



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

WELFARE REFORM COMMITTEE

Tuesday 19 January 2016

Tuesday 19 January 2016

CONTENTS

| | Col. |
|--|-------------|
| DECISION ON TAKING BUSINESS IN PRIVATE | 1 |
| SUBORDINATE LEGISLATION..... | 2 |
| Welfare Funds (Scotland) Regulations 2016 [Draft]..... | 2 |

WELFARE REFORM COMMITTEE

2nd Meeting 2016, Session 4

CONVENER

*Hugh Henry (Renfrewshire South) (Lab)

DEPUTY CONVENER

*Clare Adamson (Central Scotland) (SNP)

COMMITTEE MEMBERS

*Neil Findlay (Lothian) (Lab)

*John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)

Joan McAlpine (South Scotland) (SNP)

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Carly Edgar (Who Cares? Scotland)

Morag Johnston (Glasgow City Council)

Jacqui Kopel (Dundee City Council)

Councillor Norman MacDonald (Comhairle nan Eilean Siar)

Jules Oldham (Homeless Action Scotland)

Bill Scott (Inclusion Scotland)

Jon Shaw (Child Poverty Action Group)

Jamie Stewart (Scottish Refugee Council)

CLERK TO THE COMMITTEE

Simon Watkins

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Welfare Reform Committee

Tuesday 19 January 2016

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Hugh Henry): Good morning and welcome to the second meeting in 2016 of the Welfare Reform Committee. I ask everyone to make sure that their mobile phones and other electronic devices are silent and switched to aeroplane mode.

We have received apologies today from Joan McAlpine, who is attending a funeral.

The first item on our agenda is to agree to take in private item 3, which is consideration of the evidence on the draft Welfare Funds (Scotland) Regulations 2016. Are we agreed?

Members *indicated agreement.*

Subordinate Legislation

Welfare Funds (Scotland) Regulations 2016 [Draft]

10:00

The Convener: Our second agenda item is the first evidence session on the draft Welfare Funds (Scotland) Regulations 2016.

I welcome to the committee Bill Scott, director of policy at Inclusion Scotland; Jon Shaw, welfare rights worker at the Child Poverty Action Group in Scotland; Jacqui Kopel, senior council tax and benefits manager at Dundee City Council; Councillor Norman MacDonald, convener of the Western Isles Council—I will not offend Councillor MacDonald by even attempting my non-existent Gaelic pronunciation of the council's Gaelic name—Jules Oldham, national policy and practice co-ordinator at Homeless Action Scotland; Morag Johnston, assistant director of financial services at Glasgow City Council; Carly Edgar, policy manager at Who Cares? Scotland; and Jamie Stewart, housing development officer at the Scottish Refugee Council.

I thank those who submitted written evidence, which is comprehensive and covers a range of points. We appreciate your having taken the time to do that.

I would like to clarify something with the representatives of Dundee City Council and Glasgow City Council. Are the views that you express today those of the councils' administrations or are you here in a personal capacity?

Jacqui Kopel (Dundee City Council): I am here as an officer of the council. The written evidence that I put in was agreed by our elected members, but I am here as an officer.

Morag Johnston (Glasgow City Council): I am here as a representative of Glasgow City Council. Any views that I express are those of Glasgow City Council.

The Convener: A number of comments have been made about different aspects of the regulations. For example, Jacqui Kopel suggested in her written submission that there should be a degree of flexibility and others have hinted at that, too. Is there a problem? Could we end up with a postcode lottery across Scotland if we introduced a significant degree of flexibility?

Jacqui Kopel: Dundee City Council would welcome having discretion so that the decision makers would be able to meet the needs of the individuals who present in Dundee.

We welcome the regulations, because they give us stricter guidelines to work within, rather than just guidance, and everyone in Scotland will be working to the same legislation. However, we would still like the flexibility to meet individual needs, because, within every area in Scotland, people in differing circumstances will present to make claims under the Scottish welfare fund.

The Convener: How do you then ensure, for example, that someone with a specific set of circumstances in Perth receives the same support as they would receive in Dundee?

Similarly, how would the budget be managed if 32 variations were allowed? The financial support comes from the Scottish Government, and the Scottish Government has to control its budget. If, for argument's sake, Dundee City Council, Glasgow City Council, Renfrewshire Council—or any other authority—decided to exercise a significant degree of flexibility, how would that be contained or constrained?

Jacqui Kopel: We are not asking for total discretion and carte blanche to award to whomever we want; we are looking for the legislation and guidelines to give us discretion to help those who are in need. If the regulations and guidelines set out some restrictions or examples of particular individuals who you would want to help, that would obviously help all the decision makers.

Morag Johnston: It has to be recognised that there is a difficult balance to strike between allowing flexibility for decision makers and ensuring that there is no postcode lottery. In Glasgow's experience, since the inception of the interim scheme, the guidance that we have been offered, and the proposed future guidance, gives us that flexibility.

Having an active practitioners group for the Scottish welfare fund has worked well. I understand that all 32 Scottish local authorities have worked with Scottish Government officials in that regard. The practitioners group is one of the ways that local authorities have used to ensure that there is as much consistency as possible, so I hope that that will continue under the formal scheme.

Carly Edgar (Who Cares? Scotland): If we agree that the welfare fund is not just about financial support but about signposting an individual to additional support once the crisis has been addressed, we have to take account of the fact that a crisis situation is not necessarily predictable. Crises are not necessarily manageable and those who assess the applications might need to be flexible enough to account for an individual's circumstances. That might be less about providing financial support

than about directing that individual to the right support that will help them in the longer term.

