



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Social Security Committee

**Thursday 30 January 2020**

**Session 5**



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**SOCIAL SECURITY COMMITTEE**

**3<sup>rd</sup> Meeting 2020, Session 5**

**CONVENER**

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

**DEPUTY CONVENER**

\*Pauline McNeill (Glasgow) (Lab)

**COMMITTEE MEMBERS**

\*Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)

\*Jeremy Balfour (Lothian) (Con)

\*Michelle Ballantyne (South Scotland) (Con)

\*Keith Brown (Clackmannanshire and Dunblane) (SNP)

\*Mark Griffin (Central Scotland) (Lab)

\*Alison Johnstone (Lothian) (Green)

Shona Robison (Dundee City East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Dr Mark Simpson (Scottish Commission on Social Security)

Dr Sally Witcher (Scottish Commission on Social Security)

**CLERK TO THE COMMITTEE**

Anne Peat

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Social Security Committee

*Thursday 30 January 2020*

*[The Convener opened the meeting at 10:01]*

### Decision on Taking Business in Private

**The Convener (Bob Doris):** Good morning, everyone, and welcome to the third meeting of the Social Security Committee in 2020. I remind everyone present to turn off their mobile phones or switch them to silent mode, so that they do not disturb the meeting. We have received one apology: unfortunately, our colleague Shona Robison is not able to be with us this morning.

Agenda item 1 is a decision on whether to take in private item 3, which is consideration of evidence. Does the committee agree to do so?

**Members indicated agreement.**

## Scottish Child Payment

10:02

**The Convener:** Item 2 is on the Scottish child payment. The committee will hear from the Scottish Commission on Social Security regarding its “Scrutiny report on draft regulations: Scottish Child Payment Draft Regulations 2020”. I welcome Dr Sally Witcher, who is chair of the commission, and Dr Mark Simpson, who is a commission member. Good morning to both of you, and thank you for coming along.

Dr Witcher has some opening remarks, for which we are grateful. We will then move to questions.

**Dr Sally Witcher (Scottish Commission on Social Security):** Good morning, and thank you for affording us the opportunity to provide evidence on the commission’s scrutiny report on the draft Scottish Child Payment Regulations 2020.

The Social Security (Scotland) Act 2018 requires the commission to “have regard to” the social security principles and relevant human rights instruments in preparing reports on draft regulations. There is no doubt that the Scottish child payment has significant potential to contribute to the fulfilment of various social security principles and human rights goals, in particular those that relate to a reduction in child poverty. There seems to be very little, if any, opposition to the policy principle of establishing the payment. Our focus, and that of stakeholders more widely, has therefore been on ensuring that the regulations mean that the payment can be delivered in the most effective, efficient way possible to the benefit of the greatest number of eligible people.

We have aimed to produce a report that is based on a constructive, balanced approach, setting out a series of recommendations for the Scottish Government that we believe could help to better realise the payment’s potential. In this opening statement, I will explain the rationale behind some of our recommendations, and I will make a few remarks on our approach to scrutiny and our continuous search for ways to do it better.

We make recommendations that span specific operational issues, areas that would benefit from greater clarity and matters that require a longer-term, bigger-picture view. All that has been done in accordance with our scrutiny framework, which fleshes out the implications of the principles and human rights, and thereby supports the process.

There are various specific suggestions on where scope for improvements may exist, which would

benefit from thorough investigation. Examples include ensuring continuity of the payment to families when their children turn six, giving claimants a choice of more frequent payments and considering the desirability and feasibility of a tapered withdrawal of the payment.

Various recommendations call for greater clarity—on the recovery of overpayments, for example, and on how competing applications could be resolved and dealt with. A recurring theme of the stakeholder event that we held—we were very pleased that members of the committee were able to attend—was that some people have voluntarily withdrawn from the benefits system because they heard about difficulties with making claims, so they have decided just to do without money to which they are entitled. Issues also arose around distinctions between eligibility, awards and payments. The social security system in general, and the child payment in particular, must be as simple as possible for people to understand.

In keeping with the social security principles, which span the way in which policy is developed through to how it is delivered and continuously improved, and taking into account the progressive realisation of human rights, we considered some longer-term, wider issues. Looking ahead, assuming that the payment is agreed, we have suggested that the Scottish Government consider a double-lock approach to uprating the payment so that it increases annually by either the rate of inflation according to the consumer prices index or the growth in median income, whichever is higher.

Take-up will of course be central to the payment's success, as the committee is well aware from its recent work. That is why we have suggested that the Scottish Government continually review its approach to promoting take-up, with input from stakeholders, claimants and potential claimants. We have also recommended that the Scottish Government should, if possible, attempt to maximise take-up of reserved benefits that confer eligibility for the payment, ideally in partnership with the Department for Work and Pensions. I stress the words "if possible", as the fiscal framework may be a factor in enabling or preventing that course of action. We have a number of further recommendations concerning the review of the payment, including more general learning on the use of the top-up power, ideally to inform the extension of the payment to older children.

As our experience of scrutinising draft regulations grows, it is important that we try to make connections with the bigger picture. We have therefore suggested that the Scottish Government should routinely consider the scope to increase consistency and coherence across

regulations unless there is a good reason for difference, as per my earlier point about the need for simplicity and clarity.

I will briefly set out a few of the factors that have shaped our scrutiny of the draft regulations. They have been the first set of regulations with which we have been involved from the very start. In fact, SCOSS only came into existence halfway through the process for the young carers grant, on which we produced our other report. Our early engagement with officials on the draft regulations allowed us to highlight various issues at an early stage, which we were pleased to see that the Scottish Government had addressed in its revised draft. That way of working seems to be productive, as it means that issues can be resolved at an early stage, thereby allowing scrutiny reports to focus on the remaining issues so that what we produce is more concise.

