



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 24 September 2020

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 24 September 2020

CONTENTS

	Col.
SUBORDINATE LEGISLATION	1
Scottish Child Payment Regulations 2020 [Draft]	1
First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020 [Draft].....	1
First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020 [Draft].....	18
Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 [Draft]	18

SOCIAL SECURITY COMMITTEE
17th Meeting 2020, Session 5

CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

DEPUTY CONVENER

*Pauline McNeill (Glasgow) (Lab)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Jeremy Balfour (Lothian) (Con)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Mark Griffin (Central Scotland) (Lab)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*Alison Johnstone (Lothian) (Green)

*Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Shirley-Anne Somerville (Cabinet Secretary for Social Security and Older People)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

Virtual Meeting

Scottish Parliament

Social Security Committee

Thursday 24 September 2020

[The Convener opened the meeting at 09:32]

Subordinate Legislation

Scottish Child Payment Regulations 2020 [Draft]

First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020 [Draft]

The Convener (Bob Doris): Good morning, everyone, and welcome to the 17th meeting in 2020 of the Social Security Committee. We have a full house today; no apologies have been received.

Agenda item 1 is on subordinate legislation. We are taking evidence on the draft Scottish Child Payment Regulations 2020 and the draft First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020, which are both subject to the affirmative procedure.

I welcome Shirley-Anne Somerville, the Cabinet Secretary for Social Security and Older People, and her officials: Hannah Graham, Scottish child payment policy team leader, social security policy division; Stephanie Virlogeux, lawyer; Veronica Smith, cross-cutting policy officer; and Susan Robb, solicitor, from the Scottish Government. You are all welcome. I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): Good morning. I am delighted to be here to assist the committee in its consideration of the Scottish child payment regulations. The Scottish child payment has rightly been described as a “game changer” by our stakeholders. It is a key element of our multifaceted tackling child poverty delivery plan and it contributes to one of the three drivers of poverty reduction in that plan—that of maximising incomes from social security.

The Scottish child payment will be delivered by Social Security Scotland; the equivalent of £10 a week per child will be paid every four weeks in arrears to eligible families who are in receipt of existing low-income benefits. As you are all aware, the payment and the regulations that you are considering today are initially being introduced for

children under six. Our ability to deliver the payments early will benefit a significant number of children in poverty, with almost 60 per cent living in a household where the youngest child is aged under six. Unlike the United Kingdom Government’s payment, there is no cap on the number of children a family can claim for. Eligible families with two children under six will receive up to £1,040 per year, and eligible families with three children under six will receive up to £1,560.

The Scottish Fiscal Commission’s latest forecast is that costs for the first full year of the Scottish child payment will be £77 million, and it suggests that the payment could support up to 194,000 children this year. That number has increased by 14 per cent since the Scottish Government released forecasts in June 2019, largely because of the increased universal credit case load as a result of Covid-19. That tells us that the support is needed more than ever.

Turning to the regulations themselves, the Scottish child payment is provided for under section 79 of the Social Security (Scotland) Act 2018, which enables reserved benefits to be topped up. That approach was chosen because it is the quickest route to allow us to tackle child poverty. It is also the first time that we have used the top-up powers. The regulations set out the rules and eligibility criteria for the Scottish child payment for children under six. They include provisions for eligibility, for the timing and value of payments, and for the period when we begin taking applications ahead of the official opening date. They also include provisions relating to redeterminations and appeals.

The policy and the regulations were informed by a wide range of face-to-face engagement with stakeholders, such as anti-poverty charities, welfare advice services, academics—[*Inaudible.*] We also sought the views of people with lived experience of the benefits system, and more than 300 people participated in our user research. My officials engaged with, and we formally consulted, the Scottish Commission on Social Security on the draft regulations, and I am pleased to advise that we have made a number of positive changes in response to their scrutiny and to others’ views. Those include the introduction of a 12-week linking period, whereby a client does not need to reapply for assistance if they come on and off qualifying benefit entitlement, and a determination without application provision for clients with second or subsequent children. Those provisions are key to maximising take-up of the benefit.

Ensuring that clients are aware of their entitlements is of course a priority. The launch of the payment will be supported by a communications and marketing campaign, which will build on what we have learned through the

promotion of the best start payments and wider benefit take-up activity.

I will now make a few brief remarks on the First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020. As the Scottish child payment is a form of top-up assistance under section 79 of the 2018 act, not all the existing tribunal rules cover that type of assistance, so a few technical amendments are required to ensure that the tribunal procedure and composition regulations apply in relation to appeals concerning the Scottish child payment in the same way that they apply to appeals concerning the other devolved benefits. I have also taken the opportunity to make a technical amendment to rule 20 of the procedural rules. That makes it explicit that, if there is a right to appeal against the original determination, the 31-day period will run from the date on which an appellant is informed of the right to appeal against the original determination.

In the course of amending the regulations, we consulted the president of the Scottish tribunals and the judicial reference group, and I am pleased to confirm that they were content with the proposals. I wish to put on record my thanks to the Judicial Office for Scotland for its contributions.

Subject to Parliament's approval of both sets of regulations, we intend to open applications for the Scottish child payment for under-sixes in November and to make the first payments to eligible families from the end of February 2021. Delivery will be only two months later than originally planned, which is a significant achievement, given the challenges of Covid-19. I hope that the committee can recommend the regulations for approval today so that the new payment, which is very much needed, can benefit families across Scotland.

The Convener: Thank you very much. We will now move to questions.

