



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Monday 13 March 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Monday 13 March 2017

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SOCIAL SECURITY COMMITTEE

6th Meeting 2017, Session 5

CONVENER

*Sandra White (Glasgow Kelvin) (SNP)

DEPUTY CONVENER

Pauline McNeill (Glasgow) (Lab)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Mark Griffin (Central Scotland) (Lab)

*Alison Johnstone (Lothian) (Green)

*Gordon Lindhurst (Lothian) (Con)

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

*Ruth Maguire (Cunninghame South) (SNP)

*Adam Tomkins (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lisa Baron-Broadhurst (Scottish Government)

Deidre Brock MP (Scottish Affairs Committee)

John Dickie (Child Poverty Action Group in Scotland)

Margaret Ferrier MP (Scottish Affairs Committee)

Stephen Hepburn MP (Scottish Affairs Committee)

Stephen Kerr (Scottish Government)

Chris Law MP (Scottish Affairs Committee)

Professor Nicola McEwen (University of Edinburgh)

Ian Murray MP (Scottish Affairs Committee)

Mary Pattison (Department for Work and Pensions)

Bill Scott (Inclusion Scotland)

Pete Searle (Department for Work and Pensions)

Pete Wishart MP (Scottish Affairs Committee)

CLERK TO THE COMMITTEE

Simon Watkins

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Security Committee

Monday 13 March 2017

[The Convener opened the meeting at 09:30]

Inter-governmental Co-operation on Social Security

The Convener (Sandra White): Good morning, everyone, and thank you for coming along to the meeting. I welcome members from the Scottish Affairs Committee. This is technically a meeting of the Social Security Committee, but in practice it is a historic joint meeting—it is the very first meeting of our two committees together. For technical reasons, members of Parliament are listed in the agenda as witnesses, but I will treat MPs and members of the Scottish Parliament equally as members of the committee. I hope that questions from MPs and MSPs flow smoothly.

We are here today because the two committees have agreed to examine the relationship between the Scottish Government and the Department for Work and Pensions, and whether it is good enough to deliver the devolution of social security, as set out in the Scotland Act 2016. We will do that with two panels: the first is a number of individuals who are in a position to examine the relationship at first hand, and the second is senior officials of the Scottish Government and the DWP who are charged with delivering the devolution of social security. We will follow up the meeting with a meeting at Westminster next week, at which the Secretary of State for Work and Pensions and the Cabinet Secretary for Communities, Social Security and Equalities have agreed to appear before us. After that evidence session we will move into private session to agree a letter containing our thoughts, which we will send out.

I will convene today's meeting in the Scottish Parliament, and my colleague Pete Wishart will convene the meeting at Westminster. We have apologies from Pauline McNeill. I ask everyone to turn off their mobile phones, as they interfere with the sound system.

I ask the first panel of witnesses to introduce themselves.

Professor Nicola McEwen (University of Edinburgh): Thank you very much for the invitation. I am professor of territorial politics at the University of Edinburgh.

John Dickie (Child Poverty Action Group in Scotland): I am director of the Child Poverty Action Group in Scotland.

Bill Scott (Inclusion Scotland): I am director of policy for Inclusion Scotland.

The Convener: Thank you very much. You are all pretty well known not only to us but to the Westminster MPs.

I will kick off by asking each of you to characterise, from your perspective, the relationship between the Scottish Government and the DWP.

Professor McEwen: It is difficult to say, because a lot of the negotiations and discussions take place behind closed doors. Occasionally we see minutes, but they are often carefully crafted.

The relationship between officials has been surprisingly good, as far as we can tell. A lot of investment has been put into that relationship, particularly by Stephen Kerr, who I believe you will speak to, and by Richard Cornish when he was in the devolution director post. That was built up in the Smith commission and it has carried on, and it has probably made an enormous contribution. However, there will inevitably be difficulties, given the different political mandates that the Governments are working to and the complexities of implementing and managing the social security systems. It worries me that although a lot of the focus—inevitably, perhaps—is on implementation of the new powers, attention will need to be given to the on-going oversight, beyond the implementation stage, of the interdependencies between what is devolved and what is reserved and it is not at all clear yet how that will work.

