

Suggested Themes on Priorities for Session 6

23 September 2021

Introduction

This session will allow members to discuss the Cabinet Secretary's priorities for Session 6 and the Programme for Government in relation to social justice and social security.

The Committee will hear from:

- Shona Robison MSP, Cabinet Secretary for Social Justice, Housing and Local Government
- Alison Byrne, Head of Social Security Programme Management and Delivery Division, Scottish Government
- Paul Tyrer, Interim Deputy Director, Social Justice and Regeneration, Scottish Government.

The Committee wrote to the Cabinet Secretary in July asking her to outline her priorities for the Parliamentary session. This paper is based on [her reply](#) and on relevant commitments in the [Programme for Government](#). It suggests the following seven themes for discussion.

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Suggested Themes For Discussion

Theme 1: Social Security Programme

Since it was created in 2018, [Social Security Scotland](#) has introduced the following benefits: Carer's Allowance Supplement (2018) Best Start Grant (2018-19), Best Start Foods (2019), Funeral Expense Payment (2019), Young Carer Grant (2019), Child Winter Heating Allowance (2020), Scottish Child Payment (2021), and Child Disability Payment (2021). It also administers the Job Start Payment (2020), a form of employment support.

In 2022, Adult Disability Payment is due to be introduced and Scottish Child Payment is due to be extended to children under 16.

There is no date for the introduction of the remaining benefits: i.e the Scottish replacements for: Carer's Allowance, Attendance Allowance, Cold Weather Payment, Winter Heating Allowance and Industrial Injuries Disablement Benefits. These are currently being run by the DWP on the Scottish Government's behalf under agency agreements. The agreements require the Scottish Government to mirror DWP policy for these benefits.

The Programme for Government did not include a specific timetable but did say:

“We will also develop and launch our remaining devolved benefits, which had to be paused during the pandemic”

It also noted that Social Security Scotland will be employing 3,500 staff by autumn 2022.

The Scottish Government is required to publish an annual report on progress on Scottish Social Security. The report for 2018/19 was published in [September 2019](#) and the report for 2019-20 was published in [December 2020](#).

The Programme for Government included the following commitments on social security:

Social Security Scotland

- Double the Scottish Child Payment
- Double payment of Carer's Allowance Supplement in December
- Roll-out of Child Disability Payment and Adult Disability Payment
- Extend Child Winter Heating Assistance to include young people aged 16-18 with a terminal illness or severe disability
- Introduce Pension Age Winter Heating Assistance (replacing DWP Winter Heating Allowance) and Low Income Winter Heating Assistance (replacing DWP Cold Weather Payments)
- Increase eligibility for Best Start Foods 'later in the Parliament'

Local Authorities

- £520 'bridging payment' ahead of full roll-out of SCP to under 16's
- £130 pandemic support payment to households in receipt of Council Tax Reduction
- Increase the Scottish Welfare Fund to £41m and review the fund
- Extend the Healthy meals and snacks scheme to provide milk to primary age pupils from August 2022 and pilot a programme in secondary schools
- Introduce a minimum national allowance for foster and kinship care

In addition, there is a commitment to £200 'Care Experience Grant' for care experienced young people aged 16 to 26 although its not yet clear whether that would be a local authority or Social Security Scotland payment.

Capacity and resources at Social Security Scotland

The Programme for Government noted that, by autumn 2022 Social Security Scotland will have 3,500 staff. [In June 2021 the figure was 1,207 FTE directly employed staff](#). In 2021-22 its administrative budget was £271m.

There have been instances where policy has been adjusted due to pressure on Social Security Scotland.

For example,

- There was a long application window for the first Scottish Child Payments in order to manage the expected large numbers of applications
- Draft regulations propose to remove the requirement that Child Winter Heating Assistance is paid by 31 December 2021, due to: "a risk that factors associated with the technical delivery of the increased caseload, combined with the launch of CDP National, mean that a small proportion of clients may not receive a determination by that date."
- In response to suggestions that the Carer's Allowance Supplement payment be extended to those with 'underlying entitlement', the Minister for Local Government and Social Security told the Committee that: "would have required significant resources from Social Security Scotland, social security staff in the Scottish Government and the Department of Work and Pensions to develop new processes at a pressurised time for these departments." ([Committee Stage 1 Report on CAS bill](#))

Working with the UK Government

The [Joint Ministerial Working Group on Welfare](#) was established in 2015 as a forum for discussion between UK and Scottish Ministers on the devolution of social security. The latest minutes are for December 2020, prior to the Cabinet Secretary taking up her post. Issues raised at that meeting included:

- Potential for a pilot on Universal Credit split payments¹
- Accessing data to extend the Scottish Child Payment

¹ Allowing the Universal Credit payment to be paid into more than one bank account. For example paying the child element into the mother's bank account.