I am sure that you followed last week's evidence session with stakeholder groups. It covered specific questions on the Scottish child payment and calls to go further in a variety of ways; in part, it almost warped into a kind of budget scrutiny session as well. I was interested to hear about the 14 per cent increase in eligibility for the Scottish child payment. Can you clarify that it is for the under-sixes that you will accept qualifying benefits in phase 1, or is that across the board? Have you estimated what the additional cost will be to the Scottish Government?

Shirley-Anne Somerville: It is for the under-sixes. I stress to the committee that the budget is demand led. If people apply and are eligible for the payment, they will of course get it. We are doing our utmost to ensure that we will be able to

encourage uptake—I am sure that we will come on to that.

It is very difficult to forecast how much it is going to cost, because it is difficult to look even three months, never mind six months or the whole financial year, ahead. That financial cost will have to be met, and given that it is a Scotland-only benefit, it will be fully funded from the Scottish block grant.

The Convener: For the record, I have previously raised the issue of costings of Scottish social security with the First Minister, at the Conveners Group, and I made the same point about demand-led budgets. We have been reassured that, irrespective of the cost, that policy commitment will be funded in full.

If you could give us a figure today for what a 14 per cent cost increase looks like, that would be helpful; otherwise, if you could write to the committee, that would be welcome.

In the context of additional demands on our budgets—which the campaign group should be making, as its job is to campaign for the vulnerable groups that it seeks to protect and advance the cause of—does the recent announcement by the Chancellor of the Exchequer that there will be no budget this year create greater uncertainty in relation to the financial projections for the social security budget, which are there to help us to better understand calls for additional spending from our budget that might be made, and about which we would consequently ask you, as the social security secretary?

Shirley-Anne Somerville: I stress that this forecast is based on a great deal of uncertainty, but our current estimate for the first full year of the roll-out of the Scottish child payment for under-sixes stands at £77 million in 2021-22. That compares with the previous forecast by the Scottish Fiscal Commission, in February 2020, of £65 million. As the committee will appreciate, that is a substantial increase, which leads to challenges. That is one of the general aspects of the social security budget that we will have to bear in mind as we move forward with any requests for further expenditure; it is demand led.

We have a fixed budget in the Scottish Government. It looks as though the UK Government budget is not even going to take place next year, to allow us to fix our budget in relation to that; even that level of certainty may be taken away. In addition, we have exceptionally limited borrowing powers in the current set-up. That makes it very difficult to continue to increase expenditure on social security for Scotland-only payments, as we do not receive any block grant adjustments for those.

We will have to get used to the new normal of having some social security powers in the Scottish Parliament. That variation in year and between years will make it very challenging for the Scottish Government and the Scottish Parliament to analyse budgets as we go forward.

The Convener: I will move on to another theme, which, ironically, will have financial consequences if you are able to act on it. Calls have been made on the age of eligibility, as I am sure you are well aware, when it comes to young people who turn from five to six years old and lose their eligibility for a period because of the phased introduction.

The Scottish Government has put it on record that that has to do with the availability of data from the Department for Work and Pensions. It might be helpful if you could give a bit of clarity on why you are not able to continue the payment in those circumstances and to consider the representations that have been made to us about some families, who will rely on that cash, because they will have received it for a period and budgeted accordingly. When that money is temporarily not provided to them, that might have an impact. Can the Scottish Government consider further alternatives to soften the blow and help that group? The call has been made for additional money.

09:45

Shirley-Anne Somerville: I am keeping a close eye on making sure that we notify and communicate with families as their child approaches their sixth birthday, so that they are well aware that—until full roll-out—the payment is up until a child is six. We hope that knowing that the money will stop at that point will assist with their budgeting. We have looked at that in great detail, to see whether there is something else that could be done.

As you said, convener, and as I have stated to the committee and to Parliament in the past, the payment is coming in for under-sixes because we have that data from the DWP. Currently, we do not have the data from the DWP for over-sixes. The DWP has confirmed that the required data on children who are aged six and over will not be delivered before we are looking to fully roll out the payment. Therefore, at the moment, there is no option for us to continue the payment, because the data is not in place. We have looked at that with the DWP to see whether the data could have been brought to us in time.

Of course, we explored other avenues for continuing the payment. One such avenue was making payments at risk, which would have involved us placing a duty on the applicant to inform us if their circumstances changed, but our conclusion was that there would have been

significant audit risks with that. If we were unable to prove a client's eligibility for a benefit, we would not be compliant with the "Scottish Public Finance Manual". It is difficult to see how we could have a Government agency knowingly moving into a position of not being compliant with that manual.

I fully appreciate where organisations such as the Child Poverty Action Group are coming from on the issue. The only reassurance that I can give to the committee is that we have looked at the situation to see whether there is a way round it or something that could be done but, unfortunately, it is our conclusion that there is not.

The Convener: Thank you. Rachael Hamilton has a supplementary question on that theme. I remind members that we are hoping to finish at around half past 10. I am conscious that I have just spent time asking several questions, but it would be helpful if members could be brief.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Thank you. I will make it quick. Cabinet secretary, thank you for appearing in front of the committee today. We took evidence from the One Parent Families Scotland group last week. It stated in its submission that

"Social Security Scotland will ... have the information on the family income and eligibility"

for under-six-year-olds in order to cover that transition. The group believes that

"transitional protection could be put in place".

In the papers that we have before us, the Scottish Government's response is that "tens of thousands" of individuals might have to be checked, which would be "an enormous administrative burden". Have you worked out the cost analysis of that and the benefits that those tens of thousands of individuals might miss out on?

Shirley-Anne Somerville: Again, I have looked closely at that suggestion. As I said, the Government did not make that decision because it wanted to stop payments; there are practical difficulties. Given the number of clients who would be affected—tens of thousands, as Rachael Hamilton said—it would be a large administrative burden on Social Security Scotland.