We know that stable and supportive relationships are key to helping care experienced young people to navigate through care and beyond. Under the Children and Young People (Scotland) Act 2014, looked-after young people are entitled to receive aftercare support until the age of 26. If those who assess applications through the welfare fund were aware of that, they would be able to signpost such people to relationships that currently exist or could exist in the future.

Councillor Norman MacDonald (Comhairle nan Eilean Siar): We welcome the flexibility and discretion in the regulations. There are additional flexibilities for single people that I recall asking for when I was at the committee a year and a half ago.

On the postcode lottery, our geography means that most of our population is in the main population centres. There will inevitably be differences, so the flexibility and discretion that are given to local authorities will allow us to meet individuals' needs wherever they are in the Western Isles.

There will, no doubt, be variations across Scotland, but that is not necessarily a bad thing. With flexibility comes accountability—that is what Morag Johnston meant when she was talking about the professionals who are involved, along with third sector colleagues who are employed by their organisations to work on behalf of the people in their communities. The guidelines and regulations are sufficient to ensure the consistency that Morag also spoke of, although flexibility is important. It would be really difficult to deliver this work through a rigid structure and, certainly as far as our community is concerned, the principles are right.

Jules Oldham (Homeless Action Scotland): It is important to remember that we are not talking about a huge amount of money, but it makes a massive difference. The community care grant element really works towards tenancy sustainment. The most recent work that we did on that was in 2011. If a tenancy fails, you are looking at £15,000 to £25,000 in overall costs. Providing the outlay to ensure that somebody has a bed, carpets and cooker—the very basics to start a tenancy—means there is a greater chance of them and their tenancy succeeding. It is a really small amount compared to the cost of a possible failure.

The Convener: Carly Edgar mentioned crisis situations and Inclusion Scotland's submission says that it is concerned about limiting the number of crisis grants that could be paid—it does not want them to be limited to three. Is there a danger

that if you lift the restriction, the crisis grant could become a de facto weekly payment?

Bill Scott (Inclusion Scotland): That brings us back to discretion. Our written evidence points out that some people are likely to be in crisis situations more often than others. For example, disabled women are more likely to be sexually abused, to suffer domestic violence and to suffer financial abuse than other women. If they got three crisis grant payments and then chose to leave their abusive partner, they might need another crisis payment to get by for a week. We do not think that you should put an arbitrary limit on that because we think that councils should be using their discretion to allow people to make a fresh start, which could mean that a community care grant is also payable.

We know that some people are in more crisis situations than others, so we want flexibility to be built in. We do not think that councils will use that discretion to make multiple payments without thinking about it. We would like a situation in which, if it was thought that a person really needed a payment to get by, there would be no reason not to pay it, even if it was the fourth payment, rather than the council being completely inflexible and telling the person, "We don't care what's happened to you; we're not going to intervene to support you." We want that flexibility to be built in, but within a national framework of legislation, regulations and guidance that guides people to what we hope are decisions that respect the applicants' humanity and uphold their dignity.

We are not arguing that there should be unlimited numbers of payments, but we do not think that there should be an arbitrary limit, because that would not work for us.

The Convener: How would you stop unlimited payments if you did not set a number? You say that you do not want an arbitrary limit, but if, say, a family is in complete crisis and is destitute, could local decision makers not decide that for 10, 15 or 20 weeks, such a payment would be justified?

Bill Scott: I hope that we as a society would respond to situations in which a family is destitute better than through crisis payments alone. However, I would consider such a situation to be the same crisis continuing, which is different from an individual facing a number of different crises. Should councils decide to refuse to make a payment simply because it is the fourth crisis that has occurred in a family? Rather than simply refusing, they should exercise their discretion to say that, given that it is a different situation and that the family needs help at that time, they will intervene and provide that help.

The situation that you describe is of an on-going crisis that has not been resolved. In that situation,

I would hope that there would have already been a referral from the team making those decisions to say that the family is in on-going crisis and that social work and housing need to intervene to find a solution to its problems, rather than allowing the crisis to continue for 12 weeks or six months. If that does not happen, you will never resolve such a crisis. That is not about crisis payments; it is about a much higher level of intervention.

The Convener: If, in a local situation, a decision is made to use that flexibility and make repeated payments, should the funding for that come from the Scottish Government or from the council's resources? One of the written submissions—I cannot remember whose—suggested that using payments in that way could help to obviate more significant expenditure from social work and other agencies. Was it CPAG that made that point?

10:15

Jon Shaw (Child Poverty Action Group): Yes—it was in our submission.

To pick up on Bill Scott's point about referrals, we think that a better way of preventing repeated crisis grant applications is for local authorities to record who they are referring people to. That way, we can start to see what is underlying those crises or, as Bill said, that one on-going crisis. No one wants somebody to not claim a social security benefit that they are entitled to simply because they are not aware of their entitlement to it and have been repeatedly applying for crisis grants.

I think that our evidence made clear that it is far from inevitable that every person with mental health problems who is refused a crisis grant will end up as a psychiatric hospital admission. However, we could start to move towards an early-intervention approach in which the Scottish welfare fund is used to reduce pressure on the rest of the system. Whether local authorities should be able to come back to the Scottish Government and request funding is a difficult question.

The Convener: Yes, but I come back to this question: if local authorities start to use that discretion extensively, who should fund that, given that it may obviate further expenditure for councils? Should the councils fund that out of their resources, or should the Scottish Government fund it?

Jon Shaw: I am not sure that we have come to a position on who should be funding that. We look at it from the point of view of the applicant needing the assistance. If it is reduced to a competition between the different budgets that is a difficult issue.

