



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Justice and Social Security Committee

Thursday 2 December 2021

Session 6



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Pàrlamaid na h-Alba

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SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE

12th Meeting 2021, Session 6

CONVENER

*Neil Gray (Airdrie and Shotts) (SNP)

DEPUTY CONVENER

Natalie Don (Renfrewshire North and West) (SNP)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)

*Miles Briggs (Lothian) (Con)

Foysol Choudhury (Lothian) (Lab)

*Pam Duncan-Glancy (Glasgow) (Lab)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Emma Roddick (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Karen Clyde (Scottish Government)

Miriam Craven (Social Security Scotland)

Ben Macpherson (Minister for Social Security and Local Government)

Pauline Torley (Scottish Government)

Evelyn Tweed (Stirling) (SNP) (Committee Substitute)

David Wallace (Social Security Scotland)

James Wallace (Social Security Scotland)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Justice and Social Security Committee

Thursday 2 December 2021

[The Convener opened the meeting at 09:32]

Decision on Taking Business in Private

The Convener (Neil Gray): Good morning and welcome to the 12th meeting in 2021 of the Social Justice and Social Security Committee. Apologies have been received from Natalie Don and Foysoyl Choudhury.

Under agenda item 1, do we agree to take item 5 in private?

Members *indicated agreement.*

Social Security Scotland

09:33

The Convener: The next item is an evidence session on the performance and operation of Social Security Scotland. Members visited the Social Security Scotland headquarters in Dundee on 1 November. We had a wonderful visit and we very much appreciated that opportunity. This morning, I am pleased to welcome our witnesses from Social Security Scotland to the committee for the first time. We are joined by David Wallace, the chief executive; James Wallace, deputy director for finance and corporate services; and Miriam Craven, deputy director for strategy, change, data and engagement. I invite David Wallace to make some opening remarks.

David Wallace (Social Security Scotland): Good morning and thank you for the invitation to come and speak to the committee today. I really do appreciate it, and it is lovely to be here in person. I thank those members who were able to take the time to come and visit us at Agnes Husband house in Dundee. It was lovely to see you there. It was a really helpful visit from our perspective, and I hope that you got something from it, too.

We welcome the opportunity to take questions on our recent publications, principally the annual report and accounts, the supporting charter measurement framework and the client survey. I will briefly introduce my colleagues. On my right is James Wallace and on my left is Miriam Craven. They will assist us with the session this morning.

The annual report and accounts, which is our third such publication since the agency was launched in 2018, covers the period from April 2020 to March 2021. Covid was with us for the duration of that year, as it was for everybody else. I will draw out some of the key highlights in the publication.

Principally, I am incredibly proud that the agency managed to maintain its services throughout the period, working through the pandemic. That involved successfully moving the vast majority of our staff to working from home, and indeed the vast majority remain there. That was no mean feat. It also required some very rapid systems development. To allow it to happen, we had to move very quickly on our call answering system, and in particular to introduce a brand new web chat system, which has remained popular.

We are pleased about that, but we did not just stand still having done that. We also welcomed over 400 new colleagues into the organisation during that time, and we had to do that using virtual recruitment and virtual induction, which was

a big shift in our approach. Doing that allowed us to introduce a further three benefits in Scotland, two of which were brand new to people in Scotland—the job start payment and what has been described as the game-changing Scottish child payment, which is for Social Security Scotland by far the largest benefit so far.

All of that has allowed us to make over 900,000 payments to people across 10 benefits. In total, we have made payments of over £100 million of moneys that would not otherwise have been received by people in Scotland.

You will notice that there is a significant difference in this year's annual report and accounts, which is the inclusion of all the devolved benefits, including those that are processed for us by the Department for Work and Pensions. This is the first set of accounts that covers both the directly delivered benefits and those that are delivered under the agency agreement.

As you know, how we deliver benefits is as important as what we deliver, so I am pleased that the annual report captures some feedback from the charter measurement research. This is the first time that we have been able to carry out such a full survey of the charter measurement. Previously, it was either limited by year or slightly skewed towards one benefit, so this is an important milestone, and it is important insight from our clients.

I want to pull out a couple of figures. I am delighted that 92 per cent of those who took part in the client survey said that their experience was either good or very good and that clients who spoke to our staff found them both knowledgeable and approachable. There is a particular measure that I always focus on in the charter measurement, and I note that 94 per cent of respondents agreed that, when they spoke to the organisation, they had been treated with kindness. That is a key measure for me in relation to a different service in Scotland.

I am really proud of what Social Security Scotland achieved during what was undoubtedly a challenging year. We are not complacent in any way. We know that Social Security Scotland is a work in progress, and it will be a number of years before we reach something that looks like a steady state, but we have laid some good foundations in building a new public service, and we have done that without the majority of our staff setting foot in our buildings. Since we were established, we have worked with restrictions for longer than we have worked without them, so the circumstances have been unusual.

We do not work alone, of course. We have very close joint working with the Scottish Government's social security directorate and programme, and we

have a number of joint activities in preparation for the benefits that are to come in future.

Since we published the annual reports and accounts, the child disability payment, which was previously piloted, has gone live nationally. We are particularly pleased about that. I am happy to take any questions.

The Convener: Thank you, Mr Wallace. I will allow until about 10.30 for questions from members, after which we will move on to our next item of business. The first question will be from Marie McNair.

Marie McNair (Clydebank and Milngavie) (SNP): It is great to see you again. Thanks for taking the time to meet us in Dundee. I found it very helpful.

We want to take a human rights-based approach that, importantly, includes access to redeterminations and appeals. However, the number of appeals seems very low—I think that the report mentions only 40—and staff knowledge about the process seems poor. How do you promote the right to appeal to staff and claimants?

David Wallace: It is a very small number, as you point out. However, I am hesitant about drawing conclusions from small numbers. We should look across the whole of the redeterminations and appeals process. As you know, one of the key things that we are trying to do differently in Social Security Scotland is to make that process easier and more accessible. I will bring in Miriam Craven if she wants to say more about that, but I think that the way that redeterminations are dealt with in the organisation leads to lower levels of appeals in the system.

As you will know, under the Social Security (Scotland) Act 2018, if somebody asks for a redetermination, that is stood back from and looked at entire separately. The approach has been that the team that deals with it will be in contact with the client, so we find that a large number of cases are dealt with through the redetermination period before they get to the appeals period. Miriam, do you want to add to that?

Miriam Craven (Social Security Scotland): When we tell clients the original decision, we include information about how to lodge a request for a redetermination. They can do that over the phone or on paper. It is about encouraging people and letting them know how to do it. As David Wallace said, we also make sure that, in the journey that the person goes on, they have engagement with the team that is looking after them.

You mentioned making sure that the staff are aware. As we have grown as an organisation over

the past year, it has been important to make sure that the process is a key part of the training and that staff know how to ensure that there is a smooth transition if a client phones up and wants to be put through to the team that deals with redeterminations. It is also about working with our stakeholders. As we roll out each new benefit, it is important that we raise awareness and do engagement with the people who support clients and give them advice and guidance in order to ensure that they understand the redetermination process.