We have not looked into how much it would cost, because we do not believe that manual checking would remove the risks around compliance with the Scottish public finance manual. Such checks would need to be limited, and they would be retrospective. Therefore the challenges of ensuring that we are complying with our audit responsibilities and with the manual make it impossible for a Government agency knowingly to move into such an area. All the advice that I am getting says that there are

significant audit challenges around that and that we would not then be complying with the manual.

The Convener: We will move on to the third theme, and a question from Jeremy Balfour.

Jeremy Balfour (Lothian) (Con): Good morning, cabinet secretary. Thank you for attending the meeting.

I have a question on regulation 20, which is on page 7 of the regulations. It concerns overpayments. The terminology that is used there is a “reasonable level”. The SCP is given only to those who have already been shown to be experiencing hardship. Regulation 20 seems to look only at what happens when there has been an overpayment. I am not quite sure what is meant by a “reasonable level”. Do you have a definition of what Social Security Scotland will use as such a level?

Shirley-Anne Somerville: We will ensure that we consult with stakeholders on that as we move forward. As the committee would expect, in forming the agency’s policies, we are doing everything that we can to ensure that they are built on dignity, fairness and respect, which absolutely includes dealing with overpayments.

If the making of an overpayment were to be the fault of the agency, a client would not be required to pay it back. However, if an individual were to be told that the agency had to recover costs from them, their financial circumstances would be taken into account, as would other matters such as their health. The agency has an absolute determination that its policy on how such overpayments are to be dealt with should ensure that no one is placed in financial hardship. Of course, people would also have a right to challenge decisions on such matters.

When it comes to the specifics, we are keen to work with stakeholders to ensure that the agency understands what a reasonable level might be. That would be done with a requirement to consider the financial circumstances. It is important that, instead of taking a blanket approach, we adopt a person-led approach and consider each case individually. In that way, we can ensure that the approach fits that individual client’s needs and requirements rather than have one approach that applies to everyone. We will ensure that we deal with stakeholders so that we have a full understanding of their wishes as we move forward.

The Convener: Do you want to come back in on that, Jeremy?

Jeremy Balfour: I understand that you want to deal with cases individually, but there needs to be clarity so that if decisions are appealed, the tribunal can understand the terminology. Will that

definition be created by the agency or by the Scottish Government? We are only a few months away from the first payment being made, so that point could come into play in the middle of next year.

If no definition has yet been made by either the agency or the Scottish Government, will the cabinet secretary write to the committee once there is more clarity on it? I appreciate that you want to deal with claimants individually, but the difficulty is that we also need clarity so that they can go to tribunals in an appropriate way.

Shirley-Anne Somerville: You have raised an important point about everyone having clarity and reassurance that what we do will be reasonable.

The regulations state that a “reasonable level” has to be decided by reference to the individual circumstances of a client’s case, because what might be reasonable for one person might not be reasonable for someone else. However, it is, of course, important that guidance is made available to staff.

That might be something that we could return to in writing, perhaps through the agency as it progresses with the operational guidance, which, as I say, will be done in consultation with stakeholders. Of course, there have been previous discussions about overpayments and so on. We can perhaps detail what the client advisers and case managers would be looking at as they go through that process. Doing that might be helpful and could reassure the committee.

The Convener: If Jeremy Balfour wants to come back in, he will have to be really brief.

Jeremy Balfour: I will be very brief. There will be times when people are not working and times when they are working, so deductions will be made to the payment. How will those be worked out? Parents will move in and out of entitlement—they may be entitled to support one month and not entitled to support another month. What guidance will the agency give to claimants?

Shirley-Anne Somerville: We will make sure that people are aware of the changes and the fact that the benefit is dependent on their eligibility for another low-income benefit.

I return to one of the important changes that we made to the regulations after the consultation with SCOSS. We introduced a 12-week linking period in which a client does not need to reapply for assistance if they come on and off a qualifying benefit entitlement. That was done to ensure that, if there is a variation to the eligibility for the underlying benefit, the reintroduction to the Scottish child payment is easier.

The Convener: Thank you. I will move to Rachael Hamilton and then to Alison Johnstone.

Rachael Hamilton: Sorry, convener, but I was going to ask about uprating.

The Convener: Yes—that comes under same theme.

Rachael Hamilton: Okay. I will move on to some of the evidence that Jon Shaw gave to the committee last week and the Child Poverty Action Group and Poverty Alliance recommendations on uprating. How will the Scottish child payment impact on the budget? I know that there is a stage 3 amendment on uprating. However, Jon Shaw made the point that uprating methodology can be put in place as long as the Scottish Fiscal Commission is able to forecast the expenditure. How will you consider that, particularly given the situation with Covid?

Shirley-Anne Somerville: As you said, a stage 3 amendment has been introduced to the Social Security Administration and Tribunal Membership (Scotland) Bill. Obviously, the committee has been considering the bill. That is an important reassurance that the policy commitment to uprate the Scottish child payment will happen.

The payment will be uprated in the same manner as the other benefits that we are required to uprate. The committee has had quite lengthy discussions around how to uprate and what measurement to use. It is important that we use the same measure of uprating—that is, the consumer prices index. That will be done from April 2022.

Rachael Hamilton: Might the Scottish Government consider using different methods of indexation? Jon Shaw made the point that different rates are used. This should not become a matter of confusion for claimants. They need not know that there are different methods of uprating, and their entitlements could simply increase in line with whatever the Scottish Government decides, as long as it makes the Scottish Fiscal Commission aware of that.

Shirley-Anne Somerville: It is important that the Scottish Government is consistent with its uprating.

