SOCIAL SECURITY COMMITTEE

AGENDA

6th Meeting, 2016 (Session 5)

Thursday 6 October 2016

The Committee will meet at 9.30 am in the Mary Fairfax Somerville Room (CR2).

1. **Work programme priorities:** The Committee will take evidence on its forward work programme priorities, in a round-table discussion, from—

   John McArdle, Director, Black Triangle Campaign;

   Dr Jim McCormick, Associate Director Scotland, Joseph Rowntree Scotland;

   Craig Smith, Public Affairs Officer, Scottish Association for Mental Health (SAMH);

   Elodie Mignard, Interim Refugee Integration Services Manager, Scottish Refugee Council;

   David Formstone, Convenor, Community Care Standing Committee, Social Work Scotland;

   Lesley Baird, Chief Executive, Tenant Participation Advisory Service (TPAS) Scotland;

   Andrew Jackson, Head of Public Affairs, Scottish Federation of Housing Associations;

   David Moxham, Deputy General Secretary, Scottish Trades Union Congress (STUC);

   Helen Flanagan, PCS Industrial Officer, Public and Commercial Services Union (PCS).

2. **Subordinate legislation:** The Committee will take evidence on the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2016: (SSI 2016/25) from—
Robin Haynes, Head of Council Tax, and Dave Sorensen, Statistician, Scottish Government.

3. **Subordinate legislation:** The Committee will consider the following negative instrument—

   Council Tax Reduction (Scotland) Amendment (No.2) Regulations 2016(SSI 2016/253).

Simon Watkins

Clerk to the Social Security Committee
Room TG.01
The Scottish Parliament
Edinburgh
Tel: 0131 348 5228
Email: simon.watkins@parliament.scot

The papers for this meeting are as follows—

**Agenda item 1**

Written submissions  SC/S5/16/6/1

**Agenda items 2 and 3**

Subordinate legislation note by the clerk  SC/S5/16/6/2

PRIVATE PAPER  SC/S5/16/6/3 (P)
Social Security Committee
6th Meeting, 2016 (Session 5), Thursday 6 October 2016
Committee work programme priorities

Background

1. The Committee agreed previously to take evidence from various organisations on what the committee’s work programme priorities for Session 5 should be. The Committee agreed to have three sessions on 8 and 22 September and 6 October in a round table format.

Written submissions submitted by witnesses

2. The organisations giving evidence on 6 October (listed below) have submitted written evidence in advance (attached in Annex A).

- Black Triangle Campaign
- Joseph Rowntree Scotland
- Public and Commercial Services Union (PCS)
- Scottish Association for Mental Health (SAMH)
- Scottish Federation of Housing Associations (SFHA)
- Scottish Refugee Council
- Social Work Scotland
- Tenant Participation Advisory Service (TPAS) Scotland

Jenny Goldsmith, Assistant Clerk to the Committee
30 September 2016
Annex A

Written Submission from Black Triangle Campaign

The founding of our campaign and the reasons for our existence. The main areas of campaign work undertaken by Black Triangle in the last six years.

Progress Report

Evidence given in the past to the Scottish Parliament. Work undertaken to lobby the British Medical Association.

1. The campaign wishes to discuss the breaches of the fundamental human rights of disabled people currently being breached by the operation of DWP policies being implemented in Scotland.

2. We wish to cover the following areas:

(a) the work capability assessment regime and its knock-on impact on areas to be devolved. Migration from disability living allowance to personal independence payment and its impact on the disabled community in Scotland.

(b) the sanctions regime and the Scottish welfare fund.

(c) universal credit and its impact.

(d) the work programme

(e) the proposed health and well-being programme to be rolled out by Westminster in the near-term future.

(f) the United Nations investigation into grave and systematic human rights abuses in the United Kingdom.

(g) the lack of any effective safety protocols for suicide prevention in the DWP disability assessment regime and breaches of article 2 of the European convention on human rights on the right to life.

(g) the denial of access to justice and an independent judiciary with which to appeal against decisions made administratively by the Department of work and pensions. The need for a publicly funded disability law service in Scotland.

3. Actions that we believe must be undertaken by the Scottish government in order for us to fulfill our obligations under the United Nations Convention on the Rights of Persons with Disabilities.