I agree with David—for us, it is important that our approach to changing decisions through the redetermination process is based on encouragement. Normally, we would get a new piece of evidence in at that stage and we would overturn our decision. The reason why you see fewer cases move to the appeal stage is that we act on cases at the redetermination stage.

Marie McNair: The staff survey responses indicate that some staff find the internal redetermination process quite complicated. How is the organisation responding to that feedback?

David Wallace: Before I answer that, I will add to Miriam Craven's points. It is also important to recognise the new advocacy contract that has come into place since the set of publications that we are discussing were produced. We will be doing more work to make sure that that is highlighted. There is a balance to be struck to ensure that the advocacy contract is seen as being fully independent from the organisation. Our role is to make sure that people are made aware of it, rather it being seen as an additional part of the agency.

On awareness, I note that we are a new organisation. As I said in my opening remarks, the vast majority of our people joined recently and in such a way that they have not been into our buildings and have not gone through the consolidation processes that we would have liked. One area that we are looking at is how we bring people into the organisation. We think that virtual recruitment and virtual induction work pretty well, but when it comes to getting people up to the stage of knowing the job, it is difficult to find a substitute for them being in and around a team and learning from it.

There are things that we do. When people join the organisation, they have a buddy, but there can be a slight reticence about approaching a buddy in the virtual world, compared with putting your hand up and shouting across the table, "How do I do this?". When I learned how to do casework many years ago, I learned from the team around me. I would hear a difficult call going on and learn how a more experienced colleague dealt with a caller on the phone. That is the thing that we have struggled

to recreate. We hope that we can replicate it as we bring people back for some consolidation training.

Marie McNair: What would improve the call waiting and processing times?

09:45

David Wallace: As I said in my opening remarks, the numbers in the annual report and accounts cover the Covid period. At the early stage of Covid, we made the decision to send people to work from home, and the one bit of technology that was not portable then was the telephony system. For a time, we were unable to handle incoming calls. We went through a series of developments, starting with a basic system where we gave our staff mobile phones. People could log a call and we could phone back out. Eventually, we got some more tactical solutions in place to put the system online. The period that is covered by the annual report and accounts was difficult because we simply did not have the technology in place to answer inbound calls.

As you will know, we now publish a full set of performance information on processing and telephony times for all the individual benefits. I think that you will see from the data that comes out for the current financial year that we have continued to improve. Call waiting times will go up and down depending on benefit launches and other activities, but the fundamental point is that the publications that we are discussing cover a particularly tricky time.

Pam Duncan-Glancy (Glasgow) (Lab): It is nice to see you again and good to do so in person.

I fully acknowledge that the results of the client survey were relatively—in fact pretty overwhelmingly—positive, but I am keen that, where it was suggested that improvements are necessary, we nip those issues in the bud quite quickly, so I have a couple of questions about that. In particular, one in four people felt that they were not able to challenge the decision that was made by Social Security Scotland. What are you going to do about that, given what we know about the inability of people to challenge decisions in other areas of social security, in particular DWP decisions? I am also keen to know about the redeterminations that were made, as half of them were successful. That is quite a lot. I know that there were not many redeterminations, but given that half of them were successful, I am keen to know what you are going to do to address the problems in the original decision making.

I have another couple of questions on this theme, but I will come back to them.

David Wallace: I will take the first question and might pull Miriam Craven in for the others.

The client survey and the charter measurement information is quite a recent document for us as well as for the committee. We published it in November, at the same time as the organisation was getting that information. Miriam Craven can say a bit more about the structure within the organisation and about how we take some of that information back and introduce improvements. I see that as part of the far wider culture of continuous improvement that we are trying to embed in the organisation.

You will see in the annual report and accounts some very practical examples of when feedback has been given and we have been able to take some direct action as a result. This is not on the point that you have raised, but we are keen to demonstrate that, if clients or stakeholders tell us something, we can take direct action. The annual report and accounts have some very practical examples of that. I will come back to the other points, but first I will let Miriam Craven tell you about how the teams in the agency are responding.

Miriam Craven: The team that produced the report on the charter measurement framework works closely across the organisation to bring the findings to people who can implement changes and respond. That is about working across the board with our colleagues working on the front-line client delivery side and looking at what has been said from the client and staff viewpoints, and it also about how, through our change process, we prioritise what changes we need, whether that is in the system or in the wording of a letter. It is part of the continuous improvement that David Wallace mentioned.

Within our governance structure, we have an insights team looking at the findings and how we marry them up to achieve improvements. That is one part, as David Wallace said. We look at what we hear through internal audits. We also have a feedback structure for staff and clients.

David, do you want to answer first about why we overturn some decisions?

David Wallace: You go ahead.

Miriam Craven: As has been said, the numbers are quite small but, looking at it in a bit more detail, I think that it is good that we overturn those decisions. The benefits that are covered in this reporting time were one-off payments or in the low-income benefit space, and most of those rely on making sure that somebody is in receipt of a benefit at a United Kingdom level. What has been happening is that, when the first decision has been made, people have not yet received their UK benefit, so we have had to wait. When they come into the redetermination process, we may get new evidence that they are now in receipt of the UK

benefit, so we overturn our decision rather than put the person through to the appeal stage. Overturning a decision is usually to do with new evidence coming in, or it can be that there was an oversight and we had not seen that that documentation was supplied. We encourage overturning at that stage.

David Wallace: Miriam Craven has said a bit of what I would have said but, to back it up, I think that there is a very important cultural point about the organisation not being afraid to overturn a decision. We have deliberately not set a target. We are still just three years into doing this and understanding what a cycle looks like and what a good or bad level of overturning would be. As an organisation, we do not want to imply that a certain level is the right level. We want these to be proper decisions that are made differently from the first decisions, and if the evidence is there, we will do it. I do not want to create an organisation that fears overturning a decision. The numbers and the payment cycles are small. We are still developing what a good or bad level of overturns looks like.

Pam Duncan-Glancy: That is reassuring. I am pleased that there is not an arbitrary cut-off for overturning. Thank you for that.

I think that, if we are to get to a much more automated system that is less reliant on individuals having to talk to too many people at once, we probably need to tighten up the process of referral to other agencies. I note that you are now part of the tell me once programme. What are your plans to address the capacity of staff to refer on to other agencies? What can you learn and what do you know about the tell me once process? I know that it is used when someone dies, but is there anything in it that you can replicate for use at the other end of the scale, so that, when people apply for their benefit, they need tell a state organisation something only once?

David Wallace: I will answer your questions in reverse order. Tell me once is a well-trodden and well-understood good thing that removes stressful elements for clients in difficult circumstances. As we said during the session that we had when the committee came to Dundee, we know that our stakeholders and clients would like to see a degree of automation in the system that we do not have at this stage of its development. There is a lot of demand for making it easier to tell us once. We will be able to do some of that as we launch benefits, but some of it might be somewhat further down the track. For the benefits that we do, we try to ensure that we are not asking clients for information multiple times for multiple benefits, and you will see that in how the application for the best start grant integrates with the application for the Scottish child payment. We are not asking people for an application per benefit. We are trying

to build that into our benefits, but it will take a bit longer, until the system is more mature, before we can do some of the automation that is being looked for.