We undertook a study on uprating for this financial year, which considered the different measurements. It came down strongly in favour of uprating by CPI inflation figures, which we will continue to do. That is why we are keen to move forward with a consistent approach on that.

10:00

There are other uprating methods, but the decision that was taken at the start of this year, following a great deal of discussion at the committee and on the floor of the chamber, was

for uprating to be done using CPI figures. The research showed clear evidence for that approach.

The Convener: Rachael, we will have to move on to questions from other members.

Alison Johnstone (Lothian) (Green): Good morning, cabinet secretary. I appreciate that the Scottish Government's plan is to uprate the Scottish child payment in line with CPI inflation from 2022, but that will be several years after the payment was first adopted as Government policy. By then, it will also have lost value over time. What is the justification for waiting until 2022 to uprate, instead of taking the first opportunity to do so, which is in April 2021? As I am sure that the cabinet secretary will be aware, the Child Poverty Action Group and the Poverty Alliance have called for that.

Shirley-Anne Somerville: When we announced the Scottish child payment, we were clear that it would be worth £10 per week per child when it was launched, in 2020-21. That figure has not changed. I remind the committee that the campaign sought a £5 increase but the Scottish Government moved to a rate of £10 per week per child, as I made clear when the payment was launched.

Applications for the payment will open in November, and the first payments will be made by the end of February 2021. I therefore think that it makes sense to start the uprating from the following year. By moving a stage 3 amendment to the Social Security Administration and Tribunal Membership (Scotland) Bill that is progressing through Parliament, we will ensure that the policy commitment is guaranteed to ensure uprating.

Alison Johnstone: The cabinet secretary will be aware that the campaign for a £5 top-up was based on the payment being unconditional and non-means tested, with all the benefits that the universal application of child benefit has delivered. What plans does the Scottish Government have to review the adequacy of the £10 payment with the aim of reducing child poverty, especially if the interim child poverty targets are not met?

Shirley-Anne Somerville: I do not want to rehearse arguments that we have gone over many times in the past, but the £5 universal payment would have left the vast majority of such payments not going to children who were actually in poverty. That is why we have taken a much more targeted approach.

Decisions on the adequacy of benefits, and any changes to them, are considered in the budget process each year. The decision on uprating is taken according to what is thought to be the best way to ensure that benefits keep up with price increases. We are required to do that under the Social Security (Scotland) Act 2018.

The Convener: We will move to the fourth theme, and a question from Mark Griffin.

Mark Griffin (Central Scotland) (Lab): Given that the Scottish child payment is a passported entitlement and that the Scottish Government oversees the data on exactly who is entitled to it, the system for it seems to be ripe for automation. Will the cabinet secretary set out exactly what the barriers to automation are? Is there a realistic prospect of the payment being automated in the near future?

Shirley-Anne Somerville: The barrier to automation is simply the time that it would take to build that system. The decision was taken at the start, when we were looking at how to pay the Scottish child payment, to see how we could get that benefit in as quickly as possible. As we have discussed, and as I know Mark Griffin is well aware, there were limitations to what could be done in the timeframe in which we wanted to deliver the Scottish child payment. That meant that automation could not be done.

As I have said on numerous occasions to the committee, I am keen to look at automation, not just in relation to the Scottish child payment but in relation to what we can do to ensure that we are making it as simple as possible for people to get what they are eligible for. Automation is an obvious way to do that, so we keep it under continual review and challenge ourselves about what can be done. However, it has to be weighed up against the question of whether it would delay the bringing in of the payment. In this case, it definitely would have done so.

I have said in the past that I am keen to look at automation and to make sure that we are consistently challenging ourselves about the art of the possible. If we had decided to take that action, there would have been implications for the delivery schedule; it would have been a more complex build and therefore it would have taken longer for us to get into operation. Those are the types of challenges and decisions that we look at in the Government. As we move forward, I am more than happy to make sure that the committee is aware that, if we have ruled out automation, it is because of the impact on the timetable. To be frank, I did not feel that that was a good use of our time.

Pauline McNeill (Glasgow) (Lab): Good morning, cabinet secretary. You may have alluded to this, but I want to be clear and I hope to get a yes or no answer. Are you confirming that, if a child is five years old on application in November but is six by the time of the roll-out, the parent or person with parental responsibility will still get a payment for that short period?

Shirley-Anne Somerville: No. The payments come not from the application date but from the

eligibility date, which is in the new year. That is because we are trying to ensure that, when the applications come in to Social Security Scotland, it has the ability to deal with those applications in a timely manner. In effect, we are opening up the application process and then making sure that the agency has enough time to process applications before payments are required. That will allow the agency to do the administrative part without any delays to payments for the clients.

If a child turns six in the pre-application period, they will not be eligible. The eligibility date is in mid-February, and eligibility will be assessed from that point. We will, of course, make that very clear to clients in guidance as we move forward.

Pauline McNeill: Thank you. I had misunderstood that. To be honest, I think that it is a bit of a shame if the application process is open and a child is not yet 6 but they will not be eligible, but at least I know what the answer is.

Following on from Mark Griffin's question on automation, I understand that it is complex but that it is where you desire to be in the long run. Have you looked, or are you willing to look, at tagging it on to child benefit? Given that you are getting all that data from Her Majesty's Revenue and Customs, it seems to me absolutely possible to do that. I know that we are looking at whether there should be some choice in the frequency of the payment, but child benefit is paid weekly and it seems to me that that has worked well. Do you not think that automation could be tagged on to child benefit as a way forward? I appreciate that child benefit is paid weekly, but might that not be a better way of paying out the Scottish child payment?

Shirley-Anne Somerville: I will try to deal with all those points. Pauline McNeill can advise me if I miss one.