Councillor MacDonald: The funds that are available through the Scottish welfare fund will not deal with multiple awards to people right across the country. That fund is for a very specific need. Given the amount of money that is there, the number of people who have benefited from it and who have not required assistance multiple times shows that it works at that level. We would be talking about a completely different level of funding if we were going back to the same clients.

The very first thing that our team does when it engages with an individual is to make an automatic referral to Citizens Advice Scotland or another organisation to make sure that they are getting all the assistance that they are entitled to. Often that brings in more money than they can get through the crisis grant or the community care grant.

A significant amount of work goes on, and it is not just about money; it can be about goods or other kinds of assistance. The point is to make sure that the package is right. The better the package is, the better the chances are that there will not be multiple referrals for the same individuals.

Our officers are mindful of that when they are dealing with multiple referrals. It is not an easy route for anybody to use that kind of resource to deal with the much more deep-seated issues of the individuals concerned and their families.

Bill Scott: We need to see what the actual level of need is. If we discourage people from applying because they have reached an arbitrary limit, we will not see what the real need is.

Even if a council is going to refuse to make a payment on various grounds and withhold any further payments, we should not discourage the person from coming back, because, at the end of the day, the Scottish Government and the local authorities need to know what the actual level of need is in their area.

If councils find out that significantly more applications are turned down because people have reached their limit or because their applications relate to the same crisis, rather than a new crisis that has arisen, they can go back to the Scottish Government and say that they are not getting adequate funding to provide the service because they are having to turn down people who are in genuine need.

The Scottish welfare fund cannot act as a replacement for other social security benefits; that is not the intention, and we understand that it is cash limited and budget limited to that extent. However, we need to get a real picture of how much unmet crisis need exists, so that we can make sure that adequate funds are set aside to meet it. That means that we should actively

encourage people to make applications, rather than tell them that they have reached the limit of three and cannot make another one. We need to encourage applications in order to identify unmet need.

The Convener: I know that John Lamont wants to come in, but I will let Morag Johnston and Jules Oldham in first.

Morag Johnston: Over the past 18 months we have had applications as a result of the increasing impact of the sanctions being applied by the Department for Work and Pensions. Practitioners quickly realised that the Scottish welfare fund would be a source of requests for support from individuals affected by sanctions. Local authorities have tried to deal with that by saying that the fund was not set up to deal with recurring crises for individuals in the long term. It is important that local authorities put in place some other kind of mechanism to try to deal with the source of the crisis, rather than simply dealing with the results of it. We have tried as far as we can to support financially people who present to us through the Scottish welfare fund because of a sanction from the DWP. We also support them by offering them additional welfare rights support if they want to challenge the sanction. That is what local authorities should do in those types of circumstance.

Jules Oldham: I want to highlight that it is not easy for the vast majority of people to ask for help. Yes, there will be a minority who are seen time and again, but even within that group we have to see whether we can get to the heart of the issue, which is possibly something different from what it appears. We have to take into consideration the fact that it is really difficult to ask for help, particularly financial help, and to say, "I'm not coping".

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): My question, which is about the possible removal of the cap, is directed towards the council reps. If the cap was removed, would you anticipate a significantly bigger case load coming towards you? Are you aware of people who get three grants and who would come back to you again if the cap was removed?

The Convener: I will let the council reps answer that and then let Neil Findlay in.

Jacqui Kopel: There is a small minority of individuals who will come back time and again because they have found themselves in crisis. As someone has already said, it could be that it is the same crisis, not a different crisis; it could be a consequence of something else that has happened in their life, whether with tax credits or whatever. Like Glasgow City Council, we always try to offer further support. There will be a small

minority who continue to come back, but I do not anticipate that the majority of the individuals who come to us would come back three or four times.

Morag Johnston: It is helpful to have a cap in order to set expectations and set out the policy intention of the fund. However, having the ability to exceed the cap in exceptional circumstances is something that we could work with. To remove the cap completely could potentially send out a message that the fund is there for something broader than it should be. In our submission, we said that we were happy to support the cap but would like the ability to exceed it in exceptional circumstances if the decision maker felt that that was appropriate.

Norman MacDonald: Morag Johnston has made the point that I was going to make about exceptional circumstances and giving discretion to local authorities, who will have a large part to play in dealing with whatever the issue is that causes people to come back again and again. Local authorities will have a huge amount of responsibility, through grant assistance, social work, education or whatever other service. Very often, exercising that discretion will be about making a decision as to what happens if we do not award the grant. What could the implications be, first for the individual, but also for the service being provided to others in the community? That is important to weigh up in exercising discretion. We can be confident that our officers who are working with that scheme will bear that in mind.

It is important to have that discretion; otherwise, it will become quite difficult to persuade people to come forward, as Jules Oldham said, and to do so in a way that allows us to help them through the crisis or whatever issues they are facing.

Jamie Stewart (Scottish Refugee Council): In our written submission we suggested that the Welfare Funds (Scotland) Act 2015 already specifies that a crisis grant is only for short-term need in exceptional circumstances.

We have argued that what a short-term need is and what exceptional circumstances are should be properly placed in guidance, rather than as an arbitrary limit in regulations, although I see the point of the policy intention. Guidance could be given on what amounts to exceptional circumstances and short-term need.

Carly Edgar: My point is much the same. We are fully supportive of the intention not to encourage over-reliance on crisis grants. That will not solve any of the issues that individuals face. We are concerned, however, that a strict limit would mean that genuine need is not appropriately addressed.

We would be very concerned that, without further clarification of what "exceptional

circumstances" might include, we would be solely relying on the professional judgement of those who are assessing the applications. That is appropriate only if adequate training and guidance is given to those individuals to understand the typical situations of the key groups that are likely to apply for a crisis grant in the first place.