The first part of your question was about staff awareness.

Pam Duncan-Glancy: Awareness about referrals, yes.

David Wallace: Again, that is an on-going process, particularly given that just two weeks ago on Monday we launched our local delivery service for people who want to come for pre-application support, particularly for disability benefits. The service was launched to coincide with the national launch of the child disability payment. That is where a lot of the intelligence will come from, and a lot of referrals will happen. The local delivery staff have done a lot of work on the ground with local stakeholders, as well as with the more obvious national points of referral, so they are embedded in some of these organisations. They will go to where some of those organisations are located, so that both national and local referrals are available. However, the operation of the process is still quite embryonic because it has been in place for only a couple of weeks. Do you want to add anything, Miriam?

Miriam Craven: We understand the importance of the referral process and making sure that there is a no-wrong-door policy and that people are given support when they come looking for information. We have to build a good, strong and robust structure around the process, because we are sharing people's data and need to be mindful about how we get permission to be allowed to refer a person to another organisation. We are taking the time to build a good and robust structure. We have seen some good evidence from around the country about referrals that work well, but we have to build something that we can use at both national and local levels.

The Convener: I want to pick up on a couple of things that you have mentioned, in your opening statement and in response to questions, Mr Wallace. First, I want to ask about lessons from Covid. On behalf of the committee, I thank you and your staff for all that you have been doing during the pandemic and for all the adaptations that you, like all public, private and third sector organisations, have had to make, which have been significant. What lessons have you learned from your experiences during Covid both about your relationships with the people who rely on your services and about your organisational structure? Are you looking to make any changes in your organisation as a result of your experiences during the pandemic?

David Wallace: I will answer the question back to front if that is okay. Like all organisations, Social Security Scotland is still grappling with some of the implications of Covid. The positive aspect is that we know that we can run services in a different way, building in the flexibility and more hybrid scale of work that our staff are looking for. We have a project under way inside the organisation exploring what hybrid working might look like. As an organisation, we will not return to what I think we had previously, when everybody was in at a desk five days a week. In common with a lot of organisations, that is not what we will go back to. James Wallace might want to say more about our active project that is looking at that. That is common across lots of organisations.

I think that we are also clearer now about some of the things that we cannot do through hybrid working: the areas where we want to get teams together to do more of the transformational and forward-thinking work and staff development—that relates to the point about how we bring people on. I know that there is emerging work on what it means for the workforce and particularly for the younger workforce and how we bring them through and give them role models. From an organisational point of view, the big thing for us is that we know that we can run the services slightly differently, and that is what we will try to pursue.

The impact of how we work with our clients is emerging as we do more of the local delivery. Some of that has been through the use of video, which I think has been well received. There will be a place for the original face-to-face model for local delivery and we will ensure that, where face-to-face is needed, it happens. There is something about the behaviour of clients and society in general now that means that people are probably more used to interacting in a digital way and we will try to ensure we get some of the advantages of that, but I should be quite clear that that does not mean that we are backing away from channel choice. People will be able to choose how they want to interact with the organisation—that is important. That is just emerging and, in common with everyone else, we are understanding what the period of working from home has done for the culture of the organisation and the health and wellbeing of our internal staff. We are trying to get that into balance.

The Convener: That was helpful. I think that, in future sessions, we will come back to the data that you will capture for some of the bigger benefits that are coming on stream, particularly around adult and child disability payments.

I am keen to explore with you the challenges that you have had with data from other organisations that you need access to, particularly the DWP. That has obviously been a challenge in

relation to the roll-out of the Scottish child payment, which had to be delayed because of delays to data coming on board for you—for example, access to eligibility data, with eligibility being dependent on universal credit. How challenging has that been for you, and what are you doing to overcome those issues and ensure that you are getting access to the data that you need?

10:00

David Wallace: I go back to my opening statement. The way that we work with the Scottish Government and the social security programme is important in that regard, too.

Social Security Scotland is responsible for the live benefits, and we will not go into a live benefit situation if there is dubiety about whether we can get the data that we need to support applications. A lot of the process around how we get data from the DWP in particular is established during the programme element, when we look at the service and how we support and build a system before a benefit goes live. It is probably a question that is best asked of ministers or the Scottish Government. By the time a benefit comes to us, there is no doubt as to whether we can access the data we need, because we cannot go into a live benefit situation if we are unsure about whether we have the data.

I draw a line between the activity that is needed before we get that assurance and then when we go live. As accountable officer for the organisation, however, I would not go into a live benefit world if we were still having to negotiate whether we could get the data that we needed. We may come on to agile development in a different area, and how we access the data may be a factor, but getting the data has to be established before we go live.

Jeremy Balfour (Lothian) (Con): It is good to see you all here. I will move on to overpayments. We all know that they happen irregularly, but they do happen. When I was a tribunal member, we had to hear some of those cases. It will probably become more of a live issue next year, when adult benefits are transferred. Clearly, we want to keep the founding principles of dignity, respect and so on; at the same time, there are people out there who make fraudulent claims. How will such issues be investigated? What methodology will you use to deal with them?

David Wallace: I will bring James Wallace in to say a bit more about that, but in general we draw a distinction between fraud and overpayments. That was a source of debate as some of the legislation passed through. We have a zero tolerance policy for fraud. We are building up our counterfraud capability and our investigation powers so that we

can tackle fraud when we see it in the system. James Wallace can say more about that, but our expertise on how to tackle fraud is growing, and there is a zero tolerance policy.

There is a distinction between overpayments and fraud: obviously, not all overpayments are fraudulent. Our clients and stakeholders tell us that destigmatising is key. The system must destigmatise some of that. It is a complex system, and it is now one that crosses Social Security Scotland and the DWP. There will be some overpayments in that system, and it is important not to refer to all of them as being fraudulent. Fraud is different.

We cannot recover overpayments where they have been made as a result of error. You will have seen from your own experience people who, through no fault of their own, were hit with a large overpayment, the recovery of which had a significant impact on them.

There is a line to be drawn between overpayments and having realistic expectations: that line is between the point at which the client has told us something and how we recover any overpayment. On recovery, we will have regard to the common financial arrangements so that we do not leave people in inappropriate circumstances.

James Wallace might want to say a little bit more about the recovery of overpayments.

James Wallace (Social Security Scotland): How we build dignity, fairness and respect into the recovery of overpayments is a very good question, and it was considered when the Social Security (Scotland) Act 2018 was going through the Parliament. Section 65 of the act places an obligation on the agency to take account of the individual's financial circumstances. David Wallace is correct that we would recover an overpayment as a result of fraud or error only where that was the client's fault. When it is our fault and there has been an official error, we do not recover. The client has no liability unless the overpayment is large or obvious, which means that it would happen only fairly rarely. For example, if a client was expecting £100 and we sent them £100,000—that would never happen—that would be large and obvious. However, if we accidentally paid the client £101 as opposed to £100, the client would clearly not realise that we were £1 out, and we would not seek to recover that sum. Therefore, we would not seek to recover overpayments except in specific circumstances.