We looked at the area of backdating. We took the decision to open the application process before the eligibility date in order to allow the agency to deal with the flood of applications that we want to come in, and we considered that backdating provision would add a great deal of complexity, increase the risk of error and require additional resource. For example, clerically, the agency would have to verify eligibility for every week of the 14-week pre-application period, thereby increasing the time needed to process applications and adding pressure on the agency at a time when it is trying to get through the large number of applications that are coming in. Our concern is that backdating would create a backlog.

There is also a challenge around automation and interfaces. When looking at any automation, we would need to set up an interface with the DWP or, when it comes to child benefit, with

HMRC. That would not be done overnight or anywhere near it, and it would require a new set of data-sharing arrangements. Likewise, if we looked at automation for other benefits, it would have to interface not just with the universal credit system but with every other legacy benefit.

Child benefit can also be claimed by someone who does not live with the child, which perhaps goes against the policy intent of paying it to the main carer, where possible. I appreciate that there are many different ways in which people think we could do the work more quickly—for example, by automating it. I am keen that we always hear those views and that we are being challenged on that work, because I am keen that we look at every opportunity to do the work quicker, whenever possible. Unfortunately, however, that is not possible at this time.

Pauline McNeill: Thank you.

The Convener: I will give members a housekeeping check. We will cover one more theme in this area before we move through the agenda items. I am allowing more time on this area because I have had only two bids for questions on the next agenda item.

Shona Robison (Dundee City East) (SNP): Good morning, cabinet secretary. For the sake of time, I will roll my questions into one. In your opening remarks, you mentioned that lessons have been learned from the best start grant payments. It would be good to hear more about those lessons. Given that the Scottish child payment depends on the awarding of UK benefits, as you said, what work is on-going with the UK Government—specifically with the DWP—to ensure maximum take-up? You mentioned Covid-related increases to the relevant benefits that are being paid at the moment. Will those increases continue? As you alluded, that would put pressure on the budget.

10:15

Shirley-Anne Somerville: I will deal with your last question first. It would be fair to say that nobody really knows what that will look like. That has been demonstrated by the fact that the UK Government does not even know whether it can deliver a budget this year—we have to, of course—because it is exceptionally difficult to forecast for the next financial year the income that will come to any Government and what will go out. The Scottish Government's ability to deliver demand-led low-income benefits such as the Scottish child payment will depend, of course, on what happens in the wider economy.

It is very clear that any increase in expenditure will be impacted—that is already shown in the forecasts that are coming forward—but that is the

best forecast that we can make at this time. The Cabinet Secretary for Finance and I are going into this knowing that the forecasts are highly subject to change—perhaps in a way that increases the budget because we are seeing more unemployment or because the hours of people who remain in employment are reduced.

Obviously, we are looking seriously at what we can do on uprating. For best start grants, we find that using trusted intermediaries to ensure that we get the message out works exceptionally well, and we are absolutely planning to do that. For the Scottish child payment, there has been close co-ordination in the past, and there continues to be close co-ordination, on how we work with health visitors and those in the health field who will be dealing with parents with young families, and in local authorities, whether through an education set-up or on other matters on which people regularly meet those with small children.

I stress that we have made it easier to improve the take-up of benefits by having one application form for the Scottish child payment and all the best start grant payments. That ensures that people do not have to fill in another form to access best start grants for their children. That is part of the automation that we have been able to build into the system, and it will improve the take-up of best start grants.

On what we are doing in the health service and in local authorities, and on what our local delivery leads are doing in the agency, social media has been exceptionally powerful in the past.

Obviously, things depend on the take-up of UK reserved benefits. We have confirmed with the UK Government that we can promote the fact that eligibility for the Scottish child payment is based on the receipt of certain reserved benefits without any risk of financial detriment to the Scottish Government. That is, of course, really important when we look at the number of people who are moving into universal credit, usually for the first time.

Alison Johnstone: To follow on from Shona Robison's questions, it is clear that people might become aware of the child payment but might have difficulty in claiming it because they are entitled to but are not receiving the qualifying benefit. Is the Government looking at the provision of specific advice or assistance to those who may find the application process for not just one benefit but two benefits quite daunting?

Shirley-Anne Somerville: The application process for the Scottish child payment is very simple. We deliberately designed it to be simple, and it was designed with people who will fill in the form, so that they could test it. As, I think, I said in

my opening remarks, it has been tested with around 300 users to ensure that it works.

The Scottish Government carries out wider work to support families who are looking to ensure income maximisation, which the Government takes very seriously. That will assist people to find out whether they are eligible for the low-income benefit. The Government is keen to encourage and support agencies that work on income maximisation. Funding goes to citizens advice bureaux, for example, for that purpose.

The Convener: That concludes questions to the cabinet secretary under the first agenda item. The next agenda item is a debate on the motion that we are discussing. I indicated to members that I hoped that we could mop up our comments in the question session, because I am conscious of time constraints.

I invite Ms Somerville to move motion S5M-22674.

Motion moved,

That the Social Security Committee recommends that the Scottish Child Payment Regulations 2020 [draft] be approved.—[*Shirley-Anne Somerville*]

The Convener: I ask members who wish to contribute to the debate to indicate so in the chat box. I do not want to preclude comments, but I must ask members to be very brief.

Pauline McNeill: [*Inaudible.*—content to get the important benefit payment moving. However, I have one or two concerns, particularly in relation to the question that I asked. I apologise to the cabinet secretary that it is taking me a long time to understand this, because she has been going on about the question of backdating. To me, the normal meaning of backdating relates to a person not realising that they could have applied for something and then applying for it. I am concerned that, when the payment opens, in November, applicants with a child aged five will not be able to get a payment even for a short time until the child is aged six. I acknowledge what the cabinet secretary has said, but that is a pity.