- That proposed changes to the ‘past presence test’ in disability benefits (as required by a court challenge) would not impact on passported benefits
- Importance of meeting deadlines

Timescales for public engagement and legislative scrutiny

One of the [statutory social security principles](#) is that it is “designed and built with the people of Scotland on the basis of evidence.” For the introduction of most of its major benefits the Scottish Government has undertaken extensive consultation, including research with ‘lived experience’ panels. However, on a number of occasions legislation has been produced to a tight timescale which has limited the time for public engagement, for SCOSS to report and/or the time for Parliamentary scrutiny. For example:

- The current bill on Carer’s Allowance Supplement is on a short timetable, as was the [previous social security bill in Session 5](#).
- Various regulations mirroring DWP policy have been introduced at short notice. For example:
 - the legislative consent motion for the Social Security (Uprating of Benefits) Bill and the Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 have expedited parliamentary scrutiny. The [policy note to the Social Security \(Claims and Payments\) \(Miscellaneous Amendments \(Scotland\) Regulations 2021](#) states that there was no time for consultation on the measures. (These regulations would allow large payments to be paid in instalments if a client is considered vulnerable)
- Some regulations amending Scottish social security benefits have been subject to short timetables. For example:
 - [in its report on the](#) Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [SCOSS commented](#) on the tight timescale and lack of stakeholder engagement in the.
 - The Best Start Grants and Scottish Child Payment (Miscellaneous Amendments) Regulations 2021 were sent to SCOSS on 3rd September with expectation of laying in Parliament on 25th October. The letter to SCOSS on states: “I am aware of the challenges this timetable presents, especially given SCoSS’s existing commitments. Officials are happy to discuss how they can help facilitate your consideration of the regulations in a timescale that is sensitive to both of our pressured workloads and commitments.” (Letter copied to members 6th September 2021).

[SCOSS annual report for 2019/20](#) published in December 2020 also noted issues with timescales, for example on the Scottish Child Payment it said:

“its ability to report on the SCP was somewhat constrained by the limited amount of time made available by the Scottish Government.”

Benefit Take-up

The Scottish Government is required to publish a benefit take-up strategy. The next one is due in October. Last week the Committee heard concerns from Bill Scott (Poverty and Inequality Commission) that the fiscal framework might restrict the Scottish Government's ability to promote reserved benefits. This issue was discussed by the previous Committee during its inquiry on benefit take-up. The [Scottish Government's response](#) to the inquiry report stated that:

“In February the Cabinet Secretary for Social Security and Older People wrote to the Secretary of State for Work and Pensions to seek assurances that there will be no fiscal detriment to the Scottish Government where reserved benefit take-up increases as a result of our promotion of devolved benefits – for example Universal Credit as a qualifying benefit for the Scottish Child Payment. The Secretary of State has now confirmed that the UK Government does not consider these circumstances to represent a spill-over effect following the principles set out in the Scottish Government's Fiscal Framework.”

This is clear about promoting devolved benefits, but perhaps is not absolutely clear about the Scottish Government's ability to promote reserved benefits.

Members may wish to discuss:

- **When the Cabinet Secretary will be able to update Parliament on a revised timetable for the Social Security Programme**
- **What issues are the most problematic in setting a new timetable**
- **Whether the requirement to mirror DWP policy under Agency Agreements impacts on the policy choices the Scottish Government would like to make**
- **When the Joint Ministerial Working Group on Welfare last met and what issues were discussed**
- **What measures are in place to ensure that officials in both governments are informed in good time of relevant policy and legislation coming from the other government**
- **Whether there has been any recent progress towards Universal Credit split payments and 'abolishing the bedroom tax at source'**
- **Whether the Scottish Commission on Social Security is being given enough time and resources to consider regulations**
- **How to ensure adequate consultation on legislative changes, particularly where timescales are very short**
- **Whether Social Security Scotland staffing is expected to increase much beyond 3,500 over the next five years as the remaining benefits are transferred from DWP**
- **The Cabinet Secretary's ambitions for increasing benefit take-up over the next five years**
- **Whether the Cabinet Secretary can clarify whether the Scottish Government's ability to promote reserved benefits is constrained by the fiscal framework**