We know that young people are likely to leave care far too early and without the appropriate preparation to manage independent living. Understanding the reality of what that looks like for the many young people who are trying to navigate their way through paying bills and managing their own house would give a context to the individual making the application decision.

Neil Findlay (Lothian) (Lab): Are there reporting mechanisms for the welfare fund? How many people across Scotland have been awarded grants and how many have been refused them? Does anyone know that figure?

Morag Johnston: We record the number of applications, awards and declines within our own council.

Neil Findlay: Is it nationally reported?

Morag Johnston: My understanding is that the statistics are nationally reported. The information is part of the submission.

Neil Findlay: I did not find it within the submission, but perhaps I did not look hard enough.

The Convener: We could ask either the Scottish Parliament information centre or the Scottish Government whether the figures are available.

Neil Findlay: Is there a case management system? For example, if I phoned in and was awarded a grant, is that case then allocated to a particular council official to follow through, make the referral, follow the referral up and so on? Or do we send the money, make the referral, and that is it?

10:30

Morag Johnston: When crisis grant money is paid out, often no onward referral is made. In such cases, it is up to the decision maker to understand the individual circumstances and determine whether a particular crisis requires an onward referral. In our council, we do not keep details of all the onward referrals as a matter of course.

Neil Findlay: I think that the Scottish Refugee Council says in its submission that the average award is £108 for men and £216 for women. I think that those figures are for people who are waiting due to benefit delays. Is that the average across the board? Do we know that figure?

Morag Johnston: Our average award for crisis grants is about £100. My understanding is that Glasgow is probably on the high side, so those figures—certainly £200 for a crisis grant—seem a little high. I understand that that information is gathered centrally, so it should be available to the committee.

Neil Findlay: Okay, we will get that.

Do the councils work to a monthly, weekly or an annual budget? Once the budget is gone, is that it? If it is only two weeks into the month and the money is almost gone, does an instruction go out to staff that there is no more that month? How does that operate on a practical level?

Jacqui Kopel: We profile our budget on a monthly basis, but now that we are two years into the scheme we have identified trends and we know that some months are busier than others. The manager of the service looks at demand throughout that month and we work on a priority basis. We are currently working only on high-priority cases. The budget is profiled on a 12-month basis, but there will be months in which we overspend and months in which we underspend.

Morag Johnston: Our experience is very similar. We profile the budget and monitor it very closely to prevent a situation where we have to refuse all applications simply because we have run out of money. So far, we have avoided that. We very carefully manage the budget by deciding what priority level to advise decision makers to consider. In general, we start off by considering only high-priority applications. In the past, we have moved to medium-priority applications when we have felt that there was capacity to do so. That is how we try to manage our money through the year. We always ensure that we spend every penny of our allocation, but also that we avoid getting into a situation where we have run out of money towards the end of the year.

Norman MacDonald: We also profile the budget over the year and we know that there are peaks. A lot of our awards relate to fuel poverty; that is the main driver for us. We have the highest level of fuel poverty in the country. We know that in the winter months there is likely to be a higher demand for those awards, so we profile our funding based on that knowledge. I think that that is evident in the figures over the last three years. We saw a peak in the figures at the time of the bedroom tax and in the aftermath of that, but then it seemed to settle down to the pattern that we had before.

Jamie Stewart: I want to talk about the figures that we gave and the variation in them, which is across the board. Those figures get to the individual circumstances of the people who apply for awards and they reflect the multidimensional

nature of the needs of all the groups that apply. I think that that reinforces the point that arbitrary limits are not necessarily best placed within regulations and that guidance is better shaped to take into account those multidimensional needs—the different needs and different reasons why people might want to make a claim and be awarded certain amounts of money.

For example, in a typical refugee claim, on receiving status, the asylum support drops away and a claim for benefits is put in place. It takes quite some time to get that benefit paid, mainly because of a lack of a national insurance number. That may account for some of the higher levels of claims for that particular group.

Under the current system we are allowed to make a claim for 14 days' worth of money and that often is not enough. Working with Glasgow City Council, we work around that by having a review of that award; if at 14 days the benefits are not in place, we review and then review again. It is not the best use of the review system. However, guidance would be able to take account of those situations and the situations of the clients of a number of the third sector agencies around this table and allow for the different circumstances facing all our clients.

Neil Findlay: I have two final points. I am reflecting on what Morag Johnston said about starting off with high priority and then lowering that if there is cash in the system. Would that open the system to real inconsistency? Somebody could apply at a time when the instruction is that only high priority cases qualify, someone else could apply when there is a bit of slack in the system and so when they talk to each other one will say, "How did I not get it at that point?" There is a danger of that happening.

There are also unintended consequences. Recently I spoke to an organisation that was for a long time involved in a furniture recycling project, providing high quality furniture to people who were previously homeless or who were setting up home for the first time. When the welfare fund came along, that service was put out to tender for new furniture. The organisation did not win the tender and because the furniture provided through the welfare fund is new, the good recycling work is all gone. It is not the biggest issue, but it is for that organisation, which has long been a credible organisation in the community. Having been involved in providing a really good service for many years, they are now feeling a wee bit out of the loop. Is that happening elsewhere?

The Convener: Does anyone have any evidence on that?

Jacqui Kopel: Dundee City Council provides new furniture—we do not use recycled furniture—

for any community care grant applications that we receive.

The Convener: Several members wish to speak. Christina McKelvie, do you want to come in on a specific point?