The absolute necessity of the Scottish Government to fulfil its role in educating the Scottish and wider United Kingdom public on the catastrophic effects of Tory welfare reform and the need to keep issues affecting disabled people north and south of the
border firmly in the public eye - with a view to transforming public opinion in favour of the creation of a social security system with dignity respect and human rights at its very heart.

Written Submission from the Joseph Rowntree Foundation

1. The Joseph Rowntree Foundation (JRF) has published a costed, evidence-led strategy to solve UK poverty\(^1\). This was preceded by a manifesto briefing\(^2\) on how devolved and local powers in Scotland can contribute. Social security, or more accurately an ineffective benefits system, is identified as one of five key drivers of poverty today. Action to solve poverty needs to address the risks of poverty via the jobs market, housing, education and skills, market drivers of the poverty premium (e.g. childcare, energy, financial services), families and communities. Social security has an important role to play in boosting incomes alongside these other drivers.

2. Recent research for JRF\(^3\) estimates the total cost of current and projected levels of poverty, in higher public service demand and lost tax and NI payments. A figure of £78 billion is estimated for the UK, including one pound in every five spent on public services. Social security costs to mitigate poverty are on top of this. Long-term modelling by a team at Heriot Watt University of around 40 policy options\(^4\) shows a reduction in poverty of 40% is feasible, led by childcare reforms, closing the gender pay gap and GB social security changes. The latter include: reversing cuts to Universal Credit work allowance and introducing a second-earner work allowance; raising Job Seekers Allowance in line with the National Living Wage to both improve adequacy and maintain work incentives; uprating working-age benefits in line with the cost of essentials and the extra costs faced by people with a disability; taxing some benefits to maintain universal coverage but improve targeting; and raising the upper earnings limit within national insurance.

3. JRF has not yet modelled social security options for Scotland, but would suggest the following issues for Committee scrutiny:

   - Powers already devolved: The Scottish Government plans to improve the Council Tax Reduction Scheme (CTRS) for households with children. Although wider reforms to Council Tax will be explored by the Local Government and Communities Committee, we believe the effect of CTRS devolution since 2013 should be explored e.g. take-up levels, adequacy

\(^{1}\)https://www.jrf.org.uk/report/uk-poverty-causes-costs-and-solutions
\(^{2}\)https://www.jrf.org.uk/report/scotland-without-poverty
\(^{3}\)https://www.jrf.org.uk/report/counting-cost-uk-poverty
\(^{4}\)https://pureapps2.hw.ac.uk/portal/en/publications/what-would-make-a-difference-modelling-policy-scenarios-for-tackling-poverty-in-the-uk(7d7451f8-e7ec-45ec-bd41-a0f2f9a786).html
and impacts on low-paid households. Impacts of the Scottish Welfare Fund and Discretionary Housing Payments should also be revisited during this parliamentary term.

- Universal Credit: Payment flexibilities within UC are significant, but may be technically difficult to enact in the short term. Payment-splitting between couples is perhaps the biggest challenge. We would encourage the Committee to consider options for payment of the child element to the main carer e.g. using Child Benefit as the gateway, as well as taking evidence on UC delivery in Scotland to date including Universal Support Delivered Locally (piloted in Dundee and Argyll & Bute) and UC Full Service locations.

- Disability, carer and other benefit payments: We do not underestimate the complexities of achieving consistently safe and secure delivery the new powers. Citizens will have four main sources of income support beyond their own resources: the new Social Security Agency, as well as DWP, HMRC and local authorities. Protocols for data-sharing, rapid referral and claimant feedback and redress will need to be established at an early stage to ensure people’s experiences are fair and understandable.

4. We would add five issues for the Committee to explore: (1) how levels of uptake are to be boosted and monitored over time; (2) how payments are to be uprated in Scotland over time, taking into the cost of essentials and the extra costs faced by people with disabilities or in remote areas of Scotland; (3) related to this, the underlying adequacy of payments relative to the costs faced by households. For example, JRF has modelled the impact of raising Child Tax Credits or the child element of Universal Credit for families with children under five; (4) potential boundary effects or ‘jagged edges’ with reserved powers e.g. the permitted earnings threshold for carers; and (5) potential interaction between social security and income tax.

5. We look forward to supporting the new Committee’s work, including forthcoming scrutiny of both the Child Poverty Bill and Social Security Bill.