Theme 2: Tackling Poverty

Last week the Committee discussed progress towards the interim child poverty targets as part of its pre-budget scrutiny. While emphasising the importance of the Scottish Child Payment, especially in meeting the interim targets, witnesses also emphasised the need for action across a wide range of policies to ensure long term progress. Witnesses also stressed the importance of ‘poverty proofing’ all policies and budgets.

Commitments in the Programme for Government to tackle poverty include the following:

Child Poverty

In addition to the above listed social security measures, measures to tackle child poverty include:

- From August 2022 free school lunches for all primary school and phased roll-out of provision in the school holidays ‘for those who need it most’
- Further expansion of free early learning and childcare, starting with childcare for one and two year olds in low income households and ‘wrap around’ childcare for school age families, free to low income households. A five year delivery plan is due in 2022.
- Tackling Child poverty delivery plan 2022-26 will be published in the spring. The PfG notes reaching the child poverty targets as requiring: “a significant cross-government and society wide effort, and sits alongside our work to drive up good, fair and inclusive employment opportunities”

Other measures to tackle poverty include:

- Plan to end the need for food banks
- £10m over the Parliament to increase access to advice services
- Work towards a Minimum Income Guarantee and explore Universal Basic Services (see theme below)
- Additional £18m for [Warmer Homes](#) targeted at those in fuel poverty
- Consult on becoming a [Fair Work Nation](#) by 2025, requiring those getting public sector grants to pay at least the real living wage.
- £500m across the Parliament to support ‘new, good and green jobs’ supporting those most impacted by the pandemic.
- Employability funding includes; At least a further £15m 2022-24 for [Parental Employability Support Fund](#), £27m for Fair Start Scotland, £20m for No One Left Behind Approach
- Continue the [Connecting Scotland](#) programme, helping people get online, including delivery to people seeking employability support and target lone parents in future work.
- Legislate for free bus travel for under 22s.

These commitments cover a wide range of policy areas. In her letter of 28th July the Cabinet Secretary noted that:

“I cannot emphasise enough the importance of joining up the work we are doing together across Social Justice and Social Security, Housing, Local Government and Communities in order to improve people’s lives”

And that:

“my portfolio presents great opportunities to link up key priorities across Government, none more so than tackling child poverty”

Members may wish to discuss:

- **Which of the commitments in the Programme for Government have the greatest potential to tackle poverty**
- **Whether the policy priorities for meeting the long term child poverty targets in 2030 are different to those that will be most effective in meeting the 2023-24 interim targets**
- **How to ensure joined up working across government departments to tackle poverty, especially child poverty**
- **What work is planned to improve partnership working across local government, the third sector and Scottish Government to tackle poverty**
- **How will the Scottish Government ‘poverty proof’ all its policies and budgets**

Theme 3: Minimum Income Guarantee (MIG) and Universal Basic Services (UBS)

Two longer term developments that could help tackle poverty are the Minimum Income Guarantee (MIG) and Universal Basic Services (UBS). A steering group has been established to:

“define a MIG for Scotland and to identify and prioritise action for further development and testing during the course of this Parliament to support the delivery of a MIG within current devolved powers”

The strategy group includes two Committee members; Miles Briggs and Pam Duncan-Glancy. There is also an expert group – the next meeting of which is due in mid-October 2021.

The [first meeting of MIG group](#) in August included mention of “the ability to interact and align work plans with the Scottish Parliament’s Social Justice and Social Security Committee”. That meeting also referred to the need to maintain connections to the separate but linked work on Universal Basic Services.

In her [letter of 28th July](#) the Cabinet Secretary referred to UBS saying;

“we will also explore the concept of Universal Basic Services – another SRAB recommendation - which, by ensuring people have access to the

provision of basic services, will contribute toward ensuring a minimum standard of living.”