I am keen to look at the frequency of the payment. In my experience of anti-poverty work, monthly payments are not the best for budgeting; fortnightly payments are better. As I said, child benefit is paid weekly. I will want to come back to that issue. In view of the time, however, I will leave my remarks at that.

The Convener: I see that Rachael Hamilton wants to come in. I ask her to be brief.

Rachael Hamilton: I know that I am new to the committee, but I do not understand what the rush is for. Why are we being hurried on all these important points, such as the one that I want to

make about digital exclusion? A third of children in Scotland live with single parents, and half of those children live below the poverty line and could be affected by digital exclusion. It would be remiss of me not to ask the cabinet secretary such questions.

The Convener: I will address that point directly. You are, indeed, new to the committee, and I ask you to check the extensive work that the committee has done on the Scottish child payment and related areas. You were given ample opportunity to indicate areas of particular interest in advance of the meeting, to allow me, as the convener, to schedule fairly in a way that would allow every committee member the appropriate time for scrutiny. I think that you have had a significant amount of time.

As you will be aware, I do my best to extend the time that is available to members, as I am doing now, which is why I brought you in, Ms Hamilton. The suggestion that the committee does not have ample time for scrutiny is simply not true. However, I ask that you raise the matter of working practices in the committee in the future, because I am keen to make sure that we have ample time for all members.

It is the responsibility of members with particular interests to make those known in advance of meetings. Indeed, you are asked to do that. I always ask the clerks to notify me of any interests before meetings. In that way, I can make sure that there is enough time for scrutiny. My scheduling of time is simply a result of your not having indicated a particular interest in that topic ahead of our questioning. Those are our working practices.

In making that point, I have taken up more time, but you now have the opportunity to make the point that you wish to make.

Rachael Hamilton: Thank you, convener. Cabinet secretary, how will single parents without access to digital technology know whether they will be eligible for the SCP? Do you have capacity in SSS to deal with that?

Shirley-Anne Somerville: Can I have some clarification, convener? Am I answering all points and summing up, or am I answering just Ms Hamilton's questions?

The Convener: I thought that Rachael Hamilton was going to make a comment, because we are in the debate stage. We will take that as her contribution to the debate and you can deal with it in your summing up.

I do not see anyone else bidding to contribute, so I ask that you address the question in your summing up.

Shirley-Anne Somerville: I thank committee members for their questions this morning, which,

once again, have demonstrated your interest and your determination to drive forward the policy to be the best that it can be.

I return to Pauline McNeill's point about the applications. We have made it clear, as we have announced dates on the policy, that the application process will open in November, with payments being made in February next year. As I have said, that is very much to ensure that the agency has the best chance of dealing with applications in a timely manner and without the need for the clerical process of checking eligibility every week during the 14-week pre-application period, which would have led to delays in processing the applications as they came in. We will make it clear to clients that the application process is open but that payments will begin at a later date. We are keeping a close eye on the issue, and all the communications are being tested with users who may be receiving such letters themselves.

I know that Pauline McNeill has had a long interest in the frequency of payments, as have other members of the committee, and we have said that we will look at that as we review the benefit. I have said that I am more than happy to review the working of the Scottish child payment, including the frequency of payments, to ensure that it is doing exactly what we want it to do in the easiest way for people. It was not possible for us to do that before the launch of the payment for under-6s, however, because of the complexity that that would have added to the build.

On Rachael Hamilton's question about digital exclusion, the Government takes the issue seriously. For example, in the programme for government, we announced the connecting Scotland work to deal with that issue. We also have local delivery advisers who work in every part of Scotland to assist with face-to-face pre-application support, and, unlike with universal credit, there are three application methods: applications can be made online, on paper and by telephone. That ensures that we cover every application channel that people may want to use.

I again thank the committee for looking so seriously at the issues. This is an important set of regulations to pass, as it will ensure that the agency can move timeously to opening the application process in November.

10:30

The Convener: We will now move to the vote. Given the complexities of an online vote, if no one indicates disapproval once I ask the question, I shall deem silence to indicate acceptance of the motion. The question is, that motion S5M-22674 be agreed to.

Motion agreed to,

That the Social Security Committee recommends that the Scottish Child Payment Regulations 2020 [draft] be approved.

First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020 [Draft]

10:30

The Convener: We move to agenda item 3. I ask the cabinet secretary to speak to and move motion S5M-22675.

Shirley-Anne Somerville: I made some brief remarks about the instrument in my initial comments on the Scottish child payment.

Motion moved,

That the Social Security Committee recommends that the First-tier Tribunal for Scotland Social Security Chamber (Procedure and Composition) Amendment Regulations 2020 [draft] be approved.—[*Shirley-Anne Somerville*]

The Convener: As no one wishes to comment, I will put the question and, once again, take silence as approval, so please speak up if you do not want to approve the instrument. The question is, that motion S5M-22675 be agreed to.

Motion agreed to.

The Convener: The cabinet secretary is staying with us for agenda item 4. I thank your officials for joining us.

I suspend the meeting briefly to allow a new set of officials to take their places.

10:31

Meeting suspended.

10:34

On resuming—

Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 [Draft]

The Convener: The next item on our agenda is consideration of a statutory instrument that is subject to the affirmative procedure. I again welcome Shirley-Anne Somerville, the Cabinet Secretary for Social Security and Older People, and her officials, who are David George, disability benefits team leader, and Kirsten Simonnet-Lefevre, solicitor.

I invite the cabinet secretary to make an opening statement, and then we will move to questions.