**Written Submission from Public and commercial Services Union (PCS)**

PCS represents around 190,000 members in the civil service and related agencies, bodies and contractors. Within this, PCS represents over 51,000 members in the Department for Work and Pensions (DWP). In Scotland, overall, PCS has over 24,000 members, including members in Scottish Government (SG), Skills Development Scotland (SDS), and DWP. Below we have set out what we believe the priorities for Social Security Committee should be for the forthcoming term. The devolution of some aspects of employment and social security areas allows the
Scottish Government an opportunity to address the well-publicised short falls of the UK Government’s Welfare reform programme.

In respect to Devolved Employability:

1. Returning the work to public sector, away from private profit, should be a primary aim of the SG. The work programme failed the majority of claimants, with 70% returning to the jobcentre without a job. Many with more difficult barriers to work were ‘parked’, often receiving little or no help from the third/private sector provider.

2. The ‘black box’ and PBR approach does not allow for central standards of service to be imposed on providers. It is worrying that the SG effectively wants to continue something along the same lines for 12 months, and it isn’t clear how different the new model will be from 2018. A ‘postcode lottery’ must be avoided by not referring funds locally for determination at this level. Proper scrutiny, central oversight through agreed standards, and claimant feedback should be essential elements of any programme.

3. An employability programme should be about support, not penalising. Therefore the conditionality and sanctioning system should be heavily revised, if not scrapped to prevent the high level of sanctioning seen in the failed UK Work programme.

In respect to Social Security Development:

4. The committee should scrutinise the funding allocated to agency in both DEL and AME terms. Adequate funding is essential otherwise it will become a DWP mark 2.

5. A ‘welfare charter’ or ‘social security charter’ should be adopted by SG in addition to any legislative changes. Long-term, aspirational aims should feature, at the heart should be a desire to eradicate poverty.

6. National delivery of social security is necessary to prevent disparity of service.

7. Claimants should have a choice in accessing the system, including face to face.

8. PIP should be moved back to a system similar to DLA. Assessments and processing work currently carried out by the private sector should be back to the public sector.

9. Benefits and carers payments should be uprated or topped-up to a minimum income and liveable amount.

10. State provision of high quality information not linked to conditionality should be a standard. Increased awareness of claimants’ rights should be promoted by all services.

11. Winter Fuel and Cold Weather Payments could be increased to compensate for the low level of pensions and UK benefit rates, and to reflect the higher level of fuel poverty in Scotland in comparison to the rest of the UK.

12. Maternity grants should reflect the reality of raising children and giving them the best start. Consideration should be given for single parents who now have to pay a fee to access the Child Maintenance scheme (formerly CSA).
13. Industrial issues arising from establishing a new department and the possibility of cross-government transfers need to be addressed early by both Scottish Government and the DWP. So far, with the latter, there has been little communication.

14. More should be done to scrutinise the DWP benefits and processes, particularly universal credit, and the delivery of jobcentre services.

Written submission from Scottish Association for Mental Health (SAMH)

SAMH is Scotland’s largest mental health charity operating over 60 services in communities across Scotland providing a range of support including mental health support, homelessness, addictions and employment services. These services, together with our national programme work in See Me, respectme, suicide prevention, sport and physical activity; inform our policy and campaign work to influence positive social change.

Committee Priorities

SAMH welcomes the forthcoming devolution of parts of the social security system, and the opportunity this provides to reframe and reform disability benefit provision in Scotland. We believe the committee should particularly focus on Personal independence Payment (PIP) and how it can be radically reformed to adequately work for people with mental health problems.

PIP and Mental health

As of April 2016 37.9% (32,427) of PIP recipients in Scotland receive PIP due to their mental ill-health, higher than any other group of conditions\(^5\). To inform our submission to the Scottish Government’s consultation on social security in Scotland we held focus groups with our service users. We were told that the transition to PIP from DLA is failing people with mental ill health and undermining their wellbeing.