It is a little bit different in the case of client error and that is where section 65 of the act comes in. We do, and will, use the common financial tool to assess the client's circumstances to make sure that we are taking account of the client's ability to pay. We would not want to push anyone into

hardship, and that is the bit that is different and which makes us different from other public sector organisations. Although I do not think that that will affect recovery, I need to say a little bit about that.

During the Covid period, we have paused recovery, in recognition of people's financial circumstances. I think it is fair to say that, as you will see from our annual report and accounts, the levels of debt are fairly low at the moment. There was no significant issue with our pausing recovery, and it felt like the right thing to do. We are getting ready to restart recovery, which is useful for the team.

I will move on to the next point, which is about counterfraud. In the intervening Covid period, I have been building my fraud, error and debt teams, and they are now well staffed and well trained. Audit Scotland has recognised the good progress that we have made with our arrangements for counterfraud. The staff are all highly trained counterfraud specialists. We have invested heavily in that area, and we are prepared for the bigger benefits—the child disability payment that has just gone live and the adult disability payment when it goes live. We have robust arrangements in place now and are able to respond to fraud and error and make use of the principles in the act to guide how we recover.

Jeremy Balfour: I will be brief, because I am conscious of the time. I once had a case where someone was due £1,000 and got £110,000 and never declared it. However, we will move on.

There is one thing that has been a difficulty for the DWP under the present system. Every year, people get their annual letter that says, in about paragraph 4, “If your circumstances have changed, you need to let us know.” I suspect that most people, including me, never read that line. However, people's circumstances change and they need more or less benefit. I am not convinced by the use of one line in an annual letter. Will the new agency communicate more effectively, perhaps, with people who are being transferred from the personal independence payment and whose circumstances may get worse or better? How will that be communicated to them in perhaps a more enlightening way?

David Wallace: I should put on record that we have things in place to stop there being multiple cases in which hundreds of thousands go out the door. However, you make a good point. When we speak to the DWP, it tells us that change of circumstances is really difficult. The vast majority of such overpayments are not due to somebody being unclear about their circumstances at the point of application; an overpayment happens at the point of a change in circumstances. I would have to look at the service design, and the adult disability payment is still in that service design

space. You are right that it is something that needs to be identified as the agency makes more of those recurring payments. Until quite recently, the agency has generally made one-off payments: someone makes an application, we take a view and, if the circumstances are right, we make the payment.

The issue could become far bigger as we go into recurring payments. You are right, Mr Balfour: if something goes on for a number of years, an overpayment can accumulate quite rapidly. Under the system that we are describing, if it is reasonable that somebody should have told us about a change, we would consider the overpayment to be recoverable, and how we communicate that is important. I will certainly take the service design point away because you are right to say that having it in a letter is fine, but that cannot be the only way to communicate that. There is probably some work for us to do with stakeholder organisations and, possibly, in relation to how the technology operates in that area.

Does Miriam Craven have any information about how we currently communicate that point?

Miriam Craven: User-centred design is important. As you rightly say, Mr Balfour, the chances of everybody reading every line in a letter is a challenge, so we need to work with our client base to understand how the wording of our letters is landing: the length of our letters, the technical language in them, and the need to make sure that they are in plain English. We are working on inclusive communication and we can make sure that we meet the principles of good, inclusive communication; we are also making sure that we have things in different languages. Part of the design of the application form itself has been about inclusive communication—we have been working with users to make sure that the clients who will use the application form understand how it works. That includes things such as images, how we describe things and being able to quickly adapt things in line with feedback that comes into the organisation.

I go back to David Wallace's comment at the beginning about kindness. With change of circumstances in particular, we want to be an organisation that people feel they can talk to and tell us that their circumstances have changed in one way or another. That is about making sure that we are embedded across our client base so that they know that we are available. The key thing is making sure that the wording is in plain English, that it is inclusive and that people can understand it.

The Convener: That is very helpful.

Marie McNair: Are there any figures on overpayments? What is the split between fraud and error?

David Wallace: We have some early figures on error. James Wallace may want to say a little bit about that.

Our legislation denotes that something is fraudulent only after we have been through the investigation and are clear that it is indeed fraudulent. I think that I am right to say that we report zero fraud in the annual report and accounts because of where we are—we have not been through the development process yet.

It is important not to get the two things confused. Mr Balfour's question was a good one. Most overpayments occur through error, which, importantly, ensures that we do not automatically assume that they are fraudulent. Fraud is probably reported as zero against benefit expenditure because we have not gone through the process yet.

We report error in the DWP expenditure and we are working through the methodology of how we will report and estimate error for our own benefit expenditure.

James Wallace may want to add something.

James Wallace: As the bulk of the benefits are administered under agency agreements, the DWP produces fairly extensive fraud and error statistics for us. That is well tried and tested—the DWP has been doing it for many years.

In our annual report and accounts, we report error in our benefits. David Wallace is quite correct that the agency does not make decisions on fraud. We report suspected fraud to the Crown Office and Procurator Fiscal Service and the courts will decide whether something is fraudulent. It does not become fraud for us until a successful prosecution is secured, if that is indeed what happens. There is some data on page 57 of our annual report and accounts.

Marie McNair: I will have a look at that. How does the Social Security Scotland practice of overpayment recovery differ from that of the DWP?

David Wallace: That is a good question. I am not wholly familiar with how the DWP operates in that area. Our experience of it has been both limited and interrupted by Covid. We deliberately made the decision to suspend recovery during what was a difficult financial period and we are only just starting to think about restarting it, making sure first that we have our strategy in place.

As far as I am aware—I will ask James Wallace to double check this—one of the big differences is

that we do not have a group of benefits that we would offset. Under the DWP, if somebody is on universal credit there can be a more automatic offsetting of an overpayment against a current payment—you will all have seen odd letters to your constituents about what they are actually getting paid.

James, do you have anything else on that?

10:15

James Wallace: There are a couple of key differences. We do not recover official error; the DWP does that. Also, we have a statutory protection for hardship in the 2018 act, and I do not believe that the DWP has an equivalent provision. The tools available to the DWP vary. For example, it has administrative penalties and can arrange direct attachment of earnings—I am conscious that I am speaking for the DWP here. From time to time, it offsets overpayments against benefits without giving the client the option, whereas the statutory protection for hardship gives our clients the opportunity of a discussion before that happens. I am being careful with my wording, but our system is set up to foster a partnership and a collegiate approach to debt recovery.

David Wallace: We are happy to talk about our system but we would not necessarily make a comparison.

Miles Briggs (Lothian) (Con): On that point, do you know what levels the DWP has been asked to look towards for debt recovery on behalf of Social Security Scotland? I had a look at your accounts and from what I could see it is estimated that around £17,400 was detected for internal fraud but, as you have already said, no overpayments have even been classified. What does the work that the DWP is doing for Social Security Scotland look like, given that you are transferring that to another organisation?

David Wallace: Are you asking about the benefits that are currently paid under the agency agreements?

Miles Briggs: Yes.