Shirley-Anne Somerville: Child winter heating assistance will deliver an additional £200 payment to eligible children and young people each winter. There is no equivalent support in the UK social security system. We remain on track to begin delivering payments later this year. The new benefit will help 1,400 severely disabled children and young people in Scotland. It will provide targeted support to households that need to keep the home warmer during the day and at night. We recognise the financial pressures that families can face, especially during the winter months.

Child winter heating assistance is not means tested, and it is ignored for the purposes of means-tested benefits and tax credits. We have not capped the number of children in a house who may qualify for the benefit. Entitlement is based on qualifying for the highest rate of the care component of disability living allowance. That is paid to children who need care during the day and the night. In future, we will of course expand that to include the highest rate care component of the child disability payment.

Children must be receiving the highest rate care component on any one day between 21 and 27 September. We will not exclude children who are in hospital or in residential care. For most families, Social Security Scotland will make the payment automatically. We will soon begin sending letters to families to tell them more about the payment. Where an award of disability living allowance is made retrospectively, families should contact Social Security Scotland to arrange a payment.

I am grateful to Dr Sally Witcher and the members of the Scottish Commission on Social Security for their assistance. I am also grateful to the individuals, organisations and stakeholders who have engaged constructively with us.

I welcome the opportunity to assist the committee in its consideration of the regulations, and I am happy to take questions.

The Convener: Thank you. The first question is from Jeremy Balfour.

Jeremy Balfour: With regard to entitlement, as the cabinet secretary said, only children who are on the highest rate of disability living allowance will get the benefit, but the intention is to expand that in due course. What is the reason for the delay in that? Why were you not able to ask the DWP now for information on the children who would be entitled? Did that become an issue later in the process, or was there an administration issue? I would have thought that, if you had contacted the DWP and asked for information on all the children who are eligible for the higher rate care component and the higher rate mobility component, it could have given you that. Why was that information not available?

Shirley-Anne Somerville: Convener, I should point out that, when I was reading my opening statement, I said that 1,400 children and young people are eligible, but I should of course have said that 14,000 children and young people will benefit from the measure. I just wanted to clarify that for the record.

We have contacted the DWP and have the information that we require in order to pay all the children who are on the highest rate of the care component of disability living allowance. The assistance will be expanded in future to include the child disability payment, which is the payment that we will make when Social Security Scotland delivers the benefit. The reason why I mentioned that in my opening remarks is that the child disability payment is not being made at this time—it is a replacement for child DLA.

We have the information that we require. There is some work to do to ensure that that information is ready for use, but it is available. We are targeting the benefit at children who have needs day and night, which is why we are using the highest rate of the care component.

I hope that that clarifies the point for Mr Balfour.

Jeremy Balfour: Not exactly. That information for the extension is available from the DWP at the moment. Did you ask the DWP for that?

Shirley-Anne Somerville: I do not quite understand what information Mr Balfour thinks that we should be asking for. We have the information for everyone who is on the highest-rate care component for disability living allowance, which is the basis of eligibility for the payment. We have the information required for payment to every child and young person who is eligible, so I do not need to ask the DWP for any more information.

Jeremy Balfour: Can you clarify that it is not the Government's intention to extend payment to any children beyond those who are on the highest rate care component and mobility component?

Shirley-Anne Somerville: Eligibility is based on the highest-rate care component, because that is determined by the child or young person needing care through the day and night. The payment is being made because care is required during the day and night. That information comes from those who receive the highest-rate care component of disability living allowance.

The policy intent was to support families who require support during the day and night, and that is exactly what we will do with the eligibility criterion that we have at the moment.

Jeremy Balfour: The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 defines a wider group of disabled children and adults on any rate of disability benefit as being in

fuel poverty. Is the intention to push that further, or will you stay with that definition of who is eligible?

Shirley-Anne Somerville: We are staying with the definition that we have at the moment, to ensure that we are giving further support to children and young people who require assistance during the day and night.

Shona Robison: I want to ask about your level of confidence that the DWP will be able to provide the necessary data—[*Inaudible.*—]—given the challenges that it faces at the moment, which have been referred to on a number of occasions during this meeting. Are you confident that it will be able to do that, given the pressures that it is under?

Shirley-Anne Somerville: We have the information at this point; it is just that the timetable has moved around a little bit. I fully accept that agencies at both the Scottish Government and DWP ends are under unprecedented pressure. There is work to be done to make sure that the information that we have received is ready for use, but at the moment there is nothing that concerns me about our wish to begin payments very soon.

Shona Robison: What plans does the Scottish Government have to make sure that the guidance and communication on the new form of assistance is as clear as possible, particularly in relation to residency conditions and the day of application?

Shirley-Anne Somerville: We are endeavouring to make everything that the agency does as simple as possible for our clients to understand and for our client advisors to use. We are determined to do that through our work. We often work closely with people who have lived experience and with stakeholders to ensure that we get operational guidance in good form. In due course, that operational guidance will become available to stakeholders.

The Convener: Rachael Hamilton has one final question before we move to the debate.

Rachael Hamilton: Can you clarify whether there is enough protection for young people when payments are made to other people?

Shirley-Anne Somerville: You raise a very important point. In general, we have an obligation to ensure that payments are being made to the right person. In that, we are dealing with people who are under 16. However, in child disability payment, which is our replacement for child DLA, we will move to making payments to young people up to the age of 18. At that point, payment can be made direct to young people. The Government and the agency take very close cognisance of the ability to ensure that we are making payments to the right people, and to ensuring that there are no issues or concerns about safeguarding.

10:45

The Convener: That concludes item 4. We move to item 5, which is a debate on the motion about which we have just been asking questions. I invite Shirley-Anne Somerville to move motion S5M-22602S5M-22602.