Although we fully understand the Scottish Government's desire to make payments as quickly as possible, the pace of work has posed challenges for all concerned. I am pleased to say that we are meeting the Cabinet Secretary for Social Security and Older People one week from today to consider some of the lessons learned from our consideration of the draft regulations. The whole process is still new to everyone, including the committee. It will be interesting to see the impact of the committee's discussion of our report at an earlier stage, while the Scottish Government is still finalising the regulations. Mark Simpson and I will be happy to receive any general feedback on our approach to scrutiny. As members are aware, the Scottish Government has asked us to comment on two further provisions, and we intend to do so by 10 February.

While scrutinising regulations may sometimes feel like a somewhat dry and technical exercise, we never lose sight of the human impact. The Scottish child payment has the potential to change lives in ways that many people in this room will not have experienced. It may make the difference between a child going hungry or not. In the words of one parent whom we spoke to, the success or failure of the payment will ultimately be judged according to its impact on the day-to-day lives of the individual children who benefit. That sounds to us like a very reasonable test.

**The Convener:** Thank you, Dr Witcher. I put on record that the strong engagement with the committee from you and your team at SCOSS has helped us in our understanding of the wider issues, and events such as this session are invaluable for us. We move to questions.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Dr Witcher, you said that, while some of the scrutiny can seem like a dry exercise, it is nevertheless very important. Do you feel that the

level of consultation and engagement meets the test that has been set for new benefits, which is that they should be

“designed ... on the basis of evidence”?

**Dr Witcher:** There is a strong, high-quality evidence base for the analysis of the implications of different options. On the question of who needs to be involved, I think that the Scottish Government did well to involve a number of important people and key voices in a very short period of time. However, that is not to say that, had there been more time, more could not usefully have been done. In particular, there may have been scope to find out from people with lived experience, such as parents, more about their views where there were trade-offs to be made and what would work best for them in that regard.

You can always do more consultation. We clearly felt that there was more to be done, because we held a stakeholder engagement event, which we found helpful to the process. In sum, the Scottish Government did what was feasible; I do not think that it would have had the capacity, given the tight timescale, to do much more. Nonetheless, there was a potential weakness given the lack of a role for people with lived experience in clarifying whether the trade-offs that were made as a result of policy judgments on which course of action to take were the best ones to make. Such input could have been helpful.

**Dr Allan:** You mentioned the trade-off between moving quickly and undertaking the maximum amount of scrutiny. Given the relative speed with which the Government seems to want to introduce the new payments, do you feel that there is an understandable motivation in wanting to help as many families as quickly as possible? Is there anything about the pace of the introduction that the Government may want to reconsider or anything that may give it pause for thought, or are you happy with the pace of implementation and progress?

**Dr Witcher:** I think that everybody understands the desire to get money as fast as possible to people who need it very much. However, there will inevitably be trade-offs. That is an example of a trade-off where there are judgments to be made—largely political judgments—which are ideally informed by what people who are on the sharp end of the process have to say about what will work best.

The process highlights that, in some ways, there are tensions between the principles that are set out in the 2018 act. For instance, there may have been a bit more focus on principle (e), which is on poverty reduction, at the expense of principle (f), which refers to designing the system

“with the people of Scotland”.

There are trade-offs to be made, and we are in uncharted territory given that the process—and the use of top-up powers in general—is so new, so there are unavoidable risks. There is a political judgment to be made as to whether the balance of risk is right, but we fully understand the importance, and support the aim, of getting payments to people as fast as possible.

**Dr Mark Simpson (Scottish Commission on Social Security):** I highlight a further principle in addition to the two that Sally Witcher mentioned: the aspiration to seek continuous improvement. That applies not only to the benefits themselves but equally to the behind-the-scenes stuff and the process by which the benefits are introduced. There will always be opportunities for learning on that front. We are still at a very early stage in the devolution of social security powers, so we should aspire to continuous improvement of the processes and the system.

10:15

**The Convener:** I apologise, Dr Simpson. I should have given you the opportunity to come in, rather than you having to fight your way into the evidence session. If you want to put anything on the record, please catch my eye.

**Dr Allan:** I have a few more questions about the draft regulations that were published in October. What state are they in? How far advanced are they? How do they fit into the process? You indicated that the scrutiny process is new. How do you approach draft regulations? In this case, were they adequate for your purpose?

**Dr Witcher:** They were adequate for the purpose of consultation, as there was enough clarity to enable meaningful consultation. We were able to get views and evidence to feed through to the Scottish Government so that revisions could appear in the next draft. The regulations served that purpose well. However, they would not have been fit for purpose if we had been undertaking a final, thorough scrutiny process.

If we are going to adopt that iterative way of working, one possible scenario is to ensure that we have a consultation set of regulations at a relatively early stage. They would need to be sufficiently developed—as these regulations were—so that we can undertake meaningful consultation. We would need a second version on which to base our scrutiny later on.

**The Convener:** I thank the witnesses for those comments.

We are talking about families who are living in poverty getting payments in their pockets as soon as possible. It is reasonable to put that on the

record, given that there are issues with the first phase of payments for children under six. It is estimated that there will be a £71 million investment, which will go into the pockets of the families of 170,000 children under six and, when the payment is rolled out to under-16s, the families of 410,000 children under 16. I am mindful that those families are reflected in the Scottish index of multiple deprivation statistics that came out the other day. They live in places such as Wyndford, Milton or Possil in my constituency, which unfortunately feature in the SIMD as areas of significant deprivation.