David Wallace: My understanding is that the DWP will continue to do what it is doing at a UK national level. That is what the agency agreements say. For any overpayments that have occurred in benefits that are currently administered by the DWP, it would be end to end. That would flow into those overpayments as well—I think I am right in saying that. We are not interjecting or asking for a different approach, and the way the agency agreements operate does not give us the ability to change a part of the process.

James Wallace: That is correct. The key agreement with the DWP was a business-as-usual

approach, all administered under the UK legislation. All the powers that the DWP has to recover fraud or error debt are applied to those benefits under an agency agreement. Again, page 57 of the annual report and accounts shows that the total for errors in benefits administered under the agency agreement was £7 million in 2020-21, and it will be recovered at a similar rate to the rest of the UK.

Miles Briggs: I think that it would be helpful if we had certain data around the number of cases specific to Social Security Scotland, especially with the transfer of PIP and so on, where there will be more of a live issue.

I want to ask some questions about staffing and recruitment, following our meeting and the useful conversations that we had in Dundee. When is the workforce strategy likely to be finalised?

David Wallace: We are working towards a target of next summer—I think I am right about that. There are some references to long-term and short-term workforce strategies. Are you asking about the longer-term strategy?

Miles Briggs: Yes.

David Wallace: The organisation has a quite sophisticated workforce planning arrangement. We are trying to work with the service design that comes in and with our analysts about the expected benefit volumes that are likely to appear. As you will understand, if benefits are slightly tweaked in places, that can impact on the volume that comes in. We have invested quite a lot in a team that is able to do some of that workforce planning around the immediate aspects.

The need for longer-term workforce planning was a point that came through the Audit Scotland report. Some of that hinges on the longer-term benefits, so I come back to the point about how we work with the Scottish Government's social security programme.

It is difficult for us to predict what we will need for longer-term workforce planning until we are clear about the service design and how things pan out. I think that that is why there is a slightly longer-term timetable in that regard. I stress that that does not mean that there is no workforce planning in the organisation, and I do not think that that is what Audit Scotland was saying in the report. Audit Scotland was just asking when our planning would start to look to the longer term.

Miles Briggs: Why have staffing requirements increased so much since the programme's business case was published in February 2020, given that the key policy decisions for in-house assessment, local delivery and plans around the Scottish child payment, for example, had already been made at that point? Also, given the recent

announcements by the First Minister, will the organisation grow beyond the 3,500 staff that are currently envisaged?

David Wallace: I will take the first point first. The quick answer is that the staffing requirement figure simply was not updated for the programme business case in 2020—it reiterated the 2017 figure, rather than a figure that had taken into account some of the changes. I always emphasise that, from the 2017 figure onwards, it was an in-excess figure; we were comfortable that we would need at least that number of people. We were also quite clear that lots of decisions that would affect the variables had yet to be made. You have pointed out some of those decisions, including significant ones such as the in-housing of clinical services, which had not been done at the time. The service design for the more complicated disability benefits had not come through either. There was also a series of smaller design decisions that flowed through the system, such as the duty on the organisation to collect more information to assist with appeals. That came through later in the process.

The figure was also based on some earlier assumptions about how we would operate shared services with the Scottish Government. In reality, we have absorbed more of those functions than elsewhere including, significantly, the chief digital office, which transferred to us in April last year and brought some significant numbers in. For me, the programme business case is not the point to go back to; rather the number came from the outline business case for the organisation.

I am sorry, I have forgotten the second part of your question.

Miles Briggs: What size do you expect the organisation to be, given the change from the initial estimates to the 3,500 we see now?

David Wallace: We always talked about steady state and, as I said in my opening statement, we are a long way from that. As happens at DWP, staff numbers will peak and spike depending on what is going on and depending on how we launch benefits. The final determiner will be the balance between technology and people; that is where agile design comes in. If things are done technologically, that might push our costs into IT contracts. If those things are done with people, it will push costs into people. That is one of the reasons why we are slightly reluctant to continually push figures out. It is an agile development and our staffing requirements are, in a way, a consequence of what that looks like.

Miles Briggs: That is very helpful. This will be my final question on staffing. What is the organisation's strategy on skill sets? We touched on that in our conversations. You are looking to

recruit 400 advisers for hubs across the country. What workforce challenges have you discovered in doing that? Concern was expressed about the potential destabilisation of other services if individuals who are currently working on the front line elsewhere come into Social Security Scotland. That may have been specifically about Dundee, given that you have already been drawing on the recruitment pool there. That was one of the conversations we had. Where are you with that specialist skill set strategy and identifying individuals?

David Wallace: There are probably two slightly different elements in there. Although we are bringing in a skilled and experienced group of people, local delivery is not as highly specialised as some of the clinical appointments that you are probably talking about. Recruitment for local delivery has not generally been a problem. You are right that we have taken people from a variety of areas, including the third sector and, in some cases, other Government departments and services, but recruiting at the local delivery level has not been a particular issue.

We are developing our clinical approach based in part on how the initial team staffing up the child disability payment has progressed. That is probably the area where the highest level of risk is and where we are potentially pulling in people who may be working in the national health service, for example, but want to come and work with us. It is very early days for us to have any intelligence about that, but early indications are that if people are coming from the NHS, we are possibly extending their working life rather than drawing them in at a different point. We are also taking people from other areas.

Our strategy will develop in terms of clinical approach, and all the specialist pockets will also have strategies skewed towards them. Ultimately, our strategy, aside from some very specialist areas such as clinical, has to be a combination of recruiting in the market and developing our own talent. For example, in accountancy, on James Wallace's side, we have a throughput of training accountants and we have good relationships with local colleges and human resource practitioners, so we are not just going into the market and taking people who are fully qualified and trained. We see ourselves as part of the pipeline and Dundee is a good place, where we are working with the local colleges and the universities. We see that we have a responsibility for developing the pipeline, not just taking people from the market.

The Convener: I will bring in Jeremy Balfour. I am conscious of the time, but I will run over on the session and delay the minister slightly, so could we have quick questions and answers, please?

Jeremy Balfour: I have two questions. First, following up on that final point, Audit Scotland reported that recruiting people with clinical experience was a cause for particular concern and that the pandemic may have made that worse. Are you looking at different opportunities, such as working part time or even working through an agency, so that a person might do one day a week for you but continue working as a nurse or occupational therapist the rest of the time? Or is it just one model fits all?

David Wallace: I do not want to delay the minister, so in the interests of giving a short answer, yes, we will look at all those opportunities.

Jeremy Balfour: Secondly, and this is probably a slightly longer question, the adult disability payment is coming in next year. We have seen the draft regulations. Whether the regulations are agreed to or altered will be a political decision made by the Parliament. If the Parliament decided that everybody should be transferred as is, and then decided to increase the mobility threshold from 20m to 50m and that came in next year, would the agency have the capacity to deliver that decision, or would you need more staff? If the regulations were not just approved but altered to give more people the opportunity to apply, could you deliver that? If you could not, by when would you need that parliamentary decision to be made, so that you could bring in more staff?