Findings included:

- The application form (PIP2\(^6\)) and face to face medical assessment do not adequately assess the impact of mental health, with a focus on physical functionality
- Claimants felt disbelieved and at times stigmatised by assessors, undermining their dignity
- There is an overwhelming breakdown of trust in the application and assessment process
- Claimants’ rights were not communicated adequately, and too many people struggle to access welfare advice or advocacy support

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\(^5\) DWP Stat-xplore (September 2016)
\(^6\) DWP [Sample PIP2 form](#)
• The experience of assessment had a negative and often long term impact on claimants’ mental health
• Claimants reported having to travel long distances to assessment centres, which could be very challenging and stressful

SAMH are calling for the Scottish Government to:

• Greatly reduce the need for face to face assessments, making greater use of written medical evidence, particularly for claimants with long term conditions
• Up-skill assessors on mental health
• Facilitate data sharing between the new Scottish Security agency, the DWP and other public bodies to assist decision making and reduce the need for face to face assessments. Data sharing must be with the consent of the claimant and within the current data protection legislative framework
• Ensure claimants have access to independent advocacy support when being assessed. Evidence of the effectiveness of independent advocacy was demonstrated in a recent ALLIANCE pilot funded by the Scottish Government.

Other Issues for the Committee’s consideration

• The design and delivery of Scottish Employability Support Programmes. Mental ill health accounts for the highest cohort of people who are unable to work due to sickness; yet it has the poorest outcomes through the DWP’s contracted Work Programme. SAMH recommends redesigning employability support to include Individual Placement and Support (IPS) principles, with employability support embedded in Community Mental health Teams (CMHTs).
• The interplay between the UK and Scottish social security systems, particularly for people with mental health problems or other disabilities.

Finally to inform the work of the committee we encourage the committee to speak directly to people using the current social security system, particularly those with mental health problems or other disabilities. SAMH service users previously spoke to the Welfare Reform Committee during a ‘Your Say’ session in December 2014 which provides an effective model to follow.

Written Submission from Scottish Federation of Housing Associations (SFHA)

9 Mind, We’ve Got Work To Do, 2014, p29
10 Welfare Reform Committee Official Report 9th December 2014
Benefit Cap: From November 2016, the ‘benefit cap’ is being reduced from £26,000 to £20,000 per household, causing a tenfold increase in the number of Scots claimants affected (currently circa. 770). While those currently affected tend to live in higher-rent temporary or hostel accommodation, the lower cap will hit, in particular, families with 3 or more children living in general needs accommodation. The only recourse would be to apply for Discretionary Housing Payments (DHPs) but recent static DHP annual budgets make it unclear whether DHP will be able to do anything other than mitigate the ‘bedroom tax’.

Universal Credit (UC) First Payment: Under UC, claimants will have to wait around 6 weeks before they get their first payment: a 7 day waiting period before their claim is even considered, a calendar month for the assessment period and a 7 day administrative period for the payment to be made. This leaves claimants penniless in the interim. Under ‘legacy benefits’ (the existing benefits to be rolled up into UC) there is also a 7 day waiting period, but this does not apply to Housing Benefit (HB) which can be claimed from day 1. The housing element of UC, by contrast, is caught by the waiting period. Anecdotally, during the first stages of roll-out, SFHA members have reported decreased tenant income & increased tenant debt and reliance on food banks. This problem will only get worse as UC is rolled out to couples, families and claimants with complexities rather than just applying to single claimants meeting the initial ‘gateway criteria’ for inclusion in UC (who constitute the majority of cases at the moment).

Universal Credit (UC) Roll-out Numbers and Complexity: We now know that full roll-out will take until 2022 at the earliest. In addition to new geographical areas going over to the ‘full service’ (the latest name given to the Department for Work and Pensions (DWP)’s new administrative system for UC), the roll-out will also catch the full range and complexity of cases once the limiting ‘gateway criteria’ are removed. Roll-out will see an increase in DHP claims and therefore add to the complexity for Local Authorities (LAs) of administering them: Claimants must meet certain criteria to qualify for a DHP. Information as to qualification must go to the LA straight from the claimant because, even though the DWP holds that information, it does not, as a matter of course, share it with LAs. There is a huge challenge in scaling up: in May 2016 there were 5,900 social housing tenants getting housing cost paid via UC, compared with 244,614 social housing tenants of working age with HB awards. It should also be noted that HB and UC housing costs are not equivalent because certain service charges (for example, for certain adaptations for disabled people), which are eligible to be covered under HB, are not eligible to be covered by the housing element of UC.

Local Housing Allowance (LHA) Cap to Shared Accommodation Rate (SAR) of HB for single under 35s: This will catch many vulnerable people and there needs to be a range of exemptions if not actual or effective abolition. The SNP manifesto commitment to mitigate removal of entitlement to HB for 18-21 year olds; whilst welcome; does not address this issue directly.