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): Thank you, convener. I have a quick point. One of the issues that is raised in the Scottish Refugee Council submission is the impact of the new Immigration Bill on some of the families that you support, given that support will not be offered at crucial times, with the result that children could be left in destitution. I know that the Refugee Council and Glasgow City Council work very closely on that, but can you give us any insight into that and say how you are preparing for that eventuality?

Jamie Stewart: We have responded to all the United Kingdom Government's consultations. We have done a lot of work on opposing the Immigration Bill in several different ways because it has a number of different impacts on our clients to do with housing and the support that asylum seekers receive.

In brief, the bill breaks the automatic link between a refusal of someone's asylum claim and the immediate transfer on to a very basic support level, provided under section 4 of the Immigration and Asylum Act 1999. We have done a lot of work on that. We are still working with several partners to prevent the most egregious parts of the bill from being passed.

We have a destitution project: we are still working on destitution and we try to alleviate it whenever we possibly can. We say in our submission that destitution among asylum seekers is a real problem. It is difficult to quantify it in any great detail, but hundreds of clients have come through our door since our destitution project started. There is nothing in the immigration legislation that prevents the Scottish welfare fund paying money to a destitute asylum seeker—the fund is currently one of the exceptions. The Northern Irish Government is using a similar fund for destitute asylum seekers. It is important to point out that not all destitute asylum seekers fall within the definition of someone with a short-term need arising from exceptional circumstances, but some will, perhaps if their claim is going back into the system and there is a short-term administrative problem—that certainly accounts for a fair few people. It would certainly be a beneficial use of the fund to try to do some work to alleviate destitution among asylum seekers.

Kevin Stewart (Aberdeen Central) (SNP): It seems that during the course of the journey through these changes, including the implementation of the interim scheme, there has

been fairly good communication between those who are dealing with the situation at the front line and the Government and civil servants in order to get this absolutely right. We know that the fund is a sticking plaster, if you like, to deal with some of the absolutely awful changes that have taken place in the social security system.

In dealing with the regulations, the key thing for me is that I want to be absolutely certain that the commonsense approach that has applied thus far—the listening approach that the Government has taken before—applies again. I want to hear from folks around the table where the flaws are, if there are any, and whether the regulations will still give them the flexibility to use their knowledge of what is happening at the front line to make grants in what they and their teams deem to be exceptional circumstances.

Morag Johnston: Glasgow City Council made a submission to the consultation on the regulations, but any comments that we made were on the margins, because we accepted that the regulations and the guidance accompanying them were broadly similar to how things have operated under the interim scheme.

You asked where the flaws are. From a delivery perspective, there is nothing that I would particularly highlight that we think will significantly change how we operate the scheme at the moment. We will continue to have dialogue with local government colleagues to try to ensure consistency, and we will continue to have dialogue with other organisations and the Scottish Government to continue the good work that has been done since the interim scheme was introduced.

Councillor MacDonald: I agree with that. Our team has done an assessment of the awards that have been made over the piece and none of them would have encountered any difficulty in making those awards under the new regulations.

Mr Stewart talked about flexibility. Our concern is to have discretion and flexibility and not to have arbitrary levels set on the number of grants that can be awarded or on the definition of what low income is, because that is relative to where you live. I would imagine that the average income in the Hebrides is much lower than it is in just about any local authority in Scotland. Having set arbitrary levels would make it difficult for our officers to deal with some of the cases that they come across. We are very supportive of the flexibility of the approach that has been taken in the regulations, which is built on the evidence that has been gathered in the interim process.

10:45

Bill Scott: I echo what Kevin Stewart said about the willingness of Scottish Government officials and the local authority practitioners group to work with the third sector and the users of the service to improve, to identify best practice and to identify and address barriers. That has been an on-going process throughout the interim scheme and it has continued throughout the work on the regulations that have emerged.

We have been quite pleased by the willingness of officials and practitioners to learn and to listen to the experience of the users. Inclusion Scotland, People First—a group for learning-disabled people—and the British Deaf Association have provided training for practitioners on some of the barriers that disabled people face in accessing Scottish welfare funding. Again, people were very open to learning and addressing those barriers, so that has been very good.

I would like to return to the point that Neil Findlay made about the figures, which is really important. The figures are produced quarterly and every local authority should do a return to the Scottish Government that identifies the applications made, the applications awarded and the percentage of budget spent. That should continue with the new system, so that councils continue to be accountable both to the users and to wider society.

We would not like that process to be dropped, because that level of scrutiny needs to continue so that we can identify whether some authorities are experiencing difficulties in using the budget that they have been given by the Scottish Government. We know that there are some authorities that spend their budget and go over it, but there are other authorities that do not use all the resources that are given to them. We agree with Western Isles Council that need varies between areas, but we are certain that there is poverty throughout Scotland and that the resources in place need to be used to address that.

Carly Edgar: I agree with the points that have been made. The level of engagement by the committee and the Scottish Government team with key groups throughout the process has been commendable, as Bill Scott said. The training of some of the potential assessors has involved care-experienced young people and potential case studies. We hope that that level of attention to detail in the training of individuals will continue at some level.

There are some potential issues that could arise. It will be essential for potential assessors of the applications to understand clearly the contexts that are likely to be experienced by the key groups that we represent. They must also recognise that

for care-experienced young people, for example, there is still a massive issue of stigma. We see that across our communities when local communities campaign against having children's houses built in their area, because there is still a perception that being in care is associated with bad behaviour, whereas the reality is that we are talking about children who are facing neglect or whose family cannot or will not look after them. For young people in care who witness that, it can give them the feeling that they have to hide their care identity and it might mean that, when they try to access funds, they might not disclose the fact that they have been in care, which can be to their detriment. We have to be clear in saying to our young people that it is an entitlement and that they have the right to apply. We need to make sure that they are informed of that.