David Wallace: I do not have a straightforward answer. We would work with our programme colleagues on that. If significant changes were made to the policy at the point of transfer, that would have a major impact on the resource that we require. That is probably the short answer. I am happy to take the question away and write to you if that would be of help.

To be clear, such a change would have a significant impact on staffing.

Jeremy Balfour: It would very helpful if we could get some kind of indication in writing.

The Convener: A response in writing would be helpful. We will be looking to touch on eligibility for ADP in particular and it will be the chunkier end of the work that is coming through next year.

Pam Duncan-Glancy: Thank you for your answer to the previous question. It was very helpful and I look forward to seeing your written submission.

How are you ensuring that the ethos of eligibility will change from the current system of personal independence payment to the new system of adult disability payment? What are you doing with your workforce to make sure that it is a different type of process?

David Wallace: I know that we are pushed for time, but could you clarify what you mean? Are you asking about how we will work with people?

10:30

Pam Duncan-Glancy: Yes, I am asking mainly about how you will work with people. We have heard a lot about eligibility—I presume that the adequacy of payments will come further down the line, and that will be a whole other session I am sure. In the meantime, how are you making sure that the process, whether through application or transfer, and in particular around the child disability payment and the adult disability payment, when that happens, is better than it currently is with the DWP?

David Wallace: I will be quick, in the interests of time. For the benefits that we are currently delivering, we have worked on that by looking at how we recruit and induct people. Similar conversations were had three years ago about how, if we took people in from the DWP, we could make sure that we had a different culture. Some of our answers remain valid. We look for particular skills and experience, and it is fundamentally about attitudes and how we recruit and induct people. It probably comes back to the charter point as well, and is why I think it is so important that our staff's views are represented in the charter—you cannot have the system operating without one or the other. We have some experience and some learning from how we have grown the organisation. Probably the shortest answer that I can give you is that it is about getting the right people, making sure they are trained and making sure that they are getting the experience.

The Convener: Miles Briggs, do you have a question on the final theme?

Miles Briggs: Yes, thank you, convener. The question is about spend and budgets, which is probably the most important stuff. What is your view of the variance that we have seen between budget and actual spend to date?

David Wallace: For the year that this annual report and set of accounts relate to, I come right back to it being a year disrupted by Covid. A number of the variances in there are directly related to some replanning in the programme. In other words, some benefit launches shifted. Clearly, when the budget was set, we had a different programme in mind, so there was a knock-on effect from changing it. Likewise for capital. It was great to see you at Agnes Husband House but, as you know, it is not quite there yet. In a non-Covid world we would have expected to have some of that capital expenditure gone, done and completed. There has been a knock-on from Covid.

As you know, the vast majority of the budget is staffing. If we reprogramme when a benefit launches, that inevitably changes when we try to bring people in and that change creates an underspend. It was an unusual year. Clearly, we will monitor that as we go forward, but as long as there are huge variances in volume or in benefit launches, any variance between budget and spend is a result of that.

Miles Briggs: Will that have an impact on future forecasting? Off the top of my head, you are at 10 per cent operating costs to delivery, and the DWP is at 6.4 per cent. Do you see that cost increasing, as is currently laid out in the to-date costs?

David Wallace: I will stick by the numbers that we put in our corporate plan. It is not a competition, but the benchmark of what it takes to run a benefit system—around the 6 per cent mark—is where we would want to head. At the moment, as I mentioned earlier, we are doing benefits that generally require a one-off application and a one-off look at that application and a one-off appeal. As you get more into the recurring benefits, you are managing a case load, rather than doing all the front-end work.

How that bump smooths out comes back in part to the question about the transfer of cases. We are just starting to get some evidence about transferring the child disability payment. How long that bump goes on reflects how much longer we are paying DWP to still do something versus doing it ourselves. The graph in our corporate plan setting our target to be down at 5.2 per cent is still correct.

Pam Duncan-Glancy: How long do you expect to be spending money on the agency agreements? If you were delivering those benefits through Social Security Scotland directly, would your spend on the agency agreements be like-for-like in terms of your administrative costs, would you be able to deliver slightly more cheaply, or would it be more expensive?

David Wallace: I will be quick, in the interests of time, although there is probably a very long, complicated answer to that. One of the ways of looking at that is to do the straightforward maths. What we are paying DWP probably equates to about another 2,500 people. However, it is not as straightforward as that. DWP is more mature in its technology and processes. We will need to pay it as long as it is doing cases for us. That is the short answer. Once we have adult disability payment embedded and transferred across, the significant chunk will come across.

We have arrangements for challenging the agency agreement costs, so it is not a straightforward process of it sending us an invoice and us simply paying it. James Wallace is part of a

group that challenges those costs and how they have been arrived at.

In reference to the previous question, some of the underspend can come because the estimate of the agency agreement can vary through the course of the year. If there is a fuller explanation about how agency agreements operate, I am happy to commit that in writing.

Pam Duncan-Glancy: That would be helpful. Thank you.

The Convener: As we are still within the window of revised timings that I suggested to the minister for the next agenda item, I will ask one final question.

At the session that we had in Dundee, you talked about the feeling of the organisation in terms of scaling up and the speed of the roll-out of benefits. It would be useful for the suggestion that was made in that informal session to be put on the record for my benefit, please. Are you moving at pace in scaling up? Are you comfortable with that pace? Could you be going faster in terms of rolling out new social security benefits and taking on responsibility for existing benefits?

David Wallace: I will try to remember the answer that I gave you in Dundee. From an organisational perspective, this feels fast and furious. Eleven benefits in just over three years is almost dropping a new benefit every quarter. As you see in our annual report and accounts and in Audit Scotland's references to guidance, for example, some of the points have been about how to continually make sure that our staff have the absolutely up-to-date guidance, know about referrals and know about advocacy.

Some of that is a consequence of the pace that we are going at. There is one programme planned, so I am loth to say that we could go a bit faster or that the programme could go a bit faster. There is a joint plan of delivery, but from the agency's perspective it feels fast and furious.

The Convener: Do you feel that you have support for meeting that fast and furious timetable?

David Wallace: Absolutely. There is always a balance between paying money to people who are entitled to it versus the organisation saying that we are ready to do that. Inevitably, there are always some things that we would like to have in the organisation before we do that. However, we are fully involved in those decisions and I absolutely agree that getting forward with the payments is the most important thing to do.

To go back to some of the previous questions, that might mean that we are doing something slightly more manually than we would ideally like to—we would like a system to do checks—but that

is an appropriate compromise for us to make sure that we are paying people in Scotland.

The Convener: Most importantly, do you feel that you are getting it right for the clients at the pace that you are going at?

David Wallace: I do not want to be complacent on that, but we are driven by the client survey. For a survey of a group of clients, the response was phenomenally positive.

On balance, I think yes, but that is not to be complacent, as members have mentioned here, about those who are feeling less positive. There is always that balance. Yes, we are broadly there but we want to make sure that we are still a learning organisation. How we take the learning from the charter and from clients and make sure that we have the space and stability to implement some of those changes while benefits continue to come down the track will always be a challenge, but it is what makes these jobs particularly exciting and challenging at the moment.

