising prices.

### **Targeting of benefits: Basic Island Pension qualifying criteria**

- 4.1 Extend BIP entitlement to people who have worked fewer than 20 years on St Helena.
- 4.2 Count work off island as contributing to BIP 'qualifying years'.
- 4.3 Count work after the age of 65 towards 'qualifying years'.
- 4.4 Remove the rule imposing loss of entitlement for claimants off island for over 90 days.
- 4.5 Allow a greater range of evidence of working, caring or being disabled.
- 4.6 Give further consideration to:
  - Increasing the incomes of retired 60-65 year olds.
  - Abolishing reductions in BIP award for claimants receiving a pension from another source.

### **BIP and IRB: evidence issues**

- 5.1 Introduce a 'BIP decision making protocol' to establish a clear and auditable process for collecting and considering evidence and for making decisions.
- 5.2 Adopt the principle of the 'balance of probability' as the standard of proof in social security decision making.
- 5.3 Consider the feasibility and timing of a review of the stock of BIP awards based on the decision making protocol
- 5.4 Consider the option of establishing a St Helena employment record that could form the basis of BIP decision making in the future.
- 5.5 Amend the Social Security Ordinance to include a section on 'deprivation of resources'.
- 5.6 Mount an education and publicity campaign to explain why changes are justified.

### **Unemployment Allowance, Disability Allowance, Carers Allowance, Occupational Therapy payments**

- 6.1 Merge Unemployment Allowance and Income Related Benefit.
- 6.2 Introduce a new conditionality regime for IRB that replicates and extends the requirements on current Unemployment Allowance recipients.
- 6.3 Set up a review of Disability Allowance, Carer's Allowance and Occupational Therapy Payments with the long term aim of including them in social security legislation rather than maintain them as instruments of policy.

### **Operational issues**

- 7.1 Commence as soon as possible the computerisation of the social security system.
- 7.2 As a consequence of computerisation redefine the role of the Claims Office staff so that more support can be offered to people out of work to enter or return to the labour market.
- 7.3 Ensure that the complaints and appeals procedures are more widely understood and properly implemented so that Claims Office staff are not inappropriately approached by claimants and their representatives.
- 7.4 Provide Claims Office staff with comprehensive and up to date Administrative Instructions (completing the work commenced by the former Social Policy Planner).