Dr Witcher mentioned benefits uptake campaigns, on which the committee has an ongoing inquiry. Do both the Scottish Government and the United Kingdom Government need to focus on maximising benefit uptake, driven by the SIMD data, in the type of places that I mentioned? That could lead to the passporting or automation of benefits to ensure that we get the money as quickly as possible to those 170,000 children under six and into the areas with the greatest deprivation.

**Dr Simpson:** Given the direct link between qualifying for reserved benefits and eligibility for the child payment, logic dictates that you would not maximise take-up of the child payment unless you also maximise take-up of the qualifying benefits. We have seen estimates that show an 83 per cent take-up for the child payment. However, once we see that it is estimated that 83 per cent of those who are eligible receive child tax credits—that is ultimately the aspiration for the take-up of universal credit—and that the estimated child payment take-up is therefore 83 per cent of 83 per cent, it starts to look as though there is room for improvement. It is important for the success of the child payment that the qualifying benefits are taken up.

As Sally Witcher alluded to in her opening statement, there is a lack of clarity in the fiscal framework around the potential financial implications for Scotland if it were to take unilateral action to increase the take-up of DWP-administered benefits. There might be an opportunity coming up to address that when the framework is reviewed.

On the targeting of take-up campaigns, there will always be resource limitations, so it makes sense to focus them where they will have the biggest impact.

In a small place such as Northern Ireland, where I come from, it would not be too difficult for a take-up campaign to provide blanket coverage for the whole region. In Scotland, that might be a little less feasible. It is a question of the resources that are available and how the Government wants to use them.

**The Convener:** That is helpful. Given the granular detail that the SIMD provides, we perhaps need a campaign on the ground that focuses on going into communities to maximise the uptake of benefits, particularly universal credit. That will be essential if we are to maximise the uptake of the Scottish child payment. I hope that the Scottish Government and the UK Government can work in partnership to do that, and I hope that we maximise uptake.

SCOSS has understandably raised some issues around the under-sixes whose families will qualify for the £10-a-week payment but fall off the other end, for up to a year or so, because the Scottish Government will not have the required data to enable it to make the payment for children who are over six. Can you say a little more about that issue and describe some possible solutions for tackling it? It is most definitely an issue.

**Dr Witcher:** That is a good example of where it would have been valuable and effective to get people's views. International law permits progressive realisation, and there is a clear argument that it is better if at least some people, rather than none at all, get the money. We are talking about a period of time in which people who otherwise would get the money will not get it. Ultimately, it is about getting as much money to people as we can, as quickly as possible. That is probably the starting point.

Mark Simpson may want to say a bit more about equity considerations with regard to children who attain the age of six, and the fact that those over that age would get the payment if a way could be found to continue paying it, whereas others who had not got it initially would not get it. The reality is that a lot of inequity is built into the system anyway—it is already uneven. If the argument is that either some children in that age group get the payment or none of them gets it, the best solution is probably that some of them should get it. However, that is clearly not ideal, and I do not think that anyone would argue that it is.

**Dr Simpson:** The Scottish Government has talked about the possible development of a two-tier system if provision is made for a run-on payment for children who turn six. As Sally stressed, there is already a two-tier system whichever way we look at it—it is just a question of where we draw the line. Do we draw it between children under six and children over six, or do we take into account those children who were under six or over six when the payment was introduced? There is a political judgment to be made there.

We understand that there are practical details with regard to getting the data on the older children from the DWP. In the report, we have tried—without prejudging the answer—to encourage the Scottish Government to do

whatever it can to investigate whether there is a workaround. That would need to involve a satisfactory means—one that should not be too administratively onerous on either the claimant or Social Security Scotland—of demonstrating a child's continuing eligibility after they turn six. The Scottish Government could look into the matter and say whether there is a workaround or not; the important thing is that we do our best to maximise the number of people who benefit from the payment.

**Dr Witcher:** It is also important that, if it cannot be done, we all understand why. The key point is that we need to be absolutely convinced and persuaded that the matter has been thoroughly looked into.

**The Convener:** Common sense can be a dangerous thing in such situations, but one would think that it would be not be too onerous for the DWP, given that it has the information, to track the cohort of the under-sixes over the next 12 to 18 months, or whatever the time period would be. If there was a change of circumstances, that could be flagged up to Social Security Scotland. That would be common sense, but it brings information technology and the DWP into play. The DWP uses an old IT system that is not intuitive. Nevertheless, should such a straightforward approach at least be investigated?

**Dr Simpson:** Yes, logically. What appears to be common sense is not always feasible in practice, so it needs to be investigated. We must remember that there is a big risk here, because if the Scottish Government makes a lot of payments to families and it turns out that there was not sufficient proof of entitlement to the qualifying reserved benefit, it could have made payments that it had no power to make under the devolution settlement. It is understandable that the Scottish Government wants to be clear on the point, but I reiterate that we want to push it to make sure that it has does all that it can to investigate.

**The Convener:** It is not only a constitutional issue; in theory, it is an overpayment issue, which creates another set of problems.

**Dr Witcher:** Absolutely.

**The Convener:** Would a workaround—if one can be found—be preferable to having no workaround, on the basis that it might not be possible to pay other families whose children are six and who would qualify for Scottish child payment, although, at that point, we would have absolutely no way of knowing that they qualified? The Scottish Government talks about the disparity between six-year-olds who get the payment and those who do not. Would a workaround—if we find one—be preferable, despite the disparity? What is

the underlying position of SCOSS on that issue, if you have one?

**Dr Witcher:** I think the fact that some children would get the payment is worth it. If there is an opportunity to get money to families that desperately need it, even if we cannot get it to all of them, it would be good to do so. However, the investigation may show that there are trade-offs to be made. It might transpire that such a situation would not be desirable, for reasons that we are not yet aware of. That is our position on the issue.