Local Housing Allowance (LHA) Cap on HB for on Supported Accommodation (SA): The Secretary of State for Work and Pensions Recent recently announced that this policy will not be introduced until 2019 but that it will then apply to all existing and future tenants in SA. The lack of detail as to how the DWP will mitigate the effect
of this in practice (which, admittedly, they have promised to do) is a disincentive for landlords to build or develop SA and creates significant anxiety for current SA tenants who now know that in 2019 their payments will be capped but know nothing about how that will be ameliorated. This takes place at a time when a growth in SA is needed as an effective alternative to institutional care. The DWP will be issuing a consultation on this matter in the near future.

**Social Security Powers Devolved to the Scottish Parliament:** We hope that the Committee will consider the Scottish Government (SG)’s approach to use of these powers in light of the above, the need for new and top up benefits (which are not referred to in the recent SG social security consultation) and the management of the transfer of powers and responsibilities from Westminster to Holyrood.

**Written submission from Scottish Refugee Council**

1. **About Scottish Refugee Council**

   Our vision is for a Scotland in which all people seeking refugee protection are welcome. We provide information, advice and advocacy to people seeking asylum and refugees in Scotland, campaign for political change, raise awareness about issues that affect refugees, and work closely with local communities.

   Along with the Scottish Government and Convention of Scottish Local Authorities (COSLA), we lead on the implementation of Scotland’s Refugee Integration Strategy, *New Scots: Integrating Refugees in Scotland Communities*, which includes actions on social security, employment and education.

2. **Current context and recommendations**

   Scottish Refugee Council will be submitting a response to the Scottish Government consultation on Social Security in Scotland. We welcome the intention of the Scottish Government to develop key principles for a new system that strives for quality of service, and respect and dignity for the people of Scotland. We see the role of the Committee as essential to ensuring the successful development and implementation of a new social security system, providing oversight of this process.

   We encourage the committee to scrutinise the following areas over the coming year:

   **Principles underpinning a Scottish social security system:** are the suggested principles the right ones, and what do they mean in practice? We believe the principles should be framed within our Human Rights obligations. A human rights based approach would strive to guarantee dignity, equality and accessibility, and focus on preventing poverty and destitution for all people of Scotland;

   - **Delivery of Universal Credit (UC):** we would encourage the Committee to actively monitor the administration of UC by the Scottish Government, to ensure it is processed fairly and efficiently to avoid destitution and severe financial hardship, that payments are made fortnightly and split between all adults in the households to help ensure financial autonomy;
• **Independent advocacy and advice:** we believe that the availability of quality, independent advocacy is critical and would encourage the committee to consider this issue. An independent evaluation of our Holistic Integration Service demonstrated the need for advocacy to guarantee refugees’ access to rights to social security.

• **Destitution:** Hundreds of men, women and children live hungry and homeless in Scotland today because UK immigration and asylum policy and legislation fails to protect them. This runs counter to Scotland’s human rights based approach to social policy, prevention and integration. We encourage the committee to explore what more the Scottish Government could do within its powers to mitigate the destitution of migrants and asylum seekers living in Scotland.

**Written Submission from Social Work Scotland**

Social Work Scotland welcomes the opportunity to set out some key comments ahead of this committee session.

We welcome the principles-based approach which focuses on maximising the uptake of benefits, improving the experience of those who use the service and seeing social security as a social investment rather than unproductive public expenditure.

Our focus will be on disability and carer benefits in this instance rather than the full range of powers being devolved.

The current discussions led by Scottish Government have revealed some of the contradictions or tensions inherent providing benefits to ‘compensate’ for the additional costs of having a defined disability alongside wider social welfare systems.

• the move to PIP is ostensibly to promote ‘personal independence’ but is based on narrow competency-based tests which emphasise deficits in how an individual functions
• payment levels for DLA/PIP are based around components of ‘care’ when there is no requirement or expectation that the benefit will be used to fund care or support for the recipient
• for those in receipt of social work services all or part of a disability benefit may be impacted by local authority charging

It is understandable and laudable that the Scottish Government would wish to take full advantage of assuming new powers to fashion a system based on positive outcomes for its users not simply a continuation of cash transfers. The vision - since the publication of ‘Re-thinking Welfare’ - has been to ‘maximise life chances’ and that ‘the identification and agreement of an individual’s needs and goals should be the
starting point’. ‘A New Future for Social Security’ aims for greater integration with other types of support such as Self-Directed Support.