The Convener: Thank you very much to all the witnesses for coming in and sharing on the record your experiences of the last few years. We greatly appreciate your time. As I said at the outset, we look forward to progressing a regular and productive relationship with you. On behalf of the committee, thank you very much for your time.

I suspend the meeting briefly to allow for the changeover of witnesses.

10:39

Meeting suspended.

10:44

On resuming—

Subordinate Legislation

Best Start Grants and Scottish Child Payment (Miscellaneous Amendments) Regulations 2021 [Draft]

The Convener: The committee will now take evidence on the draft Best Start Grants and Scottish Child Payment (Miscellaneous Amendments) Regulations 2021. I welcome to the committee Ben Macpherson, the Minister for Social Security and Local Government. Online, the minister is joined by, from the Scottish Government, Pauline Torley, Scottish child payment policy manager, and Karen Clyde, solicitor. I invite the minister to make an opening statement.

10:45

The Minister for Social Security and Local Government (Ben Macpherson): Good morning. The regulations will make sure that the Scottish child payment and best start grant regulations align with our original policy intent of getting payments to the person who is responsible for the child.

The best start grant is aimed at giving children the best start in life by offering financial support to eligible families at key points in a child's early years.

The Scottish child payment is the most ambitious child poverty reduction measure in the United Kingdom. It supports families on qualifying benefits who have children under six, and it will be extended to cover children under 16 by the end of 2022, if all goes to plan in getting the data that is required from the DWP. The Scottish child payment is already supporting 106,000 children through payments worth £40 every four weeks. As the First Minister announced earlier this week, those payments will increase to £80 in April next year.

The First-tier Tribunal for Scotland highlighted that, in a very small number of cases, the process for resolving competing cases under the Scottish child payment regulations did not award the person with responsibility for the child. A related issue arose with the best start grant where an award was made to someone who received the child element of universal credit, but someone else was caring for the child. Without the amendments in the regulations before the committee today, we would not always be able to pay the person who is responsible for the child.

Ordinarily, one person would receive the child responsibility benefit and the use of top-up powers would work to meet the policy intent, but it has recently become clear that that does not always happen in practice, so we are seeking to rectify the situation. Although the number of people who are affected is likely to be very low, we are seeking to make the changes in the regulations before us because it is the right thing to do.

Draft regulations were referred to the Scottish Commission on Social Security in September. Considering its workload, I was very grateful to receive its scrutiny report in October. We have accepted all the recommendations, and our response was laid in the Parliament on 12 November.

David Wallace, chief executive of Social Security Scotland, provided an update to SCOSS, in which he outlined how the agency responded to the problem of competing claims, in advance of the regulations being laid. He clarified how the agency would support the regulations through guidance. The agency will publish updated guidance to coincide with the regulations coming into force.

I remain extremely grateful to the Scottish Commission on Social Security for its scrutiny and recommendations, and I welcome the opportunity to assist the committee with its consideration of the regulations before us. I look forward to any questions that members may have.

The Convener: Thank you. That was very helpful. If any colleagues wish to come in at this stage, I ask them to please indicate, as others have already done so.

Marie McNair: My question is on theme 2. Are you concerned that the approach that you want to take might undermine the shared care of children?

Ben Macpherson: We encourage parents with shared care to decide who should make a claim. The number of people who will be affected by the changes to the rules is likely to be minimal, as I said in my opening statement. We do not anticipate that the proposed change will deter parents from undertaking shared care. We shared the draft regulations with our stakeholder group and no feedback was received about such an outcome, so I do not believe that our approach will disincentivise shared care.

Marie McNair: Thank you for that reassurance.

Pam Duncan-Glancy: Thank you for joining us. You raised the issue of the data. Could you give the committee an update—either now or in writing—on the data from the DWP that is required for the wider roll-out? It would be good to hear about that. I am also keen to know a bit about

why, in the first place, it was decided to go for a first-come, first-served basis for the payments.

Ben Macpherson: I will take the second question first, which was about why a first-come, first-served approach was considered an acceptable backstop provision. It was not considered an acceptable backstop provision.

To give the wider context, the original Scottish child payment rules stated that a second applicant for a Scottish child payment who was not higher up the hierarchy of entitlement than a previous applicant would have their application rejected. In effect, that created a first-come, first-served rule for two applicants with the same qualifying criteria. However, it was not anticipated that two different people could both satisfy the top-tier qualifying criteria, which is why we needed to amend the regulations and why we have brought the amended regulations before the committee.

I should say that the reason why we did not anticipate that the situation could arise through the process of the original regulations is that it should not be possible for more than one individual to be in receipt of the qualifying benefit, with the associated child element, for the same child. Where universal credit is top of the hierarchy, only one person should get the child element and one person would get child benefit. We expected that, with any change in circumstances in which responsibility for the child moved, any associated benefits would move with the child, but it has now become clear that that is not always happening. That is in the DWP reserved system. Therefore, we have put forward the proposed amendments in response to considerations in the reserved system in relation to the reserved benefits that create the entitlement to the devolved benefits in question. That is the context.

On your other question, I have had a recent bilateral with Chloe Smith on the issue of the data for the second phase of the roll-out of the Scottish child payment. Officials from the Scottish Government and the DWP continue to be engaged in conversations around securing that data for the November 2022 timescale that we are working towards and to make sure that we progress in the fashion that is required to deliver in that timescale.

The Convener: The issue with data sharing brought about the delay in the initial roll-out of the Scottish child payment. Are you confident that there will not be a further delay, and that the data from the UK Government and the DWP will come in time this time around?

Ben Macpherson: I can emphasise that, from a Scottish Government position, we are making it very clear to the DWP when we require to receive the data and how we require to receive it to meet that deadline. I do not want to say anything more

at this stage, as officials are engaged in good faith on the matter. However, I will certainly update the committee in due course as appropriate.

The Convener: That is very helpful.

Miles Briggs: I want to ask a few questions about shared care. The regulations seem very clunky and do not take into account separated parents, for example, who might equally share care for their child or children. Have ministers looked at some solutions to that, such as a 50:50 split in the provision of that benefit?

Ben Macpherson: I thank Miles Briggs for that important question. A situation where two parents are in receipt of a qualifying benefit for the same child should not be possible. If a situation arises where both parents have an exact 50:50 split of care and both are in receipt of a qualifying benefit, we would trust that the process of applying for the qualifying benefit would provide clarity by awarding the child element to the parent responsible for the child. Where that fails for any reason and triggers a competing claim for the Scottish child payment, the rules that allow the Scottish ministers to consider the circumstances of the child will apply. The evidence that will be considered by the Scottish ministers in determining awards in these cases will be set out in the published guidance. The guidance will be important in relation to those questions.

Miles Briggs: That is helpful. Reading into that, has any work been done on how that could disincentivise people—separated parents specifically—from taking a shared-care approach?

Ben Macpherson: As I set out to Pam Duncan-Glancy, we continue to encourage parents with shared care to make the decision about who makes a claim. We shared the draft regulations with our stakeholder group and no feedback was received suggesting that people would be disincentivised.