Members may wish to discuss:

- **How the Minimum Income Guarantee might build on existing payments, such as the Scottish Child Payment**
- **How Universal Basic Services can build on existing commitments such as free school meals and free early learning and childcare.**
- **Whether the [Universal Basic Income pilot feasibility study](#) published last year is relevant to current considerations of a MIG and UBS**
- **How to ensure wide involvement across parliament and society in developing the possibilities for a Minimum Income Guarantee and Universal Basic Services**
- **Whether the Cabinet Secretary expects to move from exploration to implementation by the end of Session 6**

Theme 4: Homelessness

The Cabinet Secretary appeared before the [Local Government, Housing and Planning Committee on 7 September](#) to discuss her priorities. This included discussion of housing and homelessness. Homelessness is also relevant to this Committee’s remit. The importance of well-targeted affordable housing, social housing and preventing homelessness was discussed by witnesses last week in terms of preventing child poverty.

Relevant commitments in the Programme for Government include:

- £50m over the Parliament in an Ending Homelessness Together Fund.
- next year consult on a strategy for the rented sector, to promote affordable tenancies, a national system of rent controls and more protection against winter evictions
- delivering more affordable homes, strengthening tenants' rights, and eliminating rough sleeping
- strengthen homelessness prevention legislation, introduce new duties on public bodies to ask people about their housing situation and take action if needed.
- identify accommodation pathways for those with no recourse to public funds

Funding

In [September 2017](#), the Scottish Government announced an additional £50m over five years to tackle homelessness and rough sleeping. It’s not exactly clear whether the Programme for Government reference to £50m Ending Homelessness Together fund is additional money to the £50m already announced in 2017.

In 2021-22, £12m will be invested in the fund including £8m for local authorities to support rapid rehousing plans and to eradicate rough sleeping.

A July 2021 Chartered Institute of Housing Scotland [report on council progress with implementing RRTPs](#) highlights that despite some good progress, there are still issues in relation to temporary accommodation backlogs, partly related to the impact of the pandemic. It also argues that funding shortfalls and single year budgets have hampered local authorities' ability to achieve the ambitions set out in RRTPs, resulting in projects being scaled back or delayed.

Legislation

The Programme for Government states,

“And we will strengthen existing homelessness prevention legislation and introduce new duties on public bodies to ask people about their housing situation and take action if needed, supporting the development of a culture of early intervention, consulting later this year”.

COVID-19

During the pandemic the Scottish Government introduced measures to protect tenants being evicted and potentially being made homeless. Measures included extending the notice period landlords need to give to end a tenancy, (by up to six months in many cases including eviction for rent arrears), these notice periods will remain in place until end of March 2022), a temporary ban on enforcement of eviction orders (the ban ended in most places in mid-May 2021), a tenant hardship loan scheme, additional DHP funding and a forthcoming tenant hardship grant scheme to help with COVID-19 related arrears.

Members may wish to discuss:

- **Whether the end of the eviction ban might impact on homelessness**
- **Councils' progress in implementing their rapid rehousing plans and whether the operation, and amount, of the Ending Homelessness Together Fund is sufficient.**
- **When will the tenant grant scheme be established and what impact it will have on preventing homelessness**
- **How the Scottish Government intends to strengthen homelessness prevention legislation and how might this change current practice**
- **In what ways do affordable housing policies take into account the need to reduce child poverty**

Theme 5: Equalities and Human rights

The Cabinet Secretary appeared before the [Equalities, Human Rights and Civil Justice Committee on 14 September](#) to discuss her priorities for Session 6. At time of writing the official report was not available.

A [letter sent to that Committee on 10 September](#) outlined priorities which are also of interest to this Committee. These included:

- A consultation next year on mainstreaming equalities and human rights across the public sector. The recommendations on mainstreaming

equalities into the Scottish Budget made in the July report of the Equality Budget Advisory Group are being considered

- Invest over £100m to support frontline services and prevention work to tackle violence against women and girls
- Consult ‘in the coming year’ on a human rights bill to incorporate, as far as possible within devolved competence, the International Covenant on Economic, Social and Cultural Rights, alongside three international human rights treaties for the empowerment of women, disabled people and minority ethnic people

These international treaties include a right to social security and adequate standard of living. The Social Security (Scotland) Act 2018 includes the principle that: “social security is a human right.”

The Equality Budget Advisory Group (EBAG) helps shape the Scottish Government's equality and human rights approach to the budget. EBAG has recently [published recommendations for equality and human rights budgeting in the 2021-2026 parliamentary session](#).