Notions of empowerment, person-centredness and choice are core values for social work. However we would be cautious about any longer-term aspiration to gear a social security service towards personal circumstances and setting of outcomes for an individual which might involve a social (if not a social work) assessment.

We would favour a system which is based around fair, equitable and simplified access and as far as possible ‘entitlement’ retaining the ability of the recipient to spend their benefit how they choose and without pre-conditions (however benign). Unlike disability benefits Self-Directed Support remains subject to social work assessment, eligibility criteria and monitoring of outcomes. We would however be fully supportive of working towards a better alignment of social security with other services such as social work and health.

The proposal within the consultation to have a ‘claimant charter’ implies an expected but unspecified reciprocity from the benefit recipient (going beyond respect for staff) which again implies some kind of conditionality. The term ‘claimant’ has a negative history in a UK context and the term implies a continued supplication rather than a one-off application for support. The DWP use the term ‘customer’ and the report Re-thinking Welfare referred to a ‘social security partnership’.

The issue of charging for social care services should form part of a wider debate around the respective levels of NHS and social care funding and the disparity with NHS services being largely free at the point of access.

Although ‘Re-thinking Welfare’ was a pre-referendum look at Scotland potentially taking over the entire system is still provides a helpful alternative vision based around social security as social investment, moving towards a community capacity-building or assets-based approach and away from one based on a medicalised and personal deficits or ‘needs’ model.

Whilst the current consultation naturally focuses on the benefits being devolved we would support the points made by the Minister in her letter to the Committee around also prioritising engagement with the UK Government around the interface with the remainder of the social security system notably the approximately 250,000 people in Scotland with some form of disability (including mental ill-health) receiving Employment Support Allowance and where sanctions may apply. The devolution of supported employment schemes - currently Work Choice and the Work Programme - present us with a significant opportunity both for a radical rethink (with DWP research indicating that the majority of those placed in work by contracted agencies have been those already nearest to the job market) and as a mechanism for influencing locally processes around sanctions and work-capability assessments.
Written Submission from Tenant Participation Advisory Service (TPAS) Scotland

(Clerk’s note: Please note that the three submissions A – C are from individual TPAS members.)

(A) Every year Council Budgets have to be cut. Dumfries & Galloway have to make saving of £60 million over the next 3 years. Discretionary Housing payment are made by the Council and every year, they seem to be in the firing line. Is there any way that people who receive this payment can be assured that it won't be stopped!

(B) One of the biggest problems is when money has to be deducted from a benefit, say for a child who has moved out whose mother gets £20/week for one child.

Instead of taking £20 off the week’s benefit, working out the exact sum due and adjusting the total, they stop the whole benefit and the family have nothing to live on. It can take weeks to sort out, so no wonder folk have to go to food banks to live. This idiotic way of working has to be stopped.

(C) (1) The administration of benefits in its current format is cumbersome to say the least and costs as much as the benefit itself therefore we need to look at:

- Qualification. It is enough that the recipient is of working age and has enough NI contributions to qualify the Benefit. This would include 18 to 25yr olds who have shown a willingness to demonstrate their attempts to gain employment and/or have sufficient contributions. The theory behind the entitlement, such as JSA, for only 312 days is unfair and creates additional hardships with which in most cases is supplemented by crisis loans, Scottish Welfare Fund, Discretionary Housing Payments et al, usually administered through local Authorities. Therefore, if these benefits are to be means tested, and subject to qualification periods together with NI payments, then they must be seen to be fair and not instil derogatory policies which manipulate the way these benefits are paid.

(2) Illness and Disability:
The varying degrees by which these benefits are administered needs simplifying. The instruction by GP’s in the issue of Med 3’s (Sick notes) is cumbersome, and in many cases GP’s will NOT issue for fear of losing subsidy. Therefore the message is clear:

Where GP’s have indicated that an individual IS unfit for work, there need not be any question as to their authenticity in respect of that decision.

The “Fit for work” questionnaire is NOT designed to assist the individual who is unfit, but can, and is, manipulated by the “Adjudication Officer” through ‘interpretation’. Therefore it would be useful if such questionnaires were scrapped, or redesigned in a way that shows a clearer picture of the individuals illness which is supplemented by the GP statement.