Kevin Stewart: In some areas, the amount of training that has been taking place is huge. The level of co-operation between various agencies is probably greater than I have ever seen. In the north-east of Scotland, the group of practitioners and third sector organisations that is looking at all the impacts of the social security changes has done an immense amount of work.

We have heard that one of the areas in which we fall down is in dealing with care leavers. In some regards, that should be one of the areas that practitioners are well aware of, because of corporate parenting responsibilities. Why is it that we are not necessarily getting that right?

Carly Edgar: We know that care leavers potentially face some of the worst outcomes. Only 6 per cent of care leavers are likely to go on to higher education after school, and they make up 30 per cent of the homeless population and 50 per cent of the prison population. Our advocacy experience tells us that those statistics probably do not even tell the truth. They do not pick up on hidden homeless populations and prisons may rely on prisoners self-identifying as people who were in care.

First and foremost, there is a lack of understanding and a lack of recognition of the difficulties that a young person faces when they leave care. We accept that an individual's care journey can be blighted by instability and care placement breakdown, but when an individual chooses to leave care or leaves care too early and without the preparation to enable them to go on and manage independent living, it seems that tolerance levels across the public tend to be lower, or we think that there are other avenues of support for the person.

With the corporate parenting legislation, we have a real opportunity to make sure that local authorities and other corporate parents work together to provide the right supports for our care

leavers. If we think about the Children and Young People (Scotland) Act 2014 broadly, being able to access aftercare support until the age of 26 is a huge benefit, but unless the individuals who are involved in assessing applications are aware of that, we are going to continually fail to identify and signpost the young people we are talking about back to the kinds of relationships and support that they need to progress in life.

Kevin Stewart: That might need to be brought up at the practitioners group so that all local authorities are aware of those responsibilities.

Carly Edgar: Yes.

Kevin Stewart: I do not want to dwell on this too much, convener, but—

The Convener: Hold on, because Jon Shaw wants to come in.

Kevin Stewart: We should find out from local authorities whether folk get training on corporate parenting.

The Convener: We will come back to that once we have heard from Jon Shaw.

Jon Shaw: In response to the initial point about engagement, we would agree that the civil servants in the Scottish Government have done an excellent job in engaging with practitioners and the third sector.

In relation to the regulations, however, there is a tension that comes back to the point about flexibility versus consistency. Regulation 7 is a good example, because it sets out the procedure for applications. For us, that would be the place to set out what people should be able to expect across Scotland in terms of the way in which they can access the fund, but all that regulation 7 says is that a procedure must be established and put on the local authority's website. We are not suggesting for a second that there should not be discretion to make an exception when someone has already had three crisis grants that year, but to us that seems to be an example of a case in which there is too much flexibility, because it is not about who can get a grant; it is about the ways in which grants are made accessible.

As pressure on the fund increases in the longer term, local authorities are going to have to make tough decisions in such areas, where the regulations simply do not say what is necessary or how many application channels have to be provided. Therefore, as far as our view of the balance of flexibility versus consistency across Scotland is concerned, that is one area among several that are mentioned in our written evidence in which we think that there should be more consistency in the regulations. The guidance builds on that to a degree by suggesting that local authorities should have multiple application

channels, but in our view it is clear that that should be on the face of the regulations.

The Convener: Kevin, do you want to come back to the training issue?

Kevin Stewart: Yes. Is there a training issue with regard to corporate parenting? That seems to be an area where there is some misunderstanding, to put it that way. Do the folks who are on the front line get training on corporate parenting responsibilities?

Morag Johnston: I am not able to confirm whether that is the case, but the guidance certainly talks about our role as corporate parent; that has been explicitly pulled out.

As a council, we also work closely with our social work services colleagues, and I would imagine that we are supporting care leavers through the community care grants if not through crisis grants, but I will take that question back to the council and follow up on it.

Councillor MacDonald: As council members, we were given corporate parenting training. Some of the folk in the revenue and benefits section were involved in the delivery of it, as well as other people in social work and our legal department. For them to be able to do that, they must have had some corporate parenting training as well. It is very important to have that understanding of responsibility.

To come back to the point about flexibility versus consistency, I think that what there has to be is consistency of approach. The approach to dealing with the issue must be the same throughout the country. If we try to define that consistency to the nth degree, however, we will be setting arbitrary levels, and that will become an issue for us. Consistency of approach is important.

With flexibility goes accountability. Reports come to us every quarter. The reports that are prepared for the Scottish Government are presented to members of the council's policy and resources committee on a quarterly basis. Although it is not our money per se that is providing the service—it is Scottish Government funding—we are accountable in the same sense that our officers are, and we take that responsibility quite seriously. In the past, we have had times when there was not sufficient funding in a given year, so we committed other reserves to that service instead of stopping awards of the grants. We are not going to be able or prepared to do that on an on-going basis, but as an authority we recognise that we have to have some flexibility in how we deal with the issue.

Jacqui Kopel: Corporate parenting is probably an area that our decision makers need further information on, although they are aware of it,

because it is in the guidance. However, as Carly Edgar mentioned, unless an individual tells us in an application form that they are leaving a care situation, our decision makers will not have any way of knowing that. It is a question of getting the right information on the application form or from the applicant at the time of submission so that we have enough information to make the correct decision.

Carly Edgar: I agree with those points. It is promising that the corporate parenting legislation has been included within the guidance—that is really encouraging. As an organisation, we deliver corporate parenting training to all corporate parents. We have a team that is dedicated to focusing on that. As it stands, that training tells corporate parents about the live experiences that care-experienced young people have of working alongside their corporate parents. It is definitely something that I would encourage all to pursue.