**The Convener:** Your point is well made. Certainly, in my constituency, the child payment will literally change the lives of some kids, so I would want to maximise the number of families that benefit from it.

**Pauline McNeill (Glasgow) (Lab):** I have a quick supplementary question. I tend to agree about some children getting the payment, but it concerns me that, if someone has a child who is aged eight or nine, it does not mean that they will be better off. That is the problem. Someone might have younger children. You might not be getting to the poorest families. Is that a fair comment?

**Dr Witcher:** The initial research showed that targeting children under six would have the maximum impact. There is a considerable evidence base that suggests that that targeting makes sense. There are also entirely practical reasons for doing that, because the payment builds on the best start grant, there is data and it is a much easier thing to deliver at pace. The choice is between bringing it in for that particular bunch of children, because it is feasible and safe to do so in terms of security of delivery, or not bringing it in for any children until the whole thing is in place, which would take considerably longer.

**Pauline McNeill:** Thank you.

**Mark Griffin (Central Scotland) (Lab):** I thank the witnesses for their report and its detailed recommendations, which I hope that the Scottish Government will accept in full. Like the convener, I want to focus on recommendation 1, on the issue of under-sixes turning six and losing eligibility.

The Scottish Parliament information centre has provided me with a figure of around 58,000 children who might lose their eligibility. I think that the Scottish Government has given its own figure of around 50,000 children who might lose their eligibility. Could the families of those 50,000 children be lifted out of poverty with the payment and then find themselves back in poverty when the child turns six and loses their eligibility?

**Dr Witcher:** Presumably; it is a possibility.

10:30

**Dr Simpson:** It is certainly possible. Part of the justification for targeting children under six initially is that poverty rates are higher at that stage, which is largely bound up with the fact that maternal employment rates increase as children get older. Presumably, there would be at least a partial offsetting of the problem if that effect is seen. Logically, there are likely to be some families to whom that is exactly what happens.

**Mark Griffin:** I know that you have not set any priorities among your recommendations. However, given that the Scottish Government is saying that 50,000 children could lose their eligibility, with the potential result that their families could fall back into poverty, how much attention should the Government focus on recommendation 1 and on finding a workaround to solve that problem? How big a priority should that be?

**Dr Witcher:** I am not sure that we can add much to what we said in our recommendation. I hope that we made it clear that we consider that it should be given priority. As you rightly say, we will not set priorities among our recommendations, but we have been pretty unambiguous about the importance that we give to solving that problem for the reasons that have been given. Our role, primarily, is to identify and explore the implications of different options. It is not necessarily our role to pronounce judgment on whether the political choices that are made on the basis of those options and analysis are the right ones. It is for politicians to come to a view on the matter and to explore it among themselves.

**Mark Griffin:** We have touched on what a potential workaround could look like and whether it is possible for the DWP to continue to provide the information that would allow a run-on payment for children who turn six. Is it possible to look at it from the other side and to ask the family to make a commitment when they make an application? In other words, if they are in receipt of the payment, they have an obligation to inform Social Security Scotland of a change of circumstances. Given the principles of fairness, dignity and respect, we should trust claimants to provide accurate information. That could be a workaround, rather than relying on the DWP.

**Dr Witcher:** Mark Simpson may have something to add to this, but providing that information is, in principle, the role of families who receive benefits, and the onus on them to do what you suggest is certainly something to explore. There are risks. The first is around whether the Scottish Government would be acting outwith its competence. The second is that there may be increased risks of overpayment, and the question is what would happen in that scenario. However, it is something to consider.

**Dr Simpson:** It is not for us to prejudge what a workaround might look like, but there are certainly various options. One would be that the information would come from the DWP, but I imagine that if the DWP had the information we would not have the problem in the first place. We could place an onus on the claimant either to demonstrate their on-going eligibility or to notify the agency if their circumstances changed such that they were no longer eligible. That would create the problems that Sally Witcher highlighted, and would add to the complexity of the system as a whole. Those are some of the reasons why the recommendation is that you should investigate the feasibility of a workaround, rather than that you should do it.

**Mark Griffin:** You have talked about balance and prioritising making sure that some families in poverty get the payment. What is your view on the balance between the increased risk of overpayments due to a potential workaround and the risk that 50,000-odd children will not get the payment? Would it not be better for some children who desperately need the payment to get it, even with an increased risk of overpayment?

**Dr Witcher:** That might indeed be better. Again, that is for politicians to come to a view on. As I say, our role is to highlight the options.

This is one of many good examples of the fact that we are in new territory. There will be so much learning from what happens with the Scottish child payment. There is not a wealth of historical evidence to go on to give us a sense of what has worked and what has not worked—on this occasion, the learning is not there. Decisions have to be made that may—or may not—turn out to be the best or right ones. That underlines why our recommendations emphasised the importance of review. There will be so much learning, and we need to get this right. If we can review it and get it right for the next phase of roll-out, so much the better.

**The Convener:** Just before Jeremy Balfour moves on to a new topic, Michelle Ballantyne has a question on that theme.

**Michelle Ballantyne (South Scotland) (Con):** Actually, it is on the theme that Alasdair Allan raised when he asked about decisions and making choices.

**The Convener:** We can mop that up now.

**Michelle Ballantyne:** I attended the SCOSS consultation day, which I found really useful; the level of engagement was very high. At the time, we discussed an issue that is also discussed in your report and the annexes to it. That issue is the choice to use the power in section 79 to establish the Scottish child payment as a top-up to an existing reserved benefit, rather than create a new standalone benefit.

Did you get much evidence on that decision? The benefits of a standalone benefit seem to outweigh the negatives, such as the time that it would take to introduce. We have been talking about this for almost two years. Were you given timescales for how long a standalone benefit would take to create and what the delay would be? It feels like a missed opportunity.