In a similar vein, the “Work Capability Assessments”, formerly carried out by ATOS, need to be scrapped.
Instead of Health Care Professionals, the Assessment must be meaningful in its design, showing clear unambiguous statements and the medical itself revert back to a medical practitioner such as a GP, Consultant etc. Nursing professionals, whilst in an admirable profession, do not have the ability to make medical judgements based on hard fact.

Indeed as has been shown in the press, the number of appeals has vastly increased because “Health Care Professionals” were guilty of making assumptions, and in some cases lies, which were target based, and such Appeals are costing the State more than the Benefit itself.

(3) The Appeals mechanism:
This needs to be based on priority. From those with chronic disability who are diagnosed as “fit for work”, to those with lesser, but just as severe in order to lessen the wait on the appeals mechanism taking place. Currently, it is estimated that Appeals are averaging an 8 month waiting period, which is neither helpful to the patient/recipient and puts added strain on the administration system.

Therefore, the simple message is:

- Clear unambiguous application mechanisms both for the unemployed and the sick.
- Medical statements issued by the GP, unquestioned.
- The work Capability Assessment to be changed, or scrapped and a new assessment programme, developed, based on real medical examinations, without targets, and ensuring that “interpretations” together with “adjudication” are accurate and not based on assumptions.
- Scapping of Universal Credit
- Application of the Housing Allowance (HB) payments back to Local Authority administration
- Scrapping of the fit for work questionnaire until 26 weeks have elapsed
- Redesign the fit for work questionnaire to include basic illnesses such as depression, anxiety and other instabilities related to the mind. The list of illnesses is not exhaustive but must bear in mind current lifestyles and not be incumbent on Victorian attitudes towards diseases including those just mentioned.
- Work Capability Assessments to be redesigned in the same way, and no medical assessment or examination until 312 days have elapsed. Statements from GP’s,
Background

1. There is one subordinate legislation instrument for consideration at today's meeting:

   the Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2016 (SSI 2016/253)

2. The Committee has been designated lead committee for the instrument.

3. The purpose of this instrument is to amend the Council Tax Reduction (Scotland) Regulations 2012 (working age) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (pension age) (jointly known as “the principal Regulations”) to create further provision for reduction of council tax bills in certain circumstances. The Regulations:

   - Increase the child allowance within the council tax reduction scheme by 25%; and
   - Exempt households living in higher band houses (E to H) with below median incomes from the change in how the council tax rate for properties in council tax bands E to H is calculated.

4. The SPICe briefing (see paper SSC/S5/16/6/3) provides further background information on this instrument.

5. The Scottish Government’s original Policy Note is attached at Annexe A.

6. The Scottish Government then issued a revised Policy Note (see below weblink). The SPICe briefing outlines the changes.


Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform (DPLR) Committee considered the Regulations and agreed, by division, to draw the Regulations to the attention of the Parliament on the grounds that the Regulations raise a devolution issue as they may relate to matters which are reserved.

8. In considering the Regulations, the DPLR Committee noted that—

   “providing assistance for social security purposes” specifically includes providing assistance in relation to an individual’s liability for local taxes. It also
notes that the term “benefits” includes any form of financial assistance. The previous reserved social security scheme, council tax benefit, provided that assistance primarily in the form of a deduction from council tax, which is the mechanism applied in the principal Regulations. The amending Regulations which the Committee is now considering further the scheme in the principal Regulations in two particular ways:"

"Firstly, there is an uprating of an amount of child allowance which is used in those principal Regulations in the calculation of council tax reduction which a claimant is entitled to receive. Secondly further provision for reduction is made, in respect of households living in higher band houses but with a weekly net income below a specified level, where the council tax rate for a property is within the tax bands E to H."

9. That Committee also recognised that the Scottish Government takes a contrary view, as in paragraph 3 of the Scottish Government’s Policy Note which states—

"The scheme operates by reducing liability, which it is within devolved competence to do, rather than by providing a replacement social security benefit to meet liability (which would be reserved to Westminster under the current devolution settlement)."

10. In the revised Policy Note, the Scottish Government states—

"The scheme operates by reducing a household’s Council Tax liability by taking into account their circumstances and income."

Local Government and Communities Committee consultation

11. The Local Government and Communities Committee recently consulted on subordinate legislation on council tax reform, specifically the draft Council Tax (Substitution of Proportion) Order 2016 (closed 28 September 2016). As part of the call for evidence the Committee asked, “Do you support the Government's planned changes to Council Tax reductions?” The SPICe briefing summarises the issues raised by respondents to the consultation on this question, which include take-up, uprating and administration.

Action

12. The Committee is invited to consider the instrument.

Jenny Goldsmith, Assistant Clerk to the Committee
30 September 2016

1 http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/100919.aspx
Annexe A

POLICY NOTE

THE COUNCIL TAX REDUCTION (SCOTLAND) AMENDMENT (No 2) REGULATIONS 2016
(SSI 2016/253)

1. The above instrument is made in exercise of the powers conferred by sections 80 and 113 of, and paragraph 1 of Schedule 2 to, the Local Government Finance Act 1992. It is subject to the negative procedure.

Policy Objective

2. The UK Government’s abolition of Council Tax Benefit from April 2013 included a transfer of funding to allow the Scottish Government to take over responsibility for addressing the difficulties which persons on low income or who are otherwise vulnerable might face in meeting liability to Council Tax. The Scottish Government developed a Council Tax Reduction Scheme for such people, which provides that their liability to Council Tax is lower than it would otherwise have been.

3. The scheme operates by reducing liability, which it is within devolved competence to do, rather than by providing a replacement social security benefit to meet liability (which would be reserved to Westminster under the current devolution settlement). The Council Tax Reduction (Scotland) Regulations 2012 (working age) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (pension age) (jointly referred to as “the principal Regulations”) came into force on 28 January 2013.

4. This instrument amends the principal Regulations to reflect the Scottish Government’s manifesto commitments (1) to increase the child allowance within the council tax reduction scheme by 25% and (2) to exempt households living in higher band houses but with an income less than £25,000 from the change in how the council tax rate for properties in council tax bands E to H is calculated. The intention is to provide relief, equal to the increase in council tax arising from the changes to the multipliers which will be introduced by the Council Tax (Substitution of Proportions) (Scotland) Order 2016. The most practical way to deliver the Band E-H relief is within the existing CTR rules and infrastructure for calculating income.

5. The increase in child premium is done by amending the figures in the principal Regulations, with the effect being to increase certain figures which are used in calculating whether an applicant is entitled to a reduction and, if so, the amount of that reduction.

6. The exemption from the increase for Bands E to H is done by adding another stage to the calculation of CTR. The relief will work by determining household income as for normal CTR cases, but then comparing that weekly income figure with a threshold amount - £321 per week for a single applicant with no child dependents and £479 per week for all others. These thresholds are derived from the equivalised median net income figures for that household type, with £479/week corresponding to an annual net income of £25,000. Those with income below the relevant threshold would be entitled to the relief. The relief for such households is then calculated as being equivalent to the difference in their Council Tax under the new and under the old multipliers. Other discounts – such as the single person discount – are reflected in the calculation.
7. Provisions that apply other features of the CTR scheme are included, specifically:

i) A taper equivalent to 20% to ensure that the entitlement to relief is not a cliff edge at the income thresholds.

ii) A “better buy” element. Presently, the Council Tax reduction is the greatest of the normal CTR entitlement and the second adult rebate (sometimes referred to as “alternative maximum CTR”). These regulations would add a third comparison, so that the reduction was the greatest of the present better buy and the new relief for low income households in E-H properties.

Consultation

8. Formal consultation was not considered to be necessary as these amendments do not alter the policy intention of the principal Regulations. However, the Scottish Government has worked with the Convention of Scottish Local Authorities (COSLA), the Institute of Revenues, Rating and Valuation (IRRV), local authority revenue and benefits practitioners and their software suppliers in development of these Regulations.

Financial Effects

9. The amount of Council Tax Reduction which an applicant will receive is based on their income less their deemed living expenses. It is estimated that the maximum additional Council Tax income foregone by local authorities as a result of these Regulations will be £18 m for the increase in child premium and £7 million for the Band E to H exemption.

Impact Assessments

10. An Equalities Impact Assessment (EQIA) was undertaken in development of the principal Regulations, and equalities impacts are being reviewed during the implementation of the Council Tax Reduction scheme. As these amending Regulations do not alter the policy intention of the principal Regulations, a further EQIA has not been produced.

11. As there is no impact on business or the third sector, and no impact on the environment or on environmental issues, no Business and Regulatory Impact Assessment or Strategic Environmental Assessment is required.

Local Government and Communities
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