My other point is about informing care leavers that they should identify to councils that they have had a care experience. The regulations talk about local authorities informing people via their websites of the methods that they are going to adopt for their application process. The Welfare Funds (Scotland) Act 2015 has identified key groups who are likely to apply for assistance, and care leavers are one of them.

We think that local authorities should attempt to target specific groups, for example by focusing on leaving-care services or local care placements prior to a young person leaving care, so that they are equipped with information about what they are entitled to and they know how to ask for it and what kind of information to give. That would be a more proactive method.

11:00

Clare Adamson (Central Scotland) (SNP): I want to go back to the comments that Jamie Stewart made a while ago. The Scottish Refugee Council's submission gives some detailed timescales for delays in benefits, such as 46 days for child benefit and 77 days for child tax credits, and Jamie Stewart mentioned the problem with the DWP with regard to people attaining national insurance numbers.

In our inquiry into women and welfare, a theme that came through and was particularly highlighted was the difficulty that is faced by refugee women who are also fleeing domestic abuse. I would like a bit more information on the scale of the DWP problems and the length of time that is taken. Is there any explanation of why it takes so long for things to happen?

Jamie Stewart: Benefit delay among new refugees is far from new. It is something that we

have been trying to get a handle on for some time. The way that the system should work is that a national insurance number should be requested by the Home Office upon someone being granted status, the DWP should then look to get them in for a national insurance number interview as soon as possible, and it should follow on from there.

We have been trying to get to the bottom of the delays through the new Scots integration strategy that the Scottish Government has been running in partnership with the Scottish Refugee Council for the past two years, but it has been quite difficult. There is no instant solution to the delays in getting national insurance numbers in place. The system could be improved between the DWP and the Home Office—in fact, I could probably say that about most of the benefit delays that happen.

The Scottish Government—alongside all levels of government—has a key role in trying to tighten up the system to ensure that the Scottish welfare fund is not a sticking plaster on a broken system, which is how it sometimes appears. We should be using the information that comes from the Scottish welfare fund about why applications are made and by whom, and we should be gathering information on the groups that are making claims. Currently, we have no way of tracking refugee claims, for example. I have had some discussions with Glasgow City Council about how we can track them better and use that information to try to mend the system and reduce the pressure, which should not be there.

As things stand, we are looking at the delays that are set out in our submission. The delay for jobseekers allowance is about 42 days, but it is longer for other benefits, so the impact on women, who are more likely to claim income support, and children, who wait the longest for child benefit and child tax credits to come into payment, is greater. Until the system can be mended and made to operate properly, there will be a role for the Scottish welfare fund. We will continue to work on that.

Jon Shaw: Picking up on Jamie Stewart's points, I add that, in the current situation, it is important that the Scottish welfare fund is not an additional barrier. We cite in our submission a case where someone was refused a Scottish welfare fund grant because they did not have a national insurance number. Nothing in the act, draft regulations or guidance would support that decision. That is just one case, but it relates to the regulation on decisions on fund applications and the wide discretion that is given on the information that is required to make a decision on an application.

It is important that decision makers are conscious that some people—particularly asylum seekers and refugees—have no documentation

and so face real difficulty in proving their identity to the satisfaction of the DWP decision makers. It is really important that the Scottish welfare fund does not exacerbate that problem by imposing similar requirements.

The Convener: Jamie Stewart talked about the regulations and guidance, and Jon Shaw referred to some of the specific regulations. The procedure is that we can either accept or reject the regulations but we cannot change them in any way, so the guidance is hugely significant.

We have talked a lot about crisis grants and touched on one or two other things, but I return to Bill Scott's point that there has been positive co-operation between practitioners and the civil servants who are involved. That point has been echoed not just at our meeting today, but over a long period. It would be useful to the committee to know whether you are generally content with the regulations and whether you have any comments about changes that could be made to improve the guidance.

Are you all generally supportive of the regulations being passed? It does not look like anyone is opposed to that. What about the guidance? Could things be done there that would help?

Carly Edgar: I echo a point that was made about the strict limitations. The wording of the regulations allows for professional judgment and exceptional circumstances to be brought in to allow somebody to agree to an application, but we will be reliant on the guidance explaining what those exceptional circumstances could include. I would never suggest that the guidance should be too prescriptive in its method, but it would help to have some case studies as examples of the rarer circumstances that may occur and the types of individuals who are likely to apply to the fund.

Jon Shaw: I absolutely agree that it is better to have the act and the regulations in place. An example that we have talked about a lot is families that are under exceptional pressure. The regulations are drafted in the only way they can be given the content of the act.

This morning, I had a look at the guidance, which is still in draft form. Regulation 10, on the form of crisis grant assistance, sets out that an applicant should not be forced to make over the payment to a particular person in a particular way. However, that

"does not apply where the local authority considers that it would be of advantage to the applicant for the crisis grant to be provided in a different manner".

Many people in the room have commented on the importance of taking the applicant's views into account. On that specific point, the guidance suggests that a local authority must have evidence

that it would be of advantage to the applicant for a crisis grant to be paid in a different manner than the default. That is interesting, because the regulations do not say that there has to be any evidence; they just say that the local authority has to consider the matter.

It is really important, particularly in cases where the regulations leave almost total discretion to local authorities, that the guidance builds in things such as the applicant's views and is careful not to go beyond what is required by the regulations, because that would ultimately limit the decision maker's ability to exercise their discretion. If someone looks at the guidance and it says that they must have evidence before they can consider an alternative form of crisis grant provision, they are unlikely to look back at the regulations, which put no such requirement on local authority decision makers.