**Dr Witcher:** We did not ask for those specific timelines. Introducing the Scottish child payment as a standalone benefit would have required primary legislation. It would have created issues with scheduling, given the time that that would have taken. It would have meant more thorough scrutiny, so there are arguments in favour of doing it in that way, but it would have created considerable and unavoidable delay, which would have been unacceptable given that you are trying to get money into people's pockets as quickly as possible. There is no easy way of squaring that circle, and you have to make a judgment.

Stakeholders raised the issue with us. In many ways, a standalone benefit would be a better option. The Scottish Government could have decided what it wanted to do—it would have been much more straightforward. There would have been more flexibility and more thorough scrutiny. Many of the risks and inherent challenges that flow from the Scottish Government's ability to do something being contingent upon what another Government does would have been significantly mitigated or removed.

The question is not what the approach would be in an ideal world, because the challenge is to identify what is most effective in the situation that we are in. That was the judgment that we arrived at.

**Jeremy Balfour (Lothian) (Con):** Thank you for the work you have done on this. I have found it really helpful. I commend you on the way in which you have done it, as a case study for the future.

I have some questions about the application process and about what happens once an application is in the system. You make some points in your report about that. Perhaps you could go into more detail. You say that there should be clearer guidance on how to complete the application. The committee and the Scottish Government are both very keen that the process does not put people off. Can you say more about that?

You flagged up the lack of clarity around a right to appeal. If someone is turned down, how should the appeal process work? How can it be made quick and efficient?

My final question is about the eligibility date. Correct me if I am wrong about this, but people will apply for the benefit and it may be several months

before they hear back from the agency whether they have been successful in getting it. People may plan ahead, thinking that they will have that money coming in, but then be turned down. Should there be a quicker turnaround by the agency so that somebody who applies hears back within a four-to-six-week period, not months afterwards?

Those are three questions around how the process will work in practice.

**Dr Witcher:** I will make a few remarks but will then ask Mark Simpson to address the issues that Jeremy Balfour has raised.

As far as we are aware, a lot of user testing is going on at the moment around operational issues to do with applications and so on. We do not have the results, but they are likely to be invaluable in getting the process right.

With regard to the eligibility date, there is a proposal that, initially, when the payment is introduced, there should be a gap between when people apply and when people get paid—if that what Jeremy Balfour is referring to. There is likely to be an enormous number of applications very early on, so there are practical issues around processing them and managing expectations around how quickly the new system can deliver the payment. I can see that there are some arguments in favour of a quick turnaround, but the issue raises other questions that we expect will be addressed in the next set of regulations—the supplementary set—which we will be asked to comment on. We have not seen those regulations yet; it may well be that they contain more detail around quite how that is all going to be done, and will address such things as changes in circumstances that occur between application and payment, and competing claims. Those are just some of the issues that might need to be ironed out, to make sure that the system works as well as it can.

**Dr Simpson:** Both in this session and in our report, we have commented on the extent of consultation, as the system is developed, with people who have lived experience. During the scrutiny process, we discovered that the one area where consultation seems to have been on-going is in relation to application processes. We are not clear on the outcomes—if any—so far, but it is clearly being worked on, and rightly so. We can keep an eye on things, in the hope of being satisfied that the system is being made as user friendly as possible. It comes back to the overarching point that we make throughout the report about the need to keep all things under review and to involve in that process the people who receive the child payment.

On appeals, the Social Security (Scotland) Act 2018 and the associated regulations are, for the most part, reasonably clear about the process from determination to redetermination to appeal, where that is necessary. There is a need to ensure that applicants understand that process. The advice sector is possibly better placed than we are to comment on whether that proves to be the case in practice.

We picked up on a slight grey area surrounding the recovery of overpayments, which is relevant to some of the previous points that have been made about overpayments. There is a power to recover overpayments from the claimant. There is also a parallel policy intent that recovery will be pursued only when it is reasonable to do so, and where there has been fault on the part of the claimant. We do not yet know what that means in practice, and it is important that it is clarified both in the guidance for decision makers and in the information for applicants and advice providers.

A slightly different review process appears to be envisaged when the recovery of an overpayment is challenged. It is not necessarily wrong that there should be a different process, but it needs to be clearly and sufficiently independent of the original decision. Again, we and others will keep an eye on that.

10:45

**Jeremy Balfour:** Is it a risk because of how the system is being set up? If I make an application, it will be several months before I get my payment, and my circumstances could change in that time. How would I let Social Security Scotland know about the change and how would the agency process my claim? I might be entitled to the payment from the date of my claim for two months, but what about beyond that? The process seems to be bureaucratically messy and open to misinterpretation by claimants and the agency. Given the evidence that you have taken, is there a way to ensure that the process is tidier and clearer?

**Dr Witcher:** Those are good questions, which we might ask as well. However, we will need to wait and see what the regulations, which will cover commencement, will say on that. We hope that such issues will be addressed there, but the question will be whether they are addressed sufficiently. Until we have seen the regulations, there will be a limit to what we can say about whether those issues have been acknowledged and mechanisms are in place to mitigate them or prevent them from arising.

**Dr Simpson:** Some of those issues might be reduced or eliminated if, in future, it is possible to automate the processes to a greater extent.

We pick up on Jeremy Balfour's point in the report, although we perhaps approach it from the opposite direction. We were thinking more about people who apply and are deemed to be ineligible but whose circumstances then change such that they become eligible. We make a point in the report about the desirability of ensuring that, in such cases, an award can be made without a repeat application. However, Jeremy Balfour is correct to point out that it works the other way, too.

**Jeremy Balfour:** Yes—it works both ways.

**Dr Simpson:** If the change is that the applicant is no longer eligible for the qualifying benefit, we would hope that that information will come from the DWP, but there might be other changes where the onus is more on the applicant. There is potential for issues.

**Dr Witcher:** There is also the question of how determinations without application—where an application is not necessary—will be dealt with. That is a wider question, particularly in the context of competing claims. It is unclear how that will work in the initial phase in the gap between the claim and payment.

**Pauline McNeill:** Thank you for your list of helpful recommendations. The observations are sharp. I will focus on a couple of issues on which I would like to hear more. I have checked to see to whom child tax credit payments are made, and when the parents live together, priority is given to the mother. If the parents live separately, Her Majesty's Revenue and Customs decides—I presume that it considers factors such as who the main carer is. Are you satisfied that it is clear who the payment will be made to once eligibility has been established?

**Dr Witcher:** A number of issues need to be clarified to do with who will get the payment and on what basis, particularly in the context of competing claims but also, as you rightly say, given the different routes to eligibility. That needs to be looked at.

**Dr Simpson:** There probably was a need to introduce the hierarchy of qualifying benefits, which reduces some of that confusion. The hierarchy in the regulations is probably logical, because the benefits at the top, such as universal credit and child tax credit, are clearer markers of low income than child benefit, which is much more widely paid. I think that I am right in saying that, in some circumstances, child benefit can be payable in respect of a child who does not even live in the UK, so the hierarchy makes sense for various reasons. Whether it will remove all ambiguities remains to be seen.

**Pauline McNeill:** Perhaps we need a wee bit more scrutiny of that. Particularly where there is a separated couple and there is shared care of the

child, someone will have to decide who will get the payment.

**Dr Witcher:** It might be appropriate to pick up some things in regulations, but other matters could be dealt with through clear, high-quality, accessible guidance. We might be able to take different routes to deal with issues.

**Pauline McNeill:** In one of your recommendations, you mention extension of the payment to older children. In answer to my question about younger children, you said that there is evidence that targeting them has the most impact, but I want to examine why we are planning to stop the child payment at 16 given that child benefit is payable up to 19. I imagine that it is because a 16-year-old is still a child under the United Nations Convention on the Rights of the Child and they may still be living at home and will still have needs, although possibly fewer than a younger child. However, do you have any thoughts on whether extending the benefit up to the age of 18 would be more appropriate than ending it at 16?

**Dr Witcher:** To be perfectly frank, that is not an area that we focused on or discussed, but the question is perhaps worth looking at.

**Dr Simpson:** That brings me back to a point that we make at various points in the report. Ultimately, there is a political choice to be made on the best use of the resources that you have to achieve the ambition of reducing poverty.

**Pauline McNeill:** The regulations pertain to the first phase, which covers children under six, but there is a commitment to look at extending the payment to cover those up to the age of 16. We will therefore have to look at the issue again when those draft regulations are laid. Is that correct?

**Dr Witcher:** I believe so, yes.

**Pauline McNeill:** It will be for the committee to examine whether the Government can meet the stated intention of introducing that change by the end of 2022.

**Dr Witcher:** Yes.

**Keith Brown (Clackmannanshire and Dunblane) (SNP):** Thank you for the work that you have done on the matter, which is helpful. On the point that was raised earlier about how quickly or slowly it might be introduced if we took a different approach through primary legislation, I think that the Scottish Government has probably reconciled itself to the fact that it will be criticised politically whichever way it goes.

However, on the issue of doing it in the way that is intended and relying on qualifying or passporting benefits, the committee heard last week that the DWP has not laid down a strategy

for encouraging increased take-up, has done no research on how to increase take-up and, unlike the Scottish ministers, has not given itself an obligation to increase take-up. If we continue to see lower levels of take-up of universal credit, will that not blunt the effect of the child payment, to the extent that it will rely on that take-up?

**Dr Witcher:** The short answer is yes. That is why one of our recommendations is that the Scottish Government looks at the extent to which there is scope for it to promote such take-up, without there being issues of detriment that would bring into play the fiscal framework. There is a legal requirement for the Scottish Government to promote the take-up of devolved benefits, and there is reference to that in the charter as well. In fact, the charter is wider than that, because it says that the Scottish Government has an obligation to promote take-up of assistance more generally

We need to look at how much scope there is for the Scottish Government, while staying within its competence and without there being adverse consequences for the fiscal framework, to promote the take-up of universal credit and reserved benefits. We think that it will be worth while to explore that. You are absolutely right—the Scottish Government can promote the Scottish child payment, but unless people are receiving the underlying entitlement, they will not get it.

Another issue, given that the fiscal framework requires there to be no detriment to the UK Government's expenditure, is whether promoting the Scottish child payment would increase take-up of reserved benefits as a consequence, and what that would mean.

**Keith Brown:** It is worth saying that we had a private session with people from the Institute for Fiscal Studies, and they reassured us on that issue.

You say in your report that the payment will potentially have a beneficial effect on levels and "depths of poverty". Looking at alternatives, is there anything comparable to the child payment, even if it is called something different, in England, Wales and Northern Ireland?

**Dr Witcher:** I am not aware of anything in particular.

**Dr Simpson:** You could look at some of the supplementary payments that have been made in Northern Ireland. The underoccupancy penalty in relation to housing benefit and universal credit has been addressed through different routes in Northern Ireland and Scotland, and in Northern Ireland there is a supplementary payment that disappplies the benefit cap for any households with dependent children. That is the closest comparator that I know of, although the Scottish Government seems to be keen that the child payment is not

regarded as a mitigation payment in the same way.

**Keith Brown:** The convener mentioned the SIMD data that has just come out. A ward in my constituency is in the top four most deprived areas along with wards in Paisley, Greenock and Carntyne. Poverty is, as the SIMD exemplifies, very much present just now. Are you able to do any analysis—it may not be within your remit; I do not know—of whether we should implement the payment quickly or go through the route of primary legislation, with all the benefits that that would have? Can you quantify the benefits that would arise from people in such circumstances getting money in their pockets early, given that poverty exists here and now?

I am bearing in mind your answer to Michelle Ballantyne's question, in which you said that you have not looked at the length of time that an alternative process might take. Nonetheless, if we were to wait a number of years beyond the Scottish Government's proposed route, what effect would that have on those families?

**Dr Witcher:** Mark Simpson might be aware of research evidence that supports an early approach. There is research evidence on the importance of early intervention for later outcomes, which supports the need to target younger children in particular. The Parliament and ministers have the power to refer to us the task of looking into particular topics, but I issue a plea that you do not do that now, because we are busy with rather pressing matters and a series of various regulations. That is probably as much as we can say about that at the moment.

There might also be issues to consider with regard to the take-up strategy, as was mentioned earlier. How are you going to target that? Will it be focused on areas of particularly deep deprivation? Will it be about seldom-heard groups or marginalised communities? There is a lot to consider, which is why we are keen to emphasise the importance of involving the third sector and community organisations in the development and on-going monitoring of take-up.

**Dr Simpson:** The family resources survey results and the statistics on households with below average incomes that will be published after the payment has been introduced will answer the question much more neatly than we can at present. We will certainly watch those sources closely in our future work when we come to think about issues such as compliance with the charter.

11:00

**The Convener:** That is a very interesting point. Keith Brown was talking about another aspect of how the SIMD could be used, while I was talking

more about how uptake could be increased in areas of entrenched deprivation. Keith mentioned the impact of the policy in the same areas. I am conscious that the data that will be gathered to which Dr Simpson refers might not cover the granular impact on specific communities. There might not be a positive impact—although there might be—on certain communities. For people in communities in my constituency, it has not really mattered what Governments have been in charge over 50 years, because that entrenched poverty has endured. We are all doing the best that we can to tackle some of that.

I would be interested to know how we can measure things and map out some of the impact in areas with enduring poverty; I am thinking of the citizens income, too. I think that Keith Brown alluded to the same thing. There might be some benefit not just for families with children, but for the area more generally. I am not saying that SCOSS should do this, but might that be an area in which it would be helpful to have some interesting research?

**Dr Witcher:** That underlines the importance of review. We know that the Scottish Government is committed to review, but we do not know precisely what it is thinking it will review. There would be real merit in getting a clear plan of action. The points that you raise are extremely important. There is obviously a link between take-up and impact, so you cannot completely divorce the two. The people who are most marginalised might also be the people who are most difficult to reach and communicate with about the fact that the payment even exists. People cannot be neatly split up into groups.

When it comes to learning, as Mark Simpson said, we need to get things in place now so that the system can be properly monitored and assessed, rather than waiting a year or two before having another look at it. Let us work out now what should be looked at, and let us get a mechanism in place for that monitoring and evaluation so that, when there is a review, there is a body of evidence for it to draw on.

**Dr Simpson:** You make a very important point, convener. The family resources survey will tell you what the impact on the poverty statistics is, but it will not tell you about the qualitative impact on the lives of people who have been lifted out of poverty or who have had the severity of their poverty reduced as a result of the introduction of the payment. That goes alongside the headline numbers that we hope the Government will be taking an interest in. I do not doubt that some of my fellow academics with an interest in social security will be thinking about that, too.

**Dr Witcher:** This discussion underlines the value of different types of evidence. We might

have some solid research evidence but, when we are considering impact, we also need to capture people's lived experience. It is a matter of how you collect or gather it and how you engage the people with that lived experience. You will only know whether a policy has worked or has had an impact by asking the people themselves. If you only look at the statistical data, you will not get that. It is really important to have that intel when you come to review the policy. The starting point was that whether the policy works or not will be determined by the impact that it has on the lives of the families and children who benefit from it, and the only way that we will know that is by asking them.

**Alison Johnstone (Lothian) (Green):** We want to ensure that the payment addresses poverty as much as it possibly can. It is fair to say that the committee has discussed the uprating of benefits frequently over the past few years, so I found the commission's proposal for a double lock very interesting. I presume that you believe that, if a double lock is not in place and benefits lose their value in the way that child benefit did over a period of years, that will not help matters to the extent that we all want.

**Dr Witcher:** Yes. The Scottish Government is clear that, in general, the purpose of uprating is to maintain value. The Scottish child payment is specifically targeted so as to

"tackle child poverty head on".

That wording is contained in the opening statement of the policy position paper that was published recently.

Child poverty and relative poverty are measured with regard to income. Therefore, if we are trying to tie the impact of the Scottish child payment to the measurement of child poverty, it will help if the method of uprating is the same as or similar to the one that is used to measure the outcome. Does that make sense? If median income is used as a measure for uprating, it will help if it is also used to gauge relative child poverty.

In general terms, the more that double-lock and triple-lock approaches are used, the better the protection from poverty is likely to be. It is not only about prices, because prices and median income will not necessarily behave in the same way. The impact will always be strengthened if there are more options and the benefit is based on whichever is highest.

**Dr Simpson:** Things are slightly complicated by the fact that there are four different definitions of poverty in the Child Poverty (Scotland) Act 2017. If the policy intent was to reduce absolute poverty—as it is defined in the act—or material deprivation, inflation would absolutely be the right measure to achieve that. However, the stated policy intent is on relative poverty and, as Sally Witcher has

stressed, that is assessed with reference to the median income. That creates the case that that is a suitable benchmark for the uprating.

**Alison Johnstone:** That is very helpful. Thank you.

The report from SCOSS describes a situation that might mean that the Scottish child payment is unable to have the effect that we want it to have, in which a recipient's claimant commitment requires that they seek work or increase their working hours, which would then result in them losing their child payment. The recipient could lose income in either case. It is a catch-22 situation.

Do you have any understanding of how common such a situation might be, and do you know whether the Scottish Government is aware of it and is working to address it?

**Dr Witcher:** Are you talking about the potential for a cliff-edge effect?

**Alison Johnstone:** Yes.

**Dr Witcher:** It is a logical consequence of the way that the benefit is structured. There are potential implications for the automation of payments, although again there are choices.

The payment could be the same and constant each time that it is paid, which should, in theory, make it much easier to automate payments and help with take-up rates. However, it could cause a cliff-edge situation in which, at worst, a person could lose more than—I think—£1,000. That would particularly affect people who have more children, because the more children that a person has, the bigger the cliff edge. A £1 increase in their income could result in a bigger drop, because the person's Scottish child payment could cease.

Complexities are built in, with issues around take-up and complexities around changes in circumstances. There is a risk of overpayment if a recipient's circumstances have changed, and payments need to be adjusted accordingly. As ever in such situations, there are swings and roundabouts. It is clearly an issue and that is why we have said—and are insistent—that thorough investigation is needed, not only of whether it would be feasible to taper the Scottish child payment, but whether it would be desirable to do so.

We need more information about the potential for adverse consequences. We can foresee some, but there may be others that would come to light if further investigation were carried out. Being aware of those could help you to make a sound judgment on which course of action to pursue.

It would be really helpful if information were gathered on how many people were affected by a situation such as the one that has been described.

That is something that should be, or could be, reviewed, ideally before the next phase of the introduction of the Scottish child payment.

**Dr Simpson:** Alison Johnstone asked how many families are likely to be affected by a situation like that. We do not have that information. The Resolution Foundation came up with the rather dramatic figure that an increase of £1 in pay could result in the loss of £1,600 in Scottish child payments, which was possibly based on the person having three children.

However, I anticipate that most people will not be in that extreme situation. In reality, we are talking about people whose income fluctuates from month to month or goes up by more than £1. It is something to monitor in the future. The trade-off between simplicity and avoiding a cliff edge will be a political call, but I want to flag up that we think that it is something to consider rather than something that must be done. Research that I have been involved with has shown that a lot of claimants value consistency over that kind of responsiveness, so there will be arguments on both sides.

**Alison Johnstone:** You recommended that the Scottish Government examine automating the payment, but the Government has said to the committee that it is nowhere close to being able to offer automatic payments at the moment. It has stressed the many complexities of making such a system work. Do you accept the argument that it is very difficult and not practical to offer such a system any time soon?

**Dr Witcher:** We regard that in the same way as any other statement, which is that we welcome seeing the evidence. We need to understand why it is not possible and a bit more about what the challenges are. That is not to say that it is not a completely accurate assessment; it is just that we do not have the information that would enable us to say with absolute confidence that it cannot be done. That is why we are asking for it to be looked at.

**The Convener:** Jeremy Balfour wanted to ask a few questions.

**Jeremy Balfour:** No, they have been covered by everybody else. I am done.

**The Convener:** I understand that SCOSS has a meeting next week with the cabinet secretary, so the process is on-going. It might be worth getting some final remarks from one or both of you, because the committee is taking the temperature of where SCOSS is in relation to the Scottish child payment. I certainly do not want to misinterpret what you have said or put words into your mouths. To guide us, we really need to know whether it is by and large positive, and, if not, whether you are seeking to improve or enhance it, or whether there

are any underlying fundamental issues. We will obviously have our own deliberations on the Scottish child payment, but we are keen to capture the mood more generally from you. Any closing remarks would be welcome.

**Dr Witcher:** As I said at the outset, it is a new process for us all. That includes how we work together, including with the Parliament. You are now doing your scrutiny at a different stage, too. We are all feeling our way a bit.

We are encouraged that the Scottish Government is committed to getting it to work as smoothly as possible. There will inevitably be a lot of valuable learning as we gain more experience. We have had some experience with the Scottish child payment that has shown us all that if we do something in a certain way, that will help everyone else, too.

In that sense, there is no fundamental issue, other than the fact that we can see the merit in trying to pin the process down a bit. We want it to be clear that, for example, SCOSS will need this with this timeline and the Scottish Government is able to provide that within that timeline. We want to work it out and get it down on paper so that we are clear about expectations and processes.

There will be continuous review, because we are in incredibly early days. It is a really new process, and there is no other body quite like ours, so there is not a lot of learning to draw on. It is exciting and we are thoroughly enjoying the process of learning how to do it and finding ways to maximise value.

That is where we are at. We need to think about a protocol. We have already had some positive discussions with the Scottish Government about that. Perhaps it would be helpful to have a three-way protocol that shows where the Scottish Parliament fits in, too, to ensure that everybody gets the right communications at the right time.

It is evolving. The clearer we can be about it, the greater the benefits will be for all concerned and the smoother the process is likely to be.

**The Convener:** Thank you—that is helpful.

Dr Simpson, do you want to add anything before we close the evidence session?

**Dr Simpson:** As we stressed throughout the report, the introduction of the child payment is clearly a positive step towards the principle of social security being used to reduce poverty in Scotland. The recommendations that we have made are intended to ensure that that is achieved to the maximum extent possible. We do not have the answers to whether all the things that we are suggesting are feasible. We do not even have the answers to whether those things are all desirable,

but we want to ensure that they have all been fully considered.

**The Convener:** Thank you very much for this morning's evidence session, Dr Simpson and Dr Witcher. You have certainly helped us in our scrutiny.

11:16

*Meeting continued in private until 11:40.*



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.

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