Miles Briggs: Beyond that group, is any other assessment or review taking place? The issue has opened up an area where it is important that more work takes place to see whether the regulations might be changed to fit the real world that we live in. What additional work does the Government intend to do on the issue?

Ben Macpherson: The Scottish Government continues to evaluate and consider how all our benefits are performing and what revisions we may need to make to regulations to make sure that they take into account the different situations of different families in different circumstances. The fact that we have brought the regulations to the committee today is evidence of that continued work to improve the benefits that we provide.

Pauline Torley might want to say a bit more about engagement or any other points that Mr Briggs has raised.

Pauline Torley (Scottish Government): The Scottish Government is committed to learning about how our benefits work in order to learn lessons for the future. We utilise a programme of on-going evaluation delivered by analysts and researchers in conjunction with external expertise. We are currently conducting an interim evaluation of the Scottish child payment, focusing on the impact on the priority groups outlined in the tackling child poverty delivery plan. We should have access to emerging findings by the end of this year, with the final report early in 2022.

As we move on to regulations for phase 2 in rolling out the Scottish child payment to under-16s, we are engaging with our stakeholders and the third sector to have a look at how the current regulations are working, what we intend to do in terms of amendment regulations and taking on board any feedback on how the Scottish child payment is working in practice.

Miles Briggs: Following that answer, is it fair to say that we are likely to see a change in the regulations being brought to committee quite soon?

Ben Macpherson: That is certainly not the position that we envisage as things stand. As I set out in my opening statement and my previous answers, we are making these changes because of issues that have arisen as a result of the entitlement to reserved benefits and the effect that that has on our devolved benefits. We are making changes to make sure that the person with responsibility for the child receives the devolved benefit. We will continue to keep the regulations, as we do all our regulations and our benefits, under continuous review and seek to make improvements where appropriate and where possible.

Jeremy Balfour: I have two questions, the first of which is procedural. We have touched previously on the time that SCOSS gets to respond. It pointed out in its report that it had a restricted time to get the response done. Are you looking at giving it a longer period of time to consider the recommendations, so that the committee and the Parliament can take that into account?

Ben Macpherson: That is an important point. The chair of SCOSS and I have discussed these issues and the amount of consideration that SCOSS has had to give to different sets of regulations over the recent period. We are very mindful of that. I have spoken previously at committee about the extra resourcing that we are providing to SCOSS in the period ahead. The

ambition is to give SCOSS adequate time to evaluate as appropriate and as required.

We have faced a number of developments in recent months that have required evaluation and engagement from SCOSS that were not anticipated—for example, the regulations around those coming to the UK from Afghanistan required consideration quickly, and that was unexpected.

Is the ambition to reduce the demand on SCOSS in the period ahead? Yes. Are we grateful for SCOSS's engagement and work over the last months? Absolutely. Will we continue to work constructively with SCOSS to make sure that it has the resources that it requires? Yes, we will.

11:00

Jeremy Balfour: That is good to hear. You might want to answer my second question in writing rather than answer it today. It concerns something that occurred to me while I was listening to you.

One of the issues that was put to us when we were examining the carers allowance was that there may well be two people caring for a parent or for a child but that the benefit is delivered on a first-come, first-served basis, which is the same in relation to the Scottish child payment. Have you considered that you might end up with two people offering the same care but only one getting the benefit, because they applied before the other one? Has there been any evidence taken on that, has it been an issue and is it something that you and your officials have been looking at in any context at all? I appreciate that that is coming out of left field, so I am happy if you would rather take it away and respond in writing.

Ben Macpherson: There are wider considerations in Mr Balfour's question around the qualifying benefit, which also relate to the regulations that are before us today. Of course, under the agency agreement, the DWP continues to deliver the carers allowance and the supplement and, this year, the additional payment, so the considerations are around the qualifying benefit.

The points that Mr Balfour raises are pertinent and important with regard to the development of the Scottish carers assistance in the period ahead, and we will publish our consultation on that shortly. These are points of consideration. I am happy to respond with any further points of information or interest above what I have said, but I can say right now that those issues will be considerations in the period ahead as we look at the development of Scottish carers assistance.

Pam Duncan-Glancy: My colleague Pauline McNeill said in a meeting of the Social Security

Committee in the previous parliamentary session that there needs to be quite a bit of scrutiny of the proposals and understanding of shared care and that there therefore needs to be comprehensive guidance. SCOSS has highlighted that there could be potential human rights issues if the level of discretion is increased. Can you set out why you have left the detail on the types of circumstances to be taken into account to Social Security Scotland and have you given it any direction about what the guidance would include?

Ben Macpherson: We will closely monitor the use of discretion in competing claims, as you would expect. There are currently processes and a number of meetings in place between agency and policy officials to discuss cases that are live at the moment. The existing provisions between the agency and policy officials will continue. The guidance will be published to coincide with the amending regulations coming into force on 23 December. We can consider that guidance thereafter if that is appropriate or helpful. The points around discretion need to be considered very carefully with regard to the development of that guidance and officials will be actively involved in engagement with the agency to make sure that that guidance is appropriate for the needs required.

Pauline Torley might want to say some more about that.

Pauline Torley: Including in the guidance the issue of discretion and the circumstances in which ministers should consider who would be entitled to the payment enables us to not be restrictive with the regulations, which means that—*[Inaudible.]*

—does not quite fit to a prescribed set of rules, we will be able to consider that in the guidance and update the guidance accordingly. The approach makes it easier for the different set of circumstances to be considered.

The Convener: Pauline Torley's sound dipped off during that answer. Did you catch enough of that, Pam?

Pam Duncan-Glancy: Yes, thank you.

The Convener: We have a final question from Marie McNair.

Marie McNair: Going back to the guidance, is there any consultation on the content of the guidance? Did you say that it would be published on 23 December?

Ben Macpherson: Yes, the guidance will be published to coincide with the amending regulations coming into force on 23 December. Organisations are being consulted. We intend to consult with the five family payments reference group, which includes the third sector, NHS and

local government representation and the Child Poverty Action Group.

The Convener: We now come to the formal debate on the motion, in which only members and the minister may take part. I invite the minister to move the motion.

Motion moved,

That the Social Justice and Social Security Committee recommends that the Best Start Grants and Scottish Child Payment (Miscellaneous Amendments) Regulations 2021 [draft] be approved.—*[Ben Macpherson]*

The Convener: As no member wishes to debate the motion, I will put the question, which is, that motion S6M-02177, in the name of Ben Macpherson, be agreed to.

Motion agreed to,

That the Social Justice and Social Security Committee recommends that the Best Start Grants and Scottish Child Payment (Miscellaneous Amendments) Regulations 2021 [draft] be approved.

The Convener: Do members agree to delegate responsibility to the clerks and I to produce a short factual report of the committee's decision and arrange to have it published?

Members indicated agreement.

The Convener: I thank the minister and his colleagues, Karen Clyde and Pauline Torley, who joined us online, for their time this morning. It is greatly appreciated.

That concludes the public part of the meeting. Our next meeting is on 9 December, when we will take evidence on the third sector's recovery.

11:08

Meeting continued in private until 11:22.

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

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