The Programme for Government said that:

“We will further embed equality and human rights within all stages of the Scottish Government’s Budget process, taking account of the Equality Budget Advisory Group’s recommendations, to ensure our spend advances equality and human rights for all of Scotland’s people.”

One specific issue that has been brought to the Committee’s attention (letter from Scottish Women’s Aid circulated to members on 6th September) is the failure of some local authorities to take a gendered approach to commissioning specialist domestic abuse services. The letter refers to:

“The recent decision of North Lanarkshire Council to undertake a competitive tendering process that insisted on a gender-blind approach to service provision.”

The [guidance from COSLA and SWA](#) states:

“Some public bodies have misinterpreted the Equality Act to mean that they have to treat everybody the same and provide the same services to all groups. They have misunderstood the public sector equality duty and failed to recognise that they should have ‘due regard to the need to take steps’ to meet the needs of women that differ to those of men (see section 149(3)(b), Equality Act 2010).”

Members may wish to discuss:

- **How will incorporation of international human rights instruments impact on**
 - **the development of Scottish social security and**
 - **tackling poverty**

- How is the Scottish Government developing a ‘human rights’ based approach to budgeting. How is that work linked to improving impact assessments and poverty proofing policies?
- How to avoid duplication across different impact assessments
- (On the specific issue raised by Scottish Women’s Aid) Whether the Cabinet Secretary can clarify whether local authorities should or should not take a ‘gender blind’ approach to commissioning domestic abuse services
- How the [planned incorporation](#) of [CEDAW](#)² might impact on this issue

Theme 6: Refugees and asylum seekers

Relevant commitments in the Programme for Government include:

- Refresh and expand [New Scots Refugee Integration Strategy](#) 2018-22
- £0.5m this year to support local authorities to accommodate unaccompanied asylum seeker children

The PfG also states that: “we are clear that no-one should be made destitute because of their immigration status.” The [Ending destitution together strategy](#) was published in March 2021.

One example of ensuring cash payments can be made despite immigration status is the [self-isolation support grant](#) which was provided, in part, under health legislation so that people with no recourse to public funds were not excluded.

Mirroring the approach of the UK Government, [new regulations](#) waive residence requirements for access to Scottish benefits for those entering the UK under the Afghanistan resettlement scheme.

Members may wish to discuss:

- **Examples of how the Scottish Government is exploring what can be done to provide support to those with no recourse to public funds**
- **How this might develop over the course of Session 6**
- **How the planned incorporation of international human rights treaties might impact on Scottish Government policy towards refugees and those with no recourse to public funds such as asylum seekers**

Theme 7: Third Sector

The Programme for Government included the following commitments:

- Further progress towards a multi-year funding model
- Legislation to improve charity law

² UN Convention on the Elimination of all forms of discrimination against women

In March, SCVO published [“Coronavirus and its impact on the Scottish Voluntary Sector.”](#) Key themes throughout this and similar research has been:

“the challenges of maintaining and delivering services; the loss of income and precarious financial situation; a reduction in the number of volunteers; and the mental wellbeing of staff and volunteers.”

However there were some positive impacts:

“increased use of technology is viewed by many as a positive for service delivery. There is a recognition though, that for technology to be fully integrated into service delivery, additional skills will be required.”

While finances are an issue, it reports that:

“only nine percent of charities foresee a critical threat in the next 12 months, down from 20% in May.”

[Audit Scotland reported last week on COVID-19 spending.](#) In relation to support for charities it said:

“the UK Government spent £453 million on specific support to the charity sector in 2020/21. In Scotland, the charity sector received £135 million in specific support during the same period, which constitutes a higher proportion than the rest of the UK, given the difference in population size between each country.”

On changes to charity law, the Scottish Government consulted in 2019 on proposals to reform the 2005 Act. The proposals are relatively limited, including a requirement on all charities to publish accounts in full and giving OSCR the power to issue directions which would require a charity to do a specified thing

The [initial consultation](#) closed in April 2019. There was [further engagement with the charity sector](#) to define proposals in spring 2021. The Scottish Government will publish its next steps by the end of this year.

Members may wish to discuss:

- **How the Scottish Government will assist the third sector recover from the pandemic**
- **How the Scottish Government will ensure that positive changes from the past year (such as digital working) can be taken full advantage of**
- **Whether any changes to charity law are planned beyond those consulted on in 2019**

**Camilla Kidner
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17 September 2021**