Motion moved,

That the Social Security Committee recommends that the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 [draft] be approved.— [*Shirley-Anne Somerville.*]

The Convener: There is an opportunity for some brief comments in the debate.

Jeremy Balfour: [*Inaudible.*—]and it is a positive step forward.

However, there is an issue, which I was trying through my questions to raise with the cabinet secretary, that those children and young people who are not on the highest rate of care component should still be entitled to a winter heating allowance.

The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 defines as being in fuel poverty a wider group of disabled children who are on any rate of disability benefit. I therefore hope that, at some point, Parliament will have a look at that and extend the entitlement to all children who are on DLA, so that they can benefit from the heating allowance. Any child who is disabled will probably have greater issues because of their disability.

This is a missed opportunity. We could have extended eligibility further and wider, benefiting more disabled children and their families. I hope that we will come back at some point to look at that and be true to the 2019 act that we passed. I do not think that we will be doing that when we agree to the motion in a few minutes' time.

Alison Johnstone: I would like to put it on the record that it is absolutely essential that the Government continues to review the adequacy of payments. The standard winter fuel payment has stayed the same for several years—since 2000, I believe. We have to bear in mind the fact that inflation has increased markedly since then. We should always reflect on the adequacy of the payment.

Keith Brown (Clackmannanshire and Dunblane) (SNP): I have some comments to make on that point and on Jeremy Balfour's points.

I agree that we always have to reflect on that. At the same time, we have to reflect on the budget constraints under which the Scottish Government operates. Continual demands have to be accompanied by a suggestion of how to find more

and more funds. In particular, on Jeremy Balfour's point, the Scottish Government has to do ever more to make up for the inadequacy of Westminster benefits, to help to address some of the issues of poverty.

The Scottish Government is doing a remarkable job with some of the new benefits in trying to address poverty, but its ability to do even more depends on reasonable budget settlements, so—*[Inaudible.]*—the Scottish Government has done—*[Inaudible.]*—very welcome to people—*[Inaudible.]*—makes to inequality and poverty generally, even if it was a reasonable—*[Inaudible.]*

The Convener: You broke up a little bit there, and we lost your final couple of sentences. I am not sure whether you can still hear me, but perhaps you would like to repeat those final comments—that is up to you, Mr Brown.

There might be connectivity issues, so we will continue. I am checking with the broadcasting team that my connection is still okay, as I want to make a few comments before we go to the cabinet secretary for her summing up.

The budget constraints context ties in well with the debate that we had during last week's committee meeting with stakeholders, who warmly welcome everything that the Scottish Government is doing but want to know what is next. For example, can we increase the level of benefit, can we create new benefits or can we have additional provisions? For those who work in child poverty, it is their job to demand as much as possible for vulnerable families—I absolutely get that. As politicians, it is our job to meet as many of those demands as possible within our constraints and to demand additional powers in order to go further or to make difficult budget decisions.

I welcome the new Scottish child payment of £10 a week—not £5 a week, as was previously called for—the new winter heating allowance for children and various other benefits that we are not looking at today, such as the carers allowance supplement and other new benefits that have come online.

I have a substantive question, and it would be good if you would address it in your summing up, cabinet secretary. In the future, you will consider uprating, the sufficiency of benefits and where gaps might appear, and the committee will be keen to scrutinise budgets, where they exist—we might not have much from the UK Government to inform the Scottish budget. The committee is keen to make informed decisions, choices and priorities on the best use of the Scottish social security system. We have an on-going inquiry on how the system can best meet the needs of those who are impacted by Covid-19.

I welcome the motion and the policy intent. On budget scrutiny more widely, any additional information that you can provide the committee with will be welcome.

Shirley-Anne Somerville: As, I think, usually happens when we are having a debate on regulations, there are calls for the provision to be extended and made available to more families. I note that new additional funding has to be found from our fixed Scottish block grant for the provision; estimates and forecasts are for £2.9 million in the next financial year from the fixed envelope.

The benefit is not available in the UK system to support children and young people and their families, which is a demonstration of our wish to use our social security powers to protect people. I note again that the funding is from a Scottish block grant on which there are great demands for expenditure in numerous areas from numerous committees. Social security is important, but we have to find funding from our fixed budget.

The Scottish child payment and the winter heating assistance for children and young people are by no means the only areas in which we fund additional support that is not provided through the Scottish block grant, as that is also the case for funeral support payments and the best start grant. It is important to recognise the additional funding that the Scottish Government puts in.

It is also important to recognise that the benefit sits within our wider work on fuel poverty, which includes, for example, £500 million being spent during the current parliamentary session on energy efficiency measures and our investment of £97 million in grant funding this year to support fuel-poor households. The benefit fits within our wider social security work and the Scottish Government's wider efforts to tackle fuel and child poverty.

I encourage the committee to support the regulations.

The Convener: I am conscious that one of our members might have lost connectivity, so, before we proceed with the vote, perhaps a clerk will contact them. I see that Rachael Hamilton is back, so we will proceed.

As before, I will take silence as an indication of support for the motion. The question is, that motion S5M-22602 be agreed to.

Motion agreed to,

That the Social Security Committee recommends that the Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 [draft] be approved.

The Convener: I thank the cabinet secretary and her officials for attending the meeting and

committee members for persevering through the technical difficulties.

I remind committee members that the next meeting will be on 1 October. It will be the first session specifically for pre-budget scrutiny, although, as members know, we try to include pre-budget scrutiny in every evidence session, where possible. It will be a virtual evidence session with the Scottish Fiscal Commission on its forecasts for 2021-22, which I am sure will be of relevance to what we have debated today.

Meeting closed at 10:56.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba