



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 27 February 2020

Session 5



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SOCIAL SECURITY COMMITTEE

6th 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)
*Alison Johnstone (Lothian) (Green)
*Shona Robison (Dundee City East) (SNP)
*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claire Mellor (Scottish Fiscal Commission)
Claire Murdoch (Scottish Fiscal Commission)
Dame Susan Rice (Scottish Fiscal Commission)
Professor Alasdair Smith (Scottish Fiscal Commission)
Professor David Ulph (Scottish Fiscal Commission)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Social Security Committee

Thursday 27 February 2020

[The Convener opened the meeting at 09:01]

Interests

The Convener (Bob Doris): Good morning everyone, and welcome to the sixth meeting in 2020 of the Social Security Committee. I remind everyone to turn mobile phones and other devices to silent mode or to switch them off so that they do not disrupt the meeting. I am just checking my mobile phone to make sure that I have done that.

We have received no apologies this morning.

I am delighted to welcome two new members to the committee—Tom Arthur and Graham Simpson. It is a pleasure to have you here. I record my thanks to the outgoing members, Michelle Ballantyne and Alasdair Allan, for their diligent work on the committee.

I invite Tom Arthur and Graham Simpson to declare any interests that are relevant to the committee's work.

Tom Arthur (Renfrewshire South) (SNP): Good morning, convener. It is a pleasure to join the committee. I confirm that I have no relevant interests to declare.

Graham Simpson (Central Scotland) (Con): I, too, have no relevant interests to declare.

The Convener: Excellent.

Decision on Taking Business in Private

09:02

The Convener: Item 2 is for the committee to agree that item 5, which is consideration of evidence, and item 6, which is a work programme discussion, be taken in private. Do members agree?

Members *indicated agreement.*

Scottish Fiscal Commission

09:03

The Convener: Item 3 is evidence on the Scottish Fiscal Commission's forecasts. I welcome Dame Susan Rice, who is the chair of the Scottish Fiscal Commission, and her team. They are Professor David Ulph and Professor Alasdair Smith, who are commissioners; Claire Murdoch, who is the head of devolved taxes and social security; and Claire Mellor, who is a senior fiscal analyst. You are all very welcome this morning. Thank you for joining us.

I invite Dame Susan to begin with her opening statement, before we move to questions.

Dame Susan Rice (Scottish Fiscal Commission): Good morning, and thank you for asking the SFC to give evidence. I shall comment briefly on the maturing of the Scottish budget process in relation to the expansion of social security responsibilities in Scotland.

We have been calling this a new era for the Scottish budget because, for the first time, social security will make up a significant component of the budget in the coming fiscal year. As we all know, April will mark the devolution to Scotland of a further £3 billion of social security payments, which will add about 10 per cent to the Government's resource spending.

That additional spending increases the size of the Scottish budget and it leads to complexity, for several reasons. First, it increases potential volatility because any differences between budget allocations, which are based on our forecasts, and the actual amount that is spent on social security, will have to be managed by the Scottish Government within the financial year, and that spending is demand-led.

In addition, while we forecast the spending in Scotland, our colleagues in the Office for Budget Responsibility forecast benefit spending in England and Wales. The Treasury uses those forecasts to estimate the block grant adjustments. Variations in the block grant adjustments will also have to be managed as part of the Scottish budget.

Yet another element to consider is that the majority of our forecasts for disability and carers assistance are based on existing United Kingdom Government policy. However, from what we have heard so far, we can expect spending to increase further when the new Scottish payments are launched. When the policy and operational details are clearer for those new payments, which we expect to see over the next couple of years, we will incorporate those changes into our forecasts.

That means that the five-year forecasts that we make today are likely to change significantly over time, because the level of spending that we predict for the future cannot yet account for the Scottish Government's planned reforms.

It is therefore reasonable to expect that we will see larger forecast errors with significantly reformed benefits. The forecasts are more uncertain because, with new benefits or new policies, we have to rely more on assumptions and judgements about what will happen. Our approach is to work closely with the Scottish Government, and to ask it to provide all available information on the new benefits—for example, on eligibility criteria, the application process, and communication plans. We also look at the experience of new benefits that have already been launched, such as the best start grant, to see what we can learn from them.

We review all that information, along with data on existing benefits, in order to consider how things such as take-up rates might change in the future. We use that information to produce our forecasts.

Overall, we expect some forecasts to be too high and some to be too low, as we aim to produce central forecasts. Forecasting is as much art as it is science. Effects will not always be cancelled out, particularly when a large benefit is changed, because a relatively small error in percentage terms could mean a big difference in cash terms. Such inevitable uncertainties are part of the new era for the Scottish budget.

What we can do, in this context, is explain transparently how we have produced our forecasts, and we can highlight the forecasts that look as though they will be more uncertain. By the time of our next forecasts, which are expected alongside the Scottish Government's upcoming medium-term financial strategy, we will be only a few months into the financial year and, importantly, we will have relatively up-to-date information from the UK budget and OBR forecasts. We hope that we can, at that point, add clarity in respect of the position of the UK budget for 2020-21.

Fiscal devolution, especially of social security benefits, inevitably means greater uncertainty in the Government's month-to-month finances, so regular monitoring of the budget during the year will be essential. It might therefore be a good idea to take stock again—perhaps after we have published our next forecasts.

We are happy to take the committee's questions.

The Convener: Thank you. Committee members will want to look in more detail at issues around having to meet in-year costs in relation to

the actual spend rather than the forecast spend, and we will come on to that in a second.

I will start with the Scottish child payment. It is one of the things on which, I have to say, I would quite like the commission to be wrong. We all have an agenda to maximise uptake of the Scottish child payment, which be a positive thing, but it will have financial implications for the budget. The Scottish Government's policy option paper of June 2019 assumed 83 per cent uptake of the Scottish child payment on roll-out, which would mean that it would go to 340,000 of the qualifying 410,000 children, at a cost of £180 million. The Scottish Fiscal Commission forecast a 72 per cent uptake that would reach 284,000 children.

Both forecasts would dramatically reduce child poverty in Scotland. Uptake would mitigate many issues, but the child payment has to be paid for. Is the Fiscal Commission clear about why it has arrived at one forecast but the Scottish Government has arrived at another?

Dame Susan Rice: We have given a lot of thought to that. David Ulph can say more about it.

Professor David Ulph (Scottish Fiscal Commission): I will make two or three points. First, as Dame Susan said in her opening remarks, we are aiming to make central forecasts. If there is a high number and a low number we are duty bound to go for one that is somewhere between the two. The reason for making a central forecast is that any underestimate or overestimate of benefits would result in costs to the Scottish Government.

We base our forecasts very much on our experience with the best start grant, from which we learned two lessons. The first was that take-up grows over time, so we now assume that it will be low initially but will grow later. The second was that take-up varies among different groups in the population. For example, families with children under six, who will largely already be in receipt of benefits such as the best start grant, will be familiar with the system and might already have access to charities and other bodies that will keep them advised of the availability of such payments. In making our forecasts, we have therefore assumed a high level of take-up in such cases, starting at 76 per cent and growing to 80 per cent over the forecast horizon. I stress that those are higher levels of take-up than we would assume for virtually any other benefit that we forecast, so we are aiming on the high side there.

For families with children aged between six and 16, our assumption is that, because they are less ingrained in the benefits system, they are less likely to be in touch with charities and other bodies that will advertise such benefits. For that group we have therefore said that initial take-up will be

somewhat lower: it will start at 66 per cent, which is in line with the levels that we have seen for other benefits, and will then grow rapidly, to about 70 per cent, in the course of the forecast horizon.

We base our forecasts very much on the evidence that we obtain, our conversations with the Scottish Government and Social Security Scotland about their efforts to advertise and promote such benefits, our experience of forecasting other benefits, and the take-up rates that we have seen on those.

The Convener: The committee will, of course, track your forecasts. If the Scottish Government does not reach its target of 83 per cent, we will ask why that did not happen. Likewise, we understand that the process is not an exact science. If the Fiscal Commission's projections were a bit too conservative, we would ask similar questions. At the end of the day, we want to know what the Scottish budget's financial exposure is on that.

It seems that, by 2023-24, the gap between the Scottish Government's estimate of what it will pay for the Scottish child payment and the Fiscal Commission's estimate could be £23 million. For a financial year in which there is a difference between the Fiscal Commission's forecast, which is what has to be put in the budget, and the Scottish Government's forecast, and the Government's figure is the higher of the two, is the Government bound to publish contingencies for meeting that gap?

Claire Murdoch (Scottish Fiscal Commission): I will answer that from a financial perspective. At the moment we are forecasting for the coming year, which is 2020-21, and we are producing a five-year forecast horizon. In the course of this year, the Scottish Government will launch the benefit, and so we will get the first data, from which we will see how many people apply and what the take-up is, after which we will revise our forecast.

By the time of full roll-out of the benefit, in relation to all children under the age of 16, we should have more information about take-up and will then revise our assumptions. We hope that, by then, our forecasts are more likely to be accurate and so the forecast error should be smaller.

The Convener: Okay; I understand that. It is still early days and it is a demand-led budget. I have raised those issues with the First Minister at the Conveners Group. We have a growing, demand-led social security budget and, by definition, we want everyone to get their entitlement. When there is a variation of forecast between what the Government is bound to put in its budget, based on the Fiscal Commission's forecasts, and what outturn might actually be, there is no requirement on Government to say

how it would source any additional expenditure as part of the budget process. That is just the day-to-day job of Government.

09:15

Dame Susan Rice: Yes, that is the job of Government, and it may be that the Government looks more generally at social security benefits—you were talking about only one benefit. In that context, there are adjustments that Government can make if the spend is too high, but those would be its decisions. That is why we have stressed the need to monitor month by month what is happening with the expenditure, because the Government will have to plan to address those concerns if the differential is as you say.

The Convener: Would it be helpful as part of on-going budget scrutiny if the Government were to be clear on that? Those are problems that we want to have—personally, I want the Government to say, “Oh my goodness, we’ve spent £30 million more than we’d estimated on the Scottish child payment. We have to find to find that cash, because it is for the families who most need it.” However, this committee wants to be absolutely clear that the Scottish Government can plan for that in its budgets. Is there an additional layer of the budget process that is required in relation to any of that, particularly given the significant increase in the social security budget in the years ahead?

Dame Susan Rice: The Government has the ability to borrow, if forecasts are significantly out. It would be looking at its revenue and output totals to make a decision on that. It has some levers—it could launch a new benefit on a different timescale or launch it with greater or lesser advertising. Those levers would be the Government’s levers in an operational sense. The Government would have to be cognisant of the issue that you raise, but there is not a formal mechanism that it has to report on.

Professor Ulph: One of the reasons why we have been trying to explain so clearly in our report that Scotland is going to be exposed to a new era of budgeting is that there are those risks involved. We say to the Government that it has to think about how it manages those risks in the budget on a month-to-month basis. There are things that the Government can do to manage the process: it can draw down its reserve—if it gets big Barnett consequentials as a result of the UK budget next month, it might want to pay into those reserves to give itself a cushion that it can later draw on; or it can use its borrowing powers.

The message that we have set out in our report this year is that the Government has to now start thinking about the process by which it will manage

that, because there will be a month-by-month variation in expenditure.

The Convener: I will ask a final question, which is about that comment on the levers that the Government has at its disposal. I know that members want to ask questions in more detail on that issue.

I have not articulated properly the issue of that month-to-month variation between what the Fiscal Commission forecasts and what the Scottish Government forecasts. The Fiscal Commission figures are locked into the budget and then there is the real lived experience of people as they claim their benefits. How could our committee monitor that on an on-going basis? Could there be an outturn tracker, if you like, that the committee could use to see how things are going in real time, rather than waiting 18 months to see a report that was done six months earlier and then taking evidence on it? Does that make sense?

Dame Susan Rice: It does. You are triggering for us an understanding of the issues around how the committee carries out its responsibilities and stays close to the issue.

Claire Murdoch: We are now producing the forecast for the budget and, as you say, those figures are locked into the budget. In May, when the Scottish Government does its medium-term financial strategy, we will produce updated forecasts for spending in 2020-21 and, if the budget is in December, as it has been in previous years, we will again produce an updated forecast, which will set out how much money we think is being spent. So, there are already two occasions on which we will set out the situation, and there is the question of how the Government uses our forecast and ties it in with its budget revisions process.

The Convener: So, in normal times, there are two opportunities—in May and in December—for the committee, although this year’s budget is of course not at the normal time. That is helpful.

Graham Simpson: I have a question on that theme, which has been partially answered. Will we have a more regular tracking system, month to month, of how spending is going?

Professor Ulph: We cannot forecast with any precision how spending will go month to month. I speak from experience. When I worked for Her Majesty’s Revenue and Customs, we could forecast annual VAT expenditure to within 1 per cent error, but month-to-month forecasting, which people in HMRC wanted in order to manage VAT proceeds, was beyond our forecasting limits.

Graham Simpson: It was not so much forecasting that I meant as how the spending was going.

Professor Ulph: You should be able to get that from Social Security Scotland.

The Convener: Yes, I think that you are right. Graham Simpson and I are both asking questions of the Fiscal Commission that we should probably direct to Social Security Scotland, as they are about the data that we can regularly get from Social Security Scotland.

Graham Simpson: I have another question, which is based on something that Professor Ulph said about Government processes. Are you satisfied that it has got those processes right?

Professor Ulph: All that I can speak of is our interaction with the Scottish Government. We have really fruitful meetings with the Scottish Government and Social Security Scotland to understand as much detail as we can about how they propose to launch, manage and advertise the benefits, and how they propose to put resources into delivering the benefits. All that information is enormously helpful to us in constructing our forecasts.

Professor Alasdair Smith (Scottish Fiscal Commission): We have been emphasising the risks to the Scottish budget that arise from the big increase in social security responsibilities, but there are other risks behind that. As we discussed with the Finance and Constitution Committee a couple of weeks ago, there are risks that arise from income tax forecasts, particularly next year, when it looks as though a big reconciliation will need to be made in relation to income tax.

We have been trying to emphasise the fact that, because of uncertainties in the social security spend as a result of its being demand led, the Government might well be required to borrow if it cannot find expenditure reductions elsewhere. Therefore, it needs to think about its borrowing and budget risks more than one year ahead. The fact that there are substantial budget risks coming up next year should condition the Government's decisions this year when it contemplates this year's risks.

The Convener: There has been a little bit of drift in our questioning. We were on the Scottish child payment, in particular, so perhaps other members will come in with questions on those uncertainties.

Pauline McNeill (Glasgow) (Lab): One area of interest is budget volatility. I was going to ask you about the impact of the UK budget and how it has affected your forecast but, from what you said in your opening statement, I kind of know the answer to that, and I can see that it has made forecasting even more complicated than it already was.

The Scottish Government has decided to defer the 2019-20 in-year reconciliation, which will now

be applied in 2020-21. When we questioned Shirley-Anne Somerville, the Cabinet Secretary for Social Security and Older People, she was quite clear that, if spending was above budget, she would first look to the rest of the social security budget before looking to the Scottish budget more widely. She confirmed that the Government would have to look at that month by month. In monitoring the volatility of that budget and looking at the levers that are available to the Scottish Government, we would be concerned if the Government had to dip into its borrowing powers in the first years of managing the social security budget. Would that have other implications?

Professor Smith: As I implied earlier, the Government probably needs to look to borrowing pretty actively because, as we have said, the social security budget, and not just the one element of it that we have been talking about, is demand led. When legitimate claimants make claims, the claims have to be met. When expenditure turns out to be different from forecasts, the scope for managing expenditure upwards or downwards is very limited indeed, and it is very hard to control expenditure. Although one can see why the Scottish Government would want to manage forecast errors within the social security budget, that might be hard in practice.

As you said, there are always uncertainties coming down the line. Forecasts can be wrong, for example, and the block grant adjustments that go into the budget are varied, and vary during the year. Those variations will probably be bigger this year, because the UK budget process has followed an unusual route, and the current block grant adjustments are based on relatively old UK forecasts. There are uncertainties that have to be managed, and it is hard to manage them by managing social security expenditure.

Those are issues for the wider Scottish budget and Scottish borrowing, which leads me back to the point that I made a few minutes ago. The Government needs to think about borrowing on a multiyear basis, because you cannot make your borrowing decisions year by year without thinking about the future implications.

The short answer to your question is that, although I can see why you would rather not have borrowing take the strain, realistically, we have to think of borrowing as the area where forecast uncertainties have to be dealt with. That is one of the reasons why the Scottish Government has borrowing powers.

Pauline McNeill: It is helpful to understand that, where the Government draws down that particular lever, it needs to plan for a number of years, and not just one year.

What implications—over three or five years; I do not know what the period would be—would there be if the Government were to use its borrowing powers to deal with the Scottish budget demands?

Professor Smith: One implication goes back to something that David Ulph said. It is possible that, after the UK budget, the Scottish budget will get substantial Barnett consequentials. Although we have to wait and see what the UK budget looks like, if there are Barnett consequentials, in the current circumstances of the uncertainties about social security spending and income tax reconciliation that are coming down the line, the Government needs to think carefully about whether we regard those consequentials as relaxing this year's budget constraints and focus on spending more this year, or whether we book them against possible future borrowing needs. You might get a sense of where David Ulph and I would go on that.

Pauline McNeill: Yes—there is a tricky decision to be made.

Professor Ulph: The other point to make on borrowing is that the Government has borrowing powers of up to £300 million per year driven by forecast errors. It is not as if, if it uses them one year, it cannot use them next year; it gets to use the current level of borrowing power for forecast errors. That is another factor that you need to bear in mind.

Pauline McNeill: I appreciate that there is more than one lever; the Government could draw down its reserves and—hopefully—there will be Barnett consequentials. I also take the point that we cannot look at it only for this year; we have to look ahead and ask whether, overall, we have enough money to deal with all the demands on the budget.

If the Government were to use its borrowing powers for that reason over a period of time, would the repayments have an implication for the overall budget? I am not looking for a figure—simply a general answer.

Claire Murdoch: As you correctly said earlier, the Government can borrow up to £300 million a year and has to pay it back over three to five years. It chooses the term of the borrowing at the point of drawing down.

In relation to its plans to borrow next year, the Government has said that it will repay over five years. That means that there is a lower resource to spend over the next five years, as that borrowing is repaid.

Pauline McNeill: Thank you.

09:30

The Convener: I suppose that it eventually reconciles itself to a degree. As the Fiscal Commission changes its forecast, the Scottish Government has to allocate actual money in the budget each year towards what the Fiscal Commission believes will be spent. It is not a case of the forecasting of uptake spiralling out of control. The Government has to allocate money from other portfolios. It is not an open-ended exposure, as I understand it. It may have consequences for spending in other portfolios, but the Government is bound by the Fiscal Commission and, as your forecasts mature and become more accurate, that gets locked into the budget process annually.

Dame Susan Rice: Yes; that is a good way to describe it.

The Convener: I will be meeting Bruce Crawford, who is convener of the Finance and Constitution Committee, in the weeks ahead, because we see the importance of working closely together, given the demand-led aspects of this portfolio. Hopefully, we will get a bit more nuanced in how we do our scrutiny of it.

Alison Johnstone has the next line of questioning, but Keith Brown wants to come in. Keith, is your question on the point that has just been discussed?

Keith Brown (Clackmannanshire and Dunblane) (SNP): Yes, it is.

Dame Susan Rice said that the convener's account of how this works was an accurate reflection. It is more like Alice in Wonderland.

We were talking about the Government's budgeting for forecasting errors, and I want to ask about forecasting. We always hear about the revised forecasts of different economic institutes. We never hear what the original forecast was, or about how far out it was—I am not speaking of the Fiscal Commission in that respect. The value of forecasting is important in your statutory role. What is the value of forecasting, especially in a situation where the UK Government cannot get its act together to produce a budget on time, thus introducing further uncertainty?

You have mentioned different things that the Government can do to mitigate an overspend. That is normally just called "government"; it is what Governments do. They have a lot of finance people who can do that.

Dame Susan, you said that forecasting is as much art as science. There is a lot of art that I would rather see than a second-rate forecast. What is the real value of forecasting?

The Convener: You have just asked forecasters what the value of forecasting is. [Laughter.]

Dame Susan Rice: There are two ways to answer that question.

The first is about the value of having a budget process—a whole system—in which independent forecasts have to be used. That is very important. The value of having an independent fiscal institution such as the Scottish Fiscal Commission is, in a way, to keep a check on the genuine ambition and desire of the Government that happens to be in power. We bring an independent perspective to what might be raised in taxes or spent on benefits—yes, I would say that, but I think that others would as well. There is a benefit to having independent forecasting that begins to put things into a range.

On the overall benefit of forecasting, I have two experts on my left, as well as on my right, so one of them might like to speak up.

Professor Ulph: Suppose that you are trying to design a policy on social security. It helps to know how that is likely to turn out, in terms of budgetary cost, in the years ahead. As it is in the years ahead, you do not know today what that is going to be. The only thing that you can rely on is forecasts.

As Dame Susan has said, the next question is who does those forecasts. In Scotland, we have decided that the Scottish Fiscal Commission, an independent body, will produce them. Having had experience of working in a Government where it was not an independent body that produced them, I think that there is real value to having independent forecasts.

Keith Brown: My comment would be that the check on an ambitious Government should be the electorate, rather than another body, but that is a difference in philosophy. Thank you, convener.

The Convener: I am indulging both new members of the committee this morning, because Tom Arthur wants to ask a supplementary question as well. I ask him to be brief.

Tom Arthur: Thank you for indulging me, convener. I will ask a very brief supplementary question.

How do your forecasts for social security spend inform your forecasts for economic performance? The Scottish Government sees social security as an investment in the people of Scotland. For example, if there is additional spending in Scotland, do you factor that into the equation of economic performance? Due to increased demand, people would have more disposable income, and it would support people into

employment or allow them to be healthier for longer and stay in work.

Professor Smith: The link between the health of the general population—especially as people become older—and economic performance is real, and economic policy makers should take it seriously. It does not play a significant role in our forecasts because, when we do our economic forecasts and look at, for example, levels of participation in the working population in Scotland—which are a bit below where one might like them to be—and at things such as productivity, in the long run we would expect a healthier population to have higher levels of labour force participation and a better-educated population to have higher levels of productivity, but those are long-run effects on a horizon that is beyond the horizon in which we make our economic forecasts.

Professor Ulph: In our forecasts, the overall level of Government expenditure drives expenditure in the economy—hence our gross domestic product forecasts. However, we do not go down as far as expenditure on social security. That is just part of the overall Government expenditure.

Tom Arthur: That is helpful. Thank you.

Alison Johnstone (Lothian) (Green): In the first instance, I will ask questions on child disability assistance. The projections for disability assistance for children and young people are based in part on what the Fiscal Commission describes as a continuation of the historical trend towards lower payments of child disability living allowance. Why has that been the case? Is it because of variation in the level of disability over time? Has it been a UK Government approach to make lower awards?

Professor Smith: As we understand it, the main driver of the reduction in the average level of award is to do with a change in the kinds of disabilities that are covered. Fewer recipients of the benefit require help with mobility, so they do not receive significant mobility elements, which affects the average level of the award. Therefore, when we look at claimants who are not claiming because they are immobile, the average award becomes lower. We assume that that will be a continuing pattern with the new benefit. We identify that that is a risk to the forecast because, as you might detect from my words, that is our interpretation of what is going on; it seems to be what is happening. It might be a long-run trend and, therefore, the pattern that we have seen might continue but those things can change.

Alison Johnstone: Thank you. On the theme of disability assistance for working-age people, the Fiscal Commission and the Scottish Government

have reached an agreement that projections for disability assistance for working-age people will be produced at a later date, when more information is available on the design of the benefit and the way in which eligibility for it is assessed. What are we waiting to learn? What major aspects of the detail and the assessment does the Fiscal Commission need to know in order to make forecasts?

Dame Susan Rice: By way of background, I say that we will make a judgment when we feel that we have enough information to do a respectable forecast. We make a judgment not to forecast when the information is too scanty, because it will not be a useful one and might confuse decisions and what is out there. Perhaps Claire Mellor could answer that in some detail.

Claire Mellor (Scottish Fiscal Commission): The difference with the information that we have for the child disability payment and the Scottish child payment is the draft secondary legislation. As the Social Security (Scotland) Bill was passing through Parliament, it was acknowledged that a lot of the detail about the underlying support would be in the secondary legislation. We will be keen to see the draft legislation for the disability assistance for working-age people, because that is where we get to see more about what is set out for policy and what is proposed.

Alison Johnstone: With regard to diverging policies, the Fiscal Commission's projections for disability assistance for working-age people are based on current Department for Work and Pensions policy, because the Scottish Government has not yet finalised its policy proposal, but the Scottish Government is committed to reducing face-to-face assessments to the lowest possible level. I am very grateful for that. There is a legal requirement not to conduct such assessments when the information already exists elsewhere. Do you expect that to have an impact on expenditure in Scotland?

Claire Mellor: I was talking about policy change when I talked about secondary legislation, but that is not the sole part of what we look at when we produce forecasts. The other area that we are really interested in is how it feels for people who make an application to Social Security Scotland and go through an assessment process, and how that might be different. That is not always set out in the legislative detail, so it is a case of us working with the teams in the Scottish Government and Social Security Scotland to find out more about that.

There was less need for us to consider the assessment process for the child disability payment, but when we come to look at working-age disability, we expect changes in the assessment process to have an effect on

spending, and we will use the information that is available to inform our forecasts.

Professor Smith: It is worth thinking about the timing aspect. We do not expect disability assistance for working-age people to come in until very near the end of 2020-21, so any effect on the coming year's budget is likely to be small. Therefore, it makes sense for us, as Claire Mellor has said, to hold off on making a forecast until we have more information about how the system will work in practice, from the point of view of what the regulations will look like and what the practice on the ground will be like.

The financial impact, whatever it is, will be small, simply because of the timing, so we have put more emphasis on waiting until we can make reliable forecasts, instead of rushing out forecasts that will not have much effect on this year's budget.

Alison Johnstone: I appreciate that—thank you.

Jeremy Balfour (Lothian) (Con): Professor Smith, I was interested in your response to Alison Johnstone's first question. You suggested that there has been a change in the regulations on DLA for children. That is not my understanding, so I would be interested to get a bit more information on that. I understand that the regulations on DLA for children have been fairly static for the past 10 to 15 years. Therefore, any reduction in the payment of DLA for children has nothing to do with the policy. What was your comment based on?

Professor Smith: I am sorry—maybe I was not clear enough. It is not a matter of there being a difference in policy; as we understand it, it is a matter of there being a difference in the types of disability in the beneficiary population.

Jeremy Balfour: Are you saying that there are fewer children with disabilities?

Professor Smith: No. There are fewer children with mobility disabilities and a higher proportion of children with other forms of disability that attract lower levels of assistance.

Jeremy Balfour: I want to follow up on that, because I am not sure that I totally pick up what you mean. Are you saying that, over the past few years, the number of children in Scotland with a medical condition that affects their mobility has decreased and there are now more children with learning difficulties or other disabilities?

Professor Smith: It is not a matter of absolute numbers; it is a matter of the share within the beneficiary population. There is a smaller proportion of children with physical mobility disabilities and a higher proportion with other kinds of disability.

Jeremy Balfour: I can contact you directly about this, but I would be interested in obtaining that information, if you have it. Perhaps you could share it with the committee or more generally. That is an interesting trend, which I have never heard anyone else talk about. Maybe the committee could look at that in the future.

Claire Mellor: We have that information. It is based on quarterly statistics that are published by the DWP, and it is specific to the child recipients. Over time—it is a long-term trend over a long period—the amount that children receive has decreased. As Alasdair Smith alluded to, when we delve into the issue a bit further, we find that fewer children are receiving the mobility component. There are two components, and they are receiving the lower-rate one. That is the best information that we have to go on at the moment. There has been that trend for a long time, and we assume that it will continue. Each time we produce a forecast, that is a key assumption, but we continually revise it.

09:45

Jeremy Balfour: I would be grateful if you could provide that information for the committee.

Claire Mellor: Yes. That is fine.

Jeremy Balfour: I will change tack completely and go back to the wave 1 benefits. Obviously, we do not yet have the actual spend, but I think that I am right in saying that our papers say that there has been a variation in the forecast of about £4 million. It would be interesting to know what lessons you have learned on forecasting. In theory, the wave 1 benefits were fairly easy benefits to deal with from a forecasting point of view, yet we have a £4 million variation. As we go forward, we will be dealing with more difficult benefits that involve larger amounts of money, which will lead to bigger variations. What has the commission learned? What things might you want to tweak?

Professor Ulph: We have learned a number of things. One lesson is that we have to listen very carefully to what the Scottish Government and Social Security Scotland tell us about the way in which the benefits will be advertised and promoted at an early stage and how they will be delivered subsequently. That information is very important to us, and we give it a lot of attention.

As I said earlier, another lesson that we have learned is that take-up will change over time. As people learn about benefits, take-up rates will grow. However, it is important to take a more nuanced view on take-up and to think about take-up varying across different subsections of the population. Some parents and families might respond to benefits more quickly than others.

Those are the general lessons that we have learned from our early experience.

Dame Susan Rice: This is a learning process for everyone. Social Security Scotland is carrying out brand-new work. How it advertises the new benefit, the timetable that is used, how far in advance the work is done and when in the fiscal year the benefit is taken up will all affect the take-up rate. We are all learning over time, and we are staying very close and discussing learnings.

Professor Smith: Given that we are all learning, perhaps all of us should answer Jeremy Balfour's question. I will throw in a couple of further points.

We have learned that, because take-up rates are inherently difficult to forecast, it is crucial to get speedy information about the outturns of the new benefits. For example, we adjusted our forecasts for the best start grant quite quickly when we found out from experience that the take-up rates were different from those in our initial assumptions. We work with Social Security Scotland to ensure that we get as much up-to-date information as possible about expenditure, so that our forecasts can be revised.

We have also learned that, even when responsibility for a benefit is handed over from the UK Government to the Scottish Government and the formal eligibility rules do not change, there is a bit of publicity and a bit more recognition of the benefit, which, in itself, can have an impact on take-up rates. That learning has gone into our forecasts for the Scottish child disability benefit. Our forecasts assume that there will be an initial spike in take-up, primarily because although it is not really a new benefit, it is a newly administered benefit, and that will have a behavioural effect on potential claimants.

Shona Robison (Dundee City East) (SNP): I want to be absolutely clear. In our papers, there is a table that shows the updates in forecasts over the year and the changes that have been made to the 2019-20 forecasts since December 2019.

What was the SFC's initial forecast for the wave 1 benefits? We ended up with a figure of £4 million, but what was the SFC's figure at the start?

Professor Smith: What was the total for the five benefits in the 2019-20 budget? I am repeating the question in the hope that one of my colleagues will have the answer by the time I get to the end of my slow sentence.

The Convener: You should have been a politician, professor—that is what we do. I will also speak slowly so that we can get that answer.

Claire Murdoch: We individually compare all our forecasts with the forecasts that we made last December. I am not sure that I can add up all the

wave 1 benefits quickly in my head, but the forecast for 2019-20 was £4 million lower than it now is, if that makes sense.

Shona Robison: Yes, it does. I was trying to get into my head a trajectory of the forecasting changes from the starting point to the £4 million.

Claire Murdoch: The forecast has increased by £4 million.

Shona Robison: Yes.

Claire Murdoch: That is essentially because of the data that we have seen in the course of the year, which we reflect in our forecasts. Some of the forecasts are now lower—the one for carers allowance has come down slightly—while some, such as the one for the best start grant, have gone up slightly.

Professor Smith: Our recent document says that social security portfolio spending will be £437 million in 2019-20, so that £4 million increase is on a total of £437 million.

Shona Robison: From the commission's point of view, how do you feel about the accuracy of your forecasts? You have talked about some of the lessons that you have learned as you have moved forward, but are you happy with the overall accuracy, given where the forecast has now landed?

Professor Smith: Oh yes. A £4 million forecasting error on a total of £437 million—

Shona Robison: It is not bad.

Professor Smith: It is more than not bad; it is very good, but we should not overclaim about that, because the £4 million is the bottom line of the forecasts. Some of the numbers were positive and some were negative.

Shona Robison: If there had been only a couple of negative numbers, the position would have been very different. It is about how everything balances out.

Professor Smith: If all the numbers had been positive, the forecasting performance would have been the same but the bottom line would have looked much less favourable. It would be wonderful to have 1 per cent as an aspirational target, but our experience suggests that in the longer term, when benefits have settled down, we might expect forecasting errors in the area of 3 per cent.

The outcome for 2019-20 is probably particularly good because the forecasts include some for relatively new benefits such as the best start grant and best start foods, for which we initially made rather speculative estimates that we changed during the year. We currently face a big forecasting challenge with respect to some of the

benefits that we have been talking about. As the new benefits come in, before we have experience of the take-up rates, it is challenging to make forecasts. It would be good if we could deliver the same level of forecasting performance on the larger number of benefits next year.

Professor Ulph: One reason why we have a 1 per cent error on last year's forecast is that there are five or six different benefits and the errors go in different directions and cancel one another out to some extent. A lesson for next year is that we will have £3 billion of additional benefits, largely for disabilities, which will come in three big benefits. It is far less likely that the errors will cancel one another out in the same way and, even if the magnitude of the errors is relatively small, on a bill of that size the absolute costs will be large, as Susan Rice said in her opening remarks. I would not take what the table of changes to forecast spend for 2019-20 shows as a useful prediction for next year, because that cancelling out of errors is far less likely to occur.

Shona Robison: If I understood correctly a point that was made earlier, one lesson that you could learn is about some of the behaviours of different population groups in claiming the current benefits, which could indicate that there will be similar types of behaviour among similar population groups in the future.

Dame Susan Rice: That is a reasonable assumption to make.

Claire Murdoch: It is worth adding that we have a statutory duty to evaluate our forecast. Somebody made a comment about never knowing what the original forecast was. It is possibly unfortunate for us, but we have to say what we originally forecast and how things turned out in the end. We publish that information every year. We constantly self-evaluate, and we publish that information publicly to show people how well we have done.

The Convener: I have a couple of supplementary questions on that but, before I ask them, I say to members that I have no other bids for questions. If folk have any to ask—I am sure that they will do—please let me know.

I looked at table 4 in the Scottish Parliament information centre's briefing, which contains information on changes to the SFC's forecasts for the wave 1 benefits. I have to say that a £4 million increase in the forecast spend since the draft budget is pretty good going. Professor Ulph made the point that the overforecasting on some benefits is evened out by the underforecasting on others, with the result that the margin of error is relatively small.

The main reason that is given in the SPICe paper for the change of £4 million in the forecast for discretionary housing payments is that

“Changes to pension age and new rules for mixed age couples could increase numbers to whom bedroom tax applies.”

Is it correct to say that that is because of the UK Government’s policy to take pension credit away from mixed-age couples? In other words, that UK Government policy has a direct financial impact on the Scottish Government’s budget, because it has to mitigate the effect of UK cuts on people in Scotland. Have I understood that correctly?

Claire Mellor: Our modelling of bedroom tax mitigation starts with who is eligible because of the removal of the spare room subsidy. In the initial stage of modelling—this is very much a modelling change—we look at who is defined as being in the pensioner population, which is not subject to that tax. In doing that, we take account of the increase in the pension age and the rule for mixed-age couples who are on universal credit, which you rightly mentioned. Over time, the change in position from where we were this time last year has come through in our modelling. It is a small change in terms of the overall size of bedroom tax mitigation costs, but it more accurately reflects who we think will be eligible for support.

The Convener: In percentage terms, £4 million might be a small change, but it represents a significant amount of money in the pockets of constituents. Do you have a breakdown of how much of that £4 million change is because of the increase in the pension age and how much of it is because of the rule for mixed-age couples?

I should say for the benefit of new committee members that the committee was deeply concerned about the changes to pension credit for mixed-age couples—it was united in believing, on a cross-party basis, that those changes should not happen. According to the figures that we had, around 5,300 families might lose up to £7,000 a year because of them. The committee has an on-going direct interest in that issue. As well as those families losing out, an additional burden is being put on the Scottish budget to mitigate the situation. We have a figure of £4 million. Do you have a breakdown of that?

Claire Mellor: We are working with the DWP on that. Currently, our forecasts are based on information on housing benefit recipients. We have requested from the DWP information on the number of universal credit recipients who are impacted by the bedroom tax. That is not published at the moment. We are looking to obtain that information, which would enable us to provide a further breakdown. At the moment, our forecasts are based on the information that we have for

housing benefit recipients and the split of that group between working age and pension age.

The Convener: So we cannot disaggregate the £4 million—

Claire Mellor: For universal credit.

The Convener: It would be helpful if you got that information, because the committee has an on-going interest in the issue.

We are also about to report on a benefit uptake strategy, and one of the things that we have looked at is the idea of policy spillover. I will not rehearse all those arguments, but that is an example of policy spillover whereby a UK policy change has a direct impact on the Scottish social security system. As a committee, we need to better understand that, because it takes money out of the pockets of others who could otherwise receive it.

Mark, do you have a question?

Mark Griffin (Central Scotland) (Lab): On policy spillover, the convener mentioned that a policy change by the UK Government has increased the Scottish Government’s spending on DHP by £4 million. Would that not be defined as a spillover that the Scottish Government could potentially charge back to the UK Government through a block grant adjustment?

10:00

Professor Smith: What is or is not a spillover is politically contentious and is always very tricky to determine, and I am very pleased that it is not the Fiscal Commission’s responsibility to make decisions or even to give advice on what is or is not a spillover. That is up to the two Governments. If the Governments decide that there is a spillover and they need the Fiscal Commission’s advice in determining the fiscal consequences of the decision, that is the point at which we would come in. However, fortunately, we do not have to get involved, and therefore we do not get involved, in what is or is not a spillover.

The Convener: I thank Mark Griffin for asking that question, because there is a double financial whammy that we did not pick up when we were protesting against the changes. It is not just £7,000 that households are losing out on; the Scottish exchequer is losing out on £4 million. That is a double detriment to Scotland. There was cross-party consensus when we considered that previously, and I hope that that will continue in the committee.

Are there any other questions?

Keith Brown: I am really pleased that the Fiscal Commission publishes previous forecasts. Is there a discrete document that gives all the previous

forecasts? If not, I am sure that the Scottish Parliament information centre can provide that.

I want to go back to the question that my colleague Tom Arthur asked. I was quite taken aback by the fact that the economic input of social security spending is not really accounted for. In your report, you talk about productivity and other inputs, and you assess the effect of public sector pay and pay increases in general. I think that the view of all members of the committee—although I cannot speak for its new members—is that we see social security expenditure as also an economic input that will have an effect on productivity and economic activity. Is it your view that it is not the proper business of the Fiscal Commission to consider that? Is there somebody else who would be able to look at that and give us an assessment of it?

Professor Smith: I will let Claire Murdoch talk about forecast evaluation before I come to your point, Mr Brown.

Claire Murdoch: We have not published that information, but we can easily do that. When we come to our forecast evaluation in September, we will definitely look at how our forecasts are tracked and changed over time. Currently, we do not have a long forecasting history on social security, but we will in time as we get more history. We will look at not just the forecast that we produce for the budget but how our five-year forecasts are changing.

Professor Ulph: We are not saying that that is not there in the data. The extent to which there is a healthier population will show up in our figures in the number of people who end up in employment. The expenditure in the area that boosts Government demand will go into our modelling of the economy. We do not strip out separately spending on social security from spending on health and education as a determinant of the overall level of GDP in the economy. We are not saying that it is not there; we are simply saying that we do not track it separately when we model the economy.

Professor Smith: It is not technically sensible to put some direct health and education feedback into a five-year economic forecast, because five years is a very short time period in which to see long-term effects. That does not mean at all that we do not think that that is important. There is a huge amount of evidence that the health and education of the population have big economic effects—that is what the history of the wealth of nations tells us about—but the fact that that is very important in the long run does not mean that it can somehow be built into the forecast time horizon that a body such as the SFC has in producing five-year economic forecasts for our purposes.

The Convener: As committee members have no more questions, does anybody want to make any closing remarks? We have a little time. It is good to have time; we are not trying to lose the time that we have gained. Does Dame Susan Rice want to make any closing comments?

Dame Susan Rice: Thank you for the chance to do that.

The committee has asked some very good and pertinent questions, which is really important. Now that social security is growing in importance as part of the budget process, keeping an eye on it is a huge responsibility. It is also part of the bigger scene.

As it must do, the committee looks at the individual benefits, but one also needs to keep a sense of the whole family of benefits and how that works in relation to the rest of the budget, which is an interesting challenge.

The Convener: I thank Dame Susan Rice and her team for giving evidence.

I suspend the meeting briefly, before we move to the next agenda item.

10:05

Meeting suspended.

10:09

On resuming—

Correspondence (Constituency Inquiries)

The Convener: Welcome back, everyone. Agenda item 4 is correspondence from the DWP's Scotland area director.

I remind members that, following concerns being raised by Linda Fabiani MSP, the committee agreed to write to Scottish Jobcentre Plus district managers, seeking clarification on the current procedure for MSPs making universal credit constituency inquiries.

I refer members to paper 4, which is the reply from Margarita Morrison, the DWP's area director for the delivery of universal credit services across Scotland. The committee is invited to consider her letter and agree its response.

I have strong views on the reply that we have received, but it is only appropriate that I let other members come in first with their thoughts. Who would like to comment?

Mark Griffin: The process that the Department for Work and Pensions has set out is not at all acceptable. Members of the UK Parliament are regarded as having the implicit consent of their constituents and are able to contact the department about universal credit matters to get immediate solutions for them. A similar process should be in place for members of this Parliament.

In general, matters involving the Department for Work and Pensions are reserved, but the position is much more nuanced than that. We have the power to legislate and to make policy on universal credit flexibilities. The Scottish Government is mitigating the effects of the bedroom tax through discretionary housing payments, and both Governments are working towards a permanent fix, which might or might not be done through universal credit. The Scottish Government and the Scottish Parliament have an ambition to see split payments within couples being made through universal credit, and there is the potential for a future new benefit, or a top-up, over which both of the Scottish bodies will have powers, which could mean changes to universal credit specifically for Scotland. Therefore, it is not the case that universal credit is a purely reserved benefit on which we have no input; we have a whole range of levers that we can use and changes that we can make.

Having two tiers of access in supporting our constituents is completely unacceptable. The DWP should reflect on the changes that we, in this Parliament, can make, and it should regard all

parliamentarians as having the implicit consent of the constituents they represent.

The Convener: If that turns out to be the mood of the meeting, once we have heard everyone's views, we will decide how best to ask the DWP to reflect on its position.

Jeremy Balfour: I understand that the DWP deals with constituents' issues in the same way as NHS Scotland and local authorities do. If that is not the case, I would be interested in hearing the correct information.

As I read the letter, the DWP is saying that a member who made an inquiry would need a letter from their constituent confirming that they had their consent to do so. My experience has been that NHS Lothian, City of Edinburgh Council and the other Lothian councils will not deal with me until I can provide them with my constituent's written consent for me to do so. I am not sure that the DWP's position is any different from that of NHS Scotland or the local authorities in my region. Therefore, if we are to make a principled argument to the DWP, we will need to explore doing so with those other bodies. That is how things work in the area that I represent, and I am not sure that the DWP is asking for anything different from what other organisations in Scotland ask for.

The Convener: At this point, perhaps I can provide some information. I am sure that members will have read the reply from the DWP, which says:

"Once explicit consent is provided by a claimant, it will last until the specific request for information is resolved, or until the end of the Assessment Period after the one in which consent was given."

Members across the Parliament regularly correspond with the national health service. My experience with NHS Greater Glasgow and Clyde has been that I have one mandate form for a given constituent and that—

Jeremy Balfour: That is not the case in Edinburgh.

The Convener: Mr Balfour, I will let you come back in once you have let me have my say.

That is how things work in NHS Greater Glasgow and Clyde. With local authorities, I do not always need a mandate, but, when I do, there is one mandate that is not time restricted, which is not how NHS Greater Glasgow and Clyde works.

However, my point is this. We could draw the issue to the attention of the conveners of the Local Government and Communities Committee and the Health and Sport Committee, but, as the Social Security Committee, we need to stay focused on getting the best possible results and outcomes on social security matters for the people we represent. We must do so without fear or favour

and regardless of whether we are dealing with councils, Social Security Scotland, the DWP or the UK Government.

I do not want the committee to be deflected by what other public bodies might or might not do. As we have heard, my understanding is different from Mr Balfour's, and other practices around the country might differ. Let us note that fact when we inform the conveners of the relevant committees, but we should not be sidetracked by unreasonable barriers being put in place and we should not deviate from delivering for the constituents we all represent.

I will bring in Shona Robison.

Jeremy Balfour: I thought you said that you would come back to me, convener.

The Convener: You have indicated that what I have outlined has not been your experience in Edinburgh, and I have suggested what the committee might do.

Jeremy Balfour: I thought you said that you would come back to me, though.

The Convener: Yes, but let me finish.

Graham Simpson: Yes, you did say that.

The Convener: I do not need your help, Mr Simpson—I can chair the meeting without your assistance, thank you.

I said that we could note the issue in writing to the conveners of the Local Government and Communities Committee and the Health and Sport Committee. The specific point about the position in Edinburgh is now on the record. I invite other members to come in with their views on how the DWP does or does not do its business.

Would you like to make additional comments on that before I allow your colleagues in, Mr Balfour?

Jeremy Balfour: Yes. I do not think that the DWP's position is unreasonable, and I would not use the word "barrier". I think that the department is safeguarding constituents' data protection rights. Therefore I disagree with you, convener. It is important to note that practices clearly differ across Scotland, but I do not see the need to obtain constituents' consent as being an extra barrier.

The Convener: I am disappointed that the cross-party consensus that we had earlier may now be fragmenting, which is not very helpful, but you have said what you want.

Let us see whether we can build any consensus. I will bring in Shona Robison and then the deputy convener

Shona Robison: I understand what Jeremy Balfour is saying, but a crucial point is being missed here.

Because of the general data protection regulation, mandate and consent forms are standard for the NHS and for local government. However, in the social security context, MPs and MSPs are being treated differently. If a local MP were to go along and take up a constituent's case with the NHS or local government, they would have to go through the same process as an MSP. However, in social security matters, MPs are being treated differently from MSPs, who are being required to do something that makes it more difficult for the constituent who is in front of them than would be the case if an MP were involved.

I agree with the points that Mark Griffin laid out so articulately. Even if we were to concede that social security is a reserved area—I do not agree with that argument, because I do not think that there should be any difference—the distinction between reserved and devolved matters is no longer so black and white. Especially over the past year or two, a lot of things have changed, which means that we very much have a policy direction on benefits. The situation is now more nuanced, as Mark Griffin laid out very well.

I hope that Jeremy Balfour will accept the crucial point here, which is that MPs and MSPs are being treated differently, which does not happen when MSPs raise issues with other bodies on behalf of their constituents.

The Convener: I will, of course, let you back in to respond to that, Jeremy—although not right now. We have plenty of time in hand.

Pauline McNeill: Initially, I thought that Jeremy Balfour had a fair point when he said that MSPs were required to prove consent in their dealings with the NHS. However, I now feel differently, for the reasons that Shona Robison has outlined. We must ask ourselves whether we are or are not going to stand up for the rights of elected members of the Scottish Parliament.

There are other examples of MSPs being treated differently from MPs for no reason. Members of the Scottish Parliament, which is the strongest devolved Parliament in the world, do not have the same rights of privilege to speak as MPs do. For what reason? Looking at the situation in reverse, why are MPs not required to jump through more hoops? They are not responsible for the NHS in Scotland, but the NHS does not treat them any differently from MSPs in replying to them. Therefore, why are we being treated differently by the DWP? There should not be one rule for devolved issues and another for reserved ones. We might question why an MP would take up an NHS matter in Scotland, but they would be

perfectly entitled to do so, and we would not want to change that.

However, I object to being referred to in the letter as a third party. On reading the letter closely, I feel that it is saying that MSPs are in the same position as, say, a Citizens Advice Scotland worker. There should be some respect for elected members and the responsibilities that we hold.

One of my concerns is that the current approach will delay things. When I was asked to check that the person I was representing had signed the appropriate mandate form, it took a few days because, due to the nature of their job, they could not just go into their journal whenever they wanted but had to wait until they were at home. That delayed the process by 24 hours, yet they had an important issue.

There is implied consent for MPs, and it is implied because they are office holders, everybody knows who they are and they are elected by thousands of people. However, so are we, and we are entitled to be treated according to the same principle. Although I accept Jeremy Balfour's comments, the overriding point is that we should stick up for ourselves.

The Convener: It is also worth observing that how the DWP approaches the matter in different parts of the country—even in the same part of the country, depending on the DWP staff member—can be a bit inconsistent. I would like to ask for greater clarity and consistency in how it is done, to ensure that there are no barriers.

Having read the annex of the letter, which has been made available to us and which is about the protocols that DWP workers should work to, I consider that those protocols are open to interpretation. Margarita Morrison has recirculated that guidance, but it does not provide the clarity that is needed for a consistent approach. Whether we agree or disagree with the approach, it should be consistent. The annex is vague and can be interpreted in a draconian fashion if staff so choose. That has certainly been my experience in the cases that my constituency office has seen.

Graham Simpson: There is a way through this. We all agree that there should be consistency in the way that MPs and MSPs are treated, so the question is whether MPs and MSPs should both have to seek consent to deal with a constituent's problem, whether it involves the DWP, the NHS or a council. That is a separate question, and I tend to agree with Jeremy Balfour that consent should have to be obtained when dealing with sensitive information—I do not have an issue with that.

I think that members' beef is with the inconsistency in how MPs and MSPs are treated by the DWP, which we also see when dealing with HMRC. Perhaps the treatment of MPs is wrong

and they should have to seek consent, but the process should be the same, one way or the other. I agree with colleagues that consistency is required. If the committee wants to take the matter forward, we should seek consistency across the board. We should either all have to seek consent or none of us should. Personally, I think that we should have to get consent but that that should be the case for everyone.

The Convener: Thank you for your views.

Shona Robison: That is helpful. I do not let any constituent leave my office without getting consent from them. We have a simple and straightforward consent form that has to be signed.

However, with the DWP, it is not simple and straightforward; it is being made difficult. There is no concern about having to get consent; it is about how that consent is given. It should be easily obtained and should last for as long as the constituent is in need of assistance from the elected person, whether they are an MP or an MSP.

If we are able to agree on that, it will become a matter for the DWP to take on board and resolve. I would like to pursue the matter on a cross-party basis. If we can agree, that will be progress and it will then be about keeping it simple. We all have consent forms that are good enough for every other public agency and should be good enough for the DWP.

Alison Johnstone: The need for consistency is at the heart of this. I agree with Mark Griffin's and Shona Robison's comments, and I appreciate Graham Simpson's endeavours to find common ground. However, I think that it would be more straightforward to afford MSPs the same treatment as MPs than it would be to have about 600 MPs agree that they, too, should have to seek explicit consent.

GDPR is as much an issue for them as it is for us, yet they have implied consent, which does not make any sense. We are probably all receiving more and more correspondence on social security issues, and that is only going to increase, so we need to get this sorted. By the time a constituent has written to one of us, most of the sensitive information has already been shared and we are acting on information that we already have—they have already contacted us with it. Therefore, I do not think it is beyond the realms of possibility that we could ask for the same implied consent that MPs enjoy.

Pauline McNeill: To be frank, I do not think that the letter has been written in good faith. If you examine the detail, you will see that the DWP is offering us very little. Even if we agreed about the need for explicit consent, we do not get it for very

long—it is very restricted. The DWP is not offering us a great deal.

A solution might be for us all to be treated the same, but, like Alison Johnstone, I do not see how we could reverse a situation that MPs have enjoyed for quite some time. Implied consent is still consent—it is the privilege that MPs are allowed—and, when someone walks through the door of an MP's office seeking help, it is implied that they are consenting. It is a form of consent, but it is obviously not as robust as the DWP would like it to be.

In some of the work that the committee has done on data protection, witnesses have said that there is total overkill—that data protection is being used unnecessarily and is becoming a barrier to a lot of things.

Equal treatment is important, but I do not think that MPs would accept it. Nevertheless, I hope that the committee will agree that what we are being offered is very restricted. The process is not even that simple. At least the NHS approach is quite simple: the person signs a form. That should be the model. What we are being offered is nothing like that, and that should be the starting point.

Graham, how can we get MPs to roll back on the implied consent that they have? I do not think they will.

Graham Simpson: You are probably right: MPs probably would not agree to that. The committee is asking for the same treatment. Whatever that treatment is, it should be the same, because we are all elected to represent people and we all take up those cases. The process should be the same for all of us, whether or not it is the process that exists for MPs. That is what we should ask for if we take the matter forward.

The Convener: The committee has been consistent in its view that MSPs should be treated on the same basis as MPs. We do not want to withdraw the entitlement that MPs have to access, but rather to enhance our ability to represent our constituents.

I remind members what the letter says, so that we can think about the practicalities if the DWP were to stick to the letter of its own guidance. It says:

“Once explicit consent is provided by a claimant, it will last until the specific request for information is resolved.”

Let us stop on that point. We can imagine a constituent saying that they are not sure what the child element is of their UC claim, and then, as that unfolds, saying that there is an issue with their housing element. They would need specifically to say, “This is about only this one part of my UC claim” and then, if something else came up, we

would need a fresh mandate form for the second part of their UC claim.

10:30

When we try to help our constituents by interrogating and scrutinising their entitlements on their behalf, we do not know what direction that representation will take us in, because we do not know what information we will receive. It is unwieldy and unworkable to have to have explicit consent for every specific request.

Also, consent lasts only until the end of an assessment period—I assume that that means a cycle of four weeks or one month—so if we have an on-going inquiry about one element of representation for our constituent, and that lasts beyond a month, we then have to get them to sign a fresh mandate form. By all accounts, that is just wrong and is putting up artificial barriers, as the deputy convener has pointed out from a sedentary position.

I promise you, Mr Simpson, that those are not new things or grandstanding by the committee. It has been an on-going struggle and tussle by the committee for quite a long time, which may explain some of the frustrations that you are hearing.

Keith Brown: I agree with the comments that have been made by Mark Griffin, Alison Johnstone, Shona Robison, Pauline McNeill and you, convener. I also agree with Graham Simpson's point about having the same system. The one thing not to do is to make it as difficult for MPs as it is for MSPs. That would just make a worse system for everybody.

However, there is a pattern. When I was elected in 2007 to be an MSP, I could quite easily contact the UK Government about immigration policy and it would communicate on individual cases. It stopped that. It has stopped communicating in other areas since then, for example in some tax areas.

As a minister—I am sure that it was the same for Shona Robison—one has a huge correspondence folder, and the number of requests that ministers get from MPs on devolved issues, which the Government has never stopped answering, is in contrast to the way in which the UK Government has greyed out certain areas for MSPs. That is the pattern. It is also about who is trusted. The point was made, I think by Pauline McNeill, that they know who MSPs are. It is about whether the person is trusted and MPs are trusted because they are a known quantity. So are MSPs; we do not change from week to week.

The question comes down to what we do about the matter. We could write to the Secretary of State for Work and Pensions, but the committee

has signally failed to get a secretary of state to come before it. Even in the relatively short time that I have been a member, we have tended to hear, "Well, it's another new secretary of state, give them time to bed in." The issue is not the individual, but the contempt that the committee is being shown as it tries to take matters forward. I think that we have to get a bit more shouty about it, especially since, at the bottom of it, we agree that the system is not perfect.

For the committee's information, NHS Forth Valley works in exactly the way that the convener described NHS Greater Glasgow and Clyde working. An MSP has to get explicit consent, but once we have it, we do not keep going back for consent to correspond with the health board about that patient. That is the case for both MPs and MSPs. If we were to adopt the same policy as the UK Government, we would say to MPs, "You're not getting to ask questions about a person's health situation without going through some rigmarole." That is what they are doing to us. We have to try to get it resolved.

The Convener: We would not, of course, propose what you describe, because it would be juvenile and not in the best interests of constituents.

Keith Brown: That is right.

Tom Arthur: I concur with the points that you made a few moments ago, convener. As a matter of principle, there must be consistency and parity between MPs and MSPs. In terms of practicalities, as you effectively and eloquently outlined, given that it is a split competency, the access afforded to MSPs must be commensurate with our responsibility if we are to discharge effectively our duties as representatives.

In the first instance, my view is that, for reasons of principle and practicality, there should be parity between MSPs and MPs. Mr Simpson has raised fair points, but concerns about data protection and access should be reflected on separately. That should be a matter of dialogue with our colleagues in Westminster across not just parties, but Governments and Parliaments. Given that it is deemed acceptable for MPs to have a level of access that has not been afforded to MSPs at the moment, the first step should be towards achieving parity. Once that parity has been established, any other considerations about the level of access should take place jointly with members of the UK Parliament and others.

The Convener: We will have to wrap up the discussion shortly. I will bring in Graham Simpson and Jeremy Balfour, but we will have to come to a conclusion at some point.

Graham Simpson: We need to think about how we take the matter forward. There is the issue that

the committee has been looking at, which is within its remit, but we have all faced wider issues relating to getting consent and the varying policies of different public bodies. It is entirely up to the convener, but he could raise the issue at the Conveners Group and see what other conveners think in relation to their portfolios. If the Conveners Group were to come to a view on the issue in general, that might carry some weight. It is a difficult matter, but the next step might be for the committee to write a letter to the appropriate UK Government minister. I am not sure how far that would get us, but I think that we all agree that there needs to be consistency.

Jeremy Balfour: Tom Arthur summed up the issue very well. We should send a letter to the DWP and to the secretary of state simply saying that the same rules should apply for MPs and MSPs, and we should ask the secretary of state to clarify why that is not the case. Depending on what response comes back, we can take the matter forward. There is a separate debate about how that should happen and how consent is given. However, as the deputy convener pointed out, as a principle, MPs and MSPs should be treated in the same way, and that is the point that we should pursue in our letter.

The Convener: I have taken some notes on points on which I think that there is consensus. Despite the initial comments, I think that we can agree that the committee received an unsatisfactory reply that does not take us any further forward or get to the bottom of the issues that we raised. We can reflect that back to the secretary of state. I will say more about that in a second.

There is consensus that there should be parity and consistency across the country in how MPs and MSPs are treated in relation to these matters. Everyone has read annex A and has looked at Margarita Morrison's response, so I hope that there is consensus that there is a lack of clarity in how the guidance could be interpreted. It would be helpful if we could spell that out, too.

I said that mandates are valid for only one assessment period, and I would like to think that there is consensus that the time-limited nature of mandating is not satisfactory either, so we can say that.

Jeremy Balfour: Convener—

The Convener: I will finish what I am saying and then I will bring you back in.

I gave the example that, when you start an inquiry into universal credit, you need a mandate for getting information on one narrow thread of a universal credit claim, and then you need to seek an additional mandate for getting information on another thread of the claim. In essence, you are

making one constituency inquiry, but it evolves as you get more information, so it is not satisfactory or acceptable to need to get fresh mandates for the one case.

I hope that we can get an agreement that none of the things that I have outlined is acceptable. Do we have that agreement?

Jeremy Balfour: No.

The Convener: That is unfortunate. What bits do you not agree with?

Jeremy Balfour: I do not agree with your last comments. We need to focus on getting it right for MPs and MSPs; that is the issue. We should have a separate debate and discussion on how that is done once we have agreement with the DWP that it will treat MPs and MSPs in the same way. I want to remain focused solely on asking the DWP why it is treating MSPs differently from how it treats MPs, because we should all be treated in the same way.

The deputy convener is right: I do not think that MPs will want to use a more complicated model, so we might end up where we are, but that is a separate issue. If we are to remain focused, we should focus on why two lots of elected members of Parliaments are being treated differently.

The Convener: Again, we have to stick to what we are responsible for as the Social Security Committee. We are responsible for making sure that our parliamentarians do not have any undue barriers or restrictions placed on them in representing constituents as far as social security is concerned.

Irrespective of the debate on MPs, MSPs and parity—and we seem to have agreement on that—I would like to think that we have agreement that a mandate form existing for a time period of only four weeks would be unreasonable. I would like to think that if we are inquiring about a universal credit claim, we would not have to spell out the individual elements of that claim with separate mandates each time to be authorised to get information. That is self-evidently unreasonable, and I ask for that to be reflected in any correspondence.

I think that I have agreement from the majority of the committee. I do not think that we are re-inventing the wheel or asking our Conservative colleagues to break party ranks. The committee has agreed on this previously, and I hope that we can stay strong on it.

Graham Simpson: We have agreement that MPs and MSPs should be treated the same. I was not comfortable with some of the language that you were suggesting but, if we boil it down, we are asking to simplify the system. If we sent a letter in those terms, we could agree to it, but I would be less comfortable with some of the more

inflammatory language. I assume that you will send the letter around the committee members for approval.

The Convener: We could possibly agree to do that, but what do you mean by “inflammatory language”? I asked members to decide whether we think that the time limit of four weeks for the mandating process was acceptable, and whether we think that the narrow nature of the mandating process was restrictive and should be looked at again. I did not say anything inflammatory. We all need to be careful with our language in relation to these things.

Keith Brown: I do not see how it can possibly be the case that arguing for equal treatment for MSPs and MPs does not also go to the point about how well the system works. If we think that we should ask everyone to do this and ask the MPs, we can imagine what they are going to say. It is never going to happen. We all know that it is not going to happen; that point is conceded.

Convener, I know that you are keen to get cross-party support on this issue. I do not understand why two MSPs would want to limit the role of MSPs in trying to progress social security cases, but I am not that concerned about that. If people want to stick on that and can justify it, let them do it.

Graham Simpson: I never said that.

Keith Brown: Let me finish; I have listened to everyone else.

The endless correspondence has got us nowhere in the end. We should get the secretary of state here. She has not yet come. The previous one never came, and various other ministers have not come. We should get her to come and justify why she thinks it is in the interests of our constituents not to be properly represented by MSPs.

If Jeremy Balfour and Graham Simpson want to go their own way, I am fine with that, but we have to make the point on behalf of our constituents.

The Convener: We have to make a decision. I have some additional information for the new members of the committee: we have already said much of this to Thérèse Coffey, the secretary of state, and we have not yet had a reply.

We do have a reply from the DWP that allows us to write a much more detailed letter to the secretary of state and ask again for her to come to the committee, as we have already done, diplomatically, without using inflammatory language. In fact, if you go back to the *Official Report*, Mr Simpson, you will see that I made some complimentary comments about the secretary of state regarding her initial dialogue

with me. We do our business professionally at this committee.

For my own integrity, I cannot sign up to a letter that says nothing and goes nowhere. I want to champion the constituents that I represent, not withdraw rights from MSPs so that we cannot represent our constituents effectively.

I will go to the deputy convener and then we will come to a decision.

Pauline McNeill: I am certainly making an effort to meet the two members who have concerns; I hope that that is appreciated. I will stick with it, but if there is a difference of opinion on the committee, Keith Brown is right: we will just have to go our separate ways.

If we narrow our concerns down, the first point is that we want to know why we and MPs are not being treated equally. Do we agree on that point?

Jeremy Balfour: Yes.

Graham Simpson: Yes.

10:45

Pauline McNeill: Whether we put it in this letter or the next letter, we all agree that, whatever the process is, it needs to be simple.

Graham Simpson: Yes.

Jeremy Balfour: Yes.

Pauline McNeill: I hope that we also agree that there is an issue about the length of the consent. It is too short. There needs to be a reasonable length of consent. We can leave that open-ended. I think that consent should be for a parliamentary term, but I am happy to leave it open-ended.

Graham Simpson: Yes.

Jeremy Balfour: Yes.

Pauline McNeill: Finally, if all else fails, I am perfectly content with the idea of implied consent. I am okay with parity on the basis of implied consent, and I am happy to leave that point until we get a response. However, I wonder whether Graham Simpson and Jeremy Balfour would concede that we could say in the official letter that the first point is about parity, point two is that the process needs to be simple, and point three is that a month is too short, that we need longer period of consent and that we can debate what that should be. If Graham Simpson and Jeremy Balfour agree on those points, and we get a response that says that things will not be changed, then we can discuss whether the committee agrees on implied consent. That would be my position; I want to make that clear.

Graham Simpson: I am happy with that.

Jeremy Balfour: I agree.

The Convener: That is wonderful. The deputy convener has just said all the things that I said initially about parity, consistency, clarity, time limits and the narrowness of the problem. We will get the clerks to draft a letter to the secretary of state urging her to respond to those issues and to come to the committee as early as possible. It will not be the first time that we have asked the secretary of state to come to the committee, but we will do it again.

We will circulate the letter. If we cannot get agreement from the Conservative members, I will send it anyway, noting that they did not sign up to it. That will at least give us an opportunity to stick together as a committee. I am not going to sign off a letter as convener that does not fully meet the needs of the constituents that I represent who are struggling with the welfare state and their interactions with the DWP. We all have an agenda to help those people.

Graham Simpson: If the letter is sent in the terms that Pauline McNeill expressed, we can all agree to it.

The Convener: The letter will be circulated. What our deputy convener said will be in the *Official Report*.

As with all these matters, I do not write the letter personally. I ask my clerks to sum up the mood and agreement of the committee. They draft the letter and put it out for consideration. That is important for clarity, Mr Simpson. When you see a letter from the convener, it will be a considered, professional and careful reflection of what the committee has agreed to this morning. It will be up to the Conservative members to decide whether to sign up to it once they have seen it.

Jeremy Balfour: On a point of order, convener. This is on the record and people have been watching the meeting. Will the letter be brought back to the committee so that people will be able to see what has been written? We have just had a discussion and people will wonder what has been written.

The Convener: The way that we have done our business in all the time that we have both been on this committee, Mr Balfour, is that any letter that I send as convener goes on to the website and so into the public domain. That is absolutely vital for openness and transparency. Nothing will be secret or hidden. The views expressed by the committee will be public in relation to that letter, as will be whether our Conservative colleagues sign up to it.

Jeremy Balfour: I am obliged.

The Convener: We now move to item 5, which we previously agreed to take in private.

10:48

Meeting continued in private until 10:59.

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