That is a tiny point but, where the regulations leave such broad discretion—which is ultimately a good thing in terms of allowing people in—that should be gone through with a fine-tooth comb to ensure that it is not pushing people out.

Jules Oldham: This is a homelessness-specific point, but the guidelines allow for people who are moving from temporary accommodation into their own tenancies to access community care grants slightly ahead of time to avoid the gap when someone is without goods after a move has taken place. We would like that to be pushed a stage further so that, when someone is entering temporary supported accommodation, they are informed of what they will be allocated, be it furniture, packages or money. That should be put to one side as part of their support and signed off at the point when they move into the tenancy, in order to prevent that gap.

One of the issues that we have seen in the new process—which is much better than the one that was in place years ago—is that there is still a time lag between someone hearing that they have a tenancy and their receiving goods to move in. People can still find themselves having to lie on a floor for a few weeks until they receive those items. We would like guidelines specifically on that.

Bill Scott: I echo the points that Carly Edgar and Jon Shaw made about the route and the process of making an application being on websites. More than half of disabled people have no internet access, and even if we gave them that, many disabled people would not be able to use it.

We need to make sure that the guidance to councils says that there must be more than one route to making an application. That will recognise that people with different impairments need different routes to make an application. If the route

is telephone only, someone with a communication or hearing impairment will not be able to use it. There need to be a variety of routes to allow people to access the fund when they need it without additional barriers being put in their way. That is the sort of thing that we would like to see in the guidance.

I also echo Jon Shaw's point about payment provision. There should be a requirement—there is evidence of this—that payments should be made in a form other than cash. We would hope that the applicant's preference is usually observed, where it can be, and that payments will be made in cash where they genuinely want that.

Norman MacDonald: The guidance has to be consistent with the regulations and they have to be closely aligned—otherwise, the process will become somewhat disjointed. If we end up using “exceptional circumstances” all the time, it will mean that we have not got something right. We need to be mindful of that. The guidance must allow the flexibility that we spoke about earlier.

The Convener: Morag Johnston and Jacqui Kopel spoke about profiling, managing the budgets, assessments and reporting. Is there an onerous bureaucracy attached to that or is it a fairly simple process?

Jacqui Kopel: It is fairly simple from our perspective. Not every local authority uses the same recording system, but we can get reports out of our system fairly easily.

Morag Johnston: We have refined the process as we have gone along, and now that we are in our third year, the recording of information and budget management are not onerous.

11:15

The Convener: Before I end this session, do any of you want to comment on any aspects of the draft regulations or the guidance that we have not touched on?

Jamie Stewart: I echo the point about the need for case studies. If there is room, the guidance should contain detailed case studies on a number of different groups, including refugees.

The main point that I want to make about the guidance—and the standard application form, which is going forward as well—is that it needs to be made clearer to local authorities that applications can be taken without national insurance numbers. Historically, we have quite often come across the question of whether applications can be refused because of the lack of a national insurance number, and we have worked a lot with Glasgow City Council to make sure that applications are not refused on that ground. A lot of that has been to do with the application forms

and the standard systems that are used by the Scottish welfare fund, as they do not like it if someone does not have a national insurance number.

With refugees, including the wider dispersal of refugees through the Syrian resettlement system, we are likely to see more refugee populations outside the Glasgow area. In Glasgow, we have a workaround on how to deal with applicants who do not have a national insurance number, but that will not be obvious to councils across Scotland. We need something clearer, and we need to work on the application form to make it clear that there is no need for a national insurance number and that the box is there for a national insurance number only if the applicant has one.

Jon Shaw: I have a couple of points about the regulation on reviews. First, the methods of making a review application are subtly different for the first-tier review and the second-tier review, because the Scottish Public Services Ombudsman sets its own procedure for applications for a second-tier review. Under the regulations, it is at the local authority's discretion to accept a review request other than in writing, whereas the SPSO's regulations say something materially different, which is potentially confusing.

Secondly, an extension of the time limit for requesting a first-tier review is also at the local authority's discretion. It seems to us that, if the local authority decides not to exercise that discretion, it will block access to the second-tier review, including consideration of whether it is reasonable to use discretion. That leaves judicial review as the only recourse, which does not seem ideal. It seems analogous to a situation in which somebody is refused a DWP benefit and they make a challenge outside a month. It seems to us disproportionate to give the decision maker discretion on whether they will give someone access to an independent review.

Carly Edgar: My point is linked to what Jon Shaw said about the applicant's views. We are pleased that there is a substantial list of what should be included in the written decision that is provided to an applicant. The one thing that we think is missing is clarification that the applicant's views should be included in the written decision.

The regulation says that “details of the application” must be included in the written decision, but that does not necessarily suggest that the individual views of the applicant will be included. We argue that formal written recognition of the applicant's view is paramount to their ability to uphold their rights and advocate for themselves should they decide to take the application to review.

The Convener: Morag, do you have any final suggestions?

Morag Johnston: No.

The Convener: Jules?

Jules Oldham: No.

The Convener: Norman?

Norman MacDonald: No.

The Convener: Jacqui?

Jacqui Kopel: No.

The Convener: Thank you very much, not just for the written evidence, but for what we have heard this morning. It has been very constructive and thoughtful. It is clear that you are all passionate about the work that you do, but also well informed, which is helpful.

It has been useful to hear that you support the regulations. I suspect that the committee will ask for them to be approved, but we will try to reflect, where we can, some of what we have heard about the guidance for the Scottish Government to consider.

Thank you very much.

11:20

Meeting continued in private until 11:27.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

Information on non-endorsed print suppliers
Is available here:

www.scottish.parliament.uk/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@scottish.parliament.uk