John Dickie: I echo that. From our engagement with Scottish Government and DWP officials, we certainly sense that there is commitment across the board to work co-operatively in order to ensure that the transfer of powers works and is delivered smoothly. However, I echo Nicola McEwen—it is difficult to say what the relationship is like because we are not privy to much of how that co-operation is working in practice. We see some of the outcomes in minutes—and, more recently, in the emerging draft regulations on how the new universal credit flexibilities might be used in Scotland in particular—but we do not see the working process for how social security policy that originates in one Government interacts or overlaps with policy from the other Government.

It is fair to say that there have been early warning signs that suggest that the current processes, agreements and arrangements could be strengthened to ensure that the needs of claimants come first in the whole process. That is where the Child Poverty Action Group is coming from. The context is that social security plays an absolutely vital role in protecting children and families from poverty and preventing poverty, and we need to ensure that the whole process of the

transfer of powers is done in such a way that there is no disruption to the administration of that vital financial support, which families rely on.

The early warning signs suggest that there is scope for strengthening the framework for how Governments co-operate. There are three examples, some of which have already been highlighted in the clerk's note to the committee. There is the dispute over whether 18 to 21-year-olds will continue to be entitled to support with housing costs within universal credit in Scotland; the concern about whether commitments to use universal credit flexibilities in Scotland to abolish the bedroom tax can be implemented in the universal credit system, given that there might be claimants above the United Kingdom benefit cap; and the nature of the Scottish Government draft regulations to give effect to the very welcome policy intent of ensuring that universal credit can be paid twice monthly and directly to landlords if the claimant has chosen that. The regulations—which are currently out for consultation—are drafted in such a way that there is a gap between the policy intent and what they would achieve. That throws up the question—is part of the reason for that the need for negotiation and compromise between the two Governments? The social security regulations are different from what we would expect to see under the current system.

The Convener: Thank you very much. I am sure that we will pick up on what has been said with the next panel.

Bill Scott: I can speak only as an outsider. Colleagues in the social security directorate tell me that relations are very good, and they have certainly been productive in implementing some of the powers. However, I echo John Dickie's points about housing benefit for 18 to 21-year-olds and the new universal credit regulations.

Two different cultures are at work, which might pose problems in the future. In the past wee while, the jobcentre closures in Glasgow and more widely across Scotland and changes to personal independence payment entitlement have really been done without any form of consultation whatsoever having preceded the decisions. That approach is very different from the one that the Scottish Government has adopted, which has been to engage directly with claimants, hear their views and then try to formulate policy. We are told that the new social security powers will be used in a spirit of co-production and trying to make them work in practice, and we hope that it will work out that way. Co-production means that users of the service should have a say in how it is delivered. If reserved powers are exercised without a cautious approach, that will pose on-going difficulties, because they will impact on devolved powers and the administration of benefits in Scotland.

The Convener: Thank you very much. I welcome Chris Law; I know that he got held up in traffic. Thank you very much for coming along.

Chris Law MP (Scottish Affairs Committee): Thank you.

Pete Wishart MP (Scottish Affairs Committee): It is worth noting how delighted the Scottish Affairs Committee is to join the Social Security Committee. This is the first time that a joint session between the Scottish Affairs Committee and a Holyrood Parliament committee has been held, and we are looking forward to the joint work. In particular, we look forward to welcoming you all to Westminster next week. I thank all the witnesses very much for their opening remarks.

Mr Scott spoke about the existence of different approaches and cultures, how that will have an impact on how the services in question will be delivered and the prospect of tensions emerging because of the two Governments' different perspectives on social security delivery. Have you picked up on that from the people you work with? What are your major concerns about those tensions as we move forward? What can both Governments, and the civil servants who are engaged in delivering the project, do to ensure that some of those tensions are offset? Perhaps Mr Scott could reply first, as he raised the issue.

Bill Scott: I accept that the two Governments have different political approaches. In some ways, that is fine. However, let us take the example of the abolition of housing benefit—or the housing allowance element of universal credit—for 18 to 21-year-olds. The Scottish Government said in advance that it wanted to take measures to mitigate the impact of that.

Pete Wishart: What is your understanding of where we are on that? It seems to be a flashpoint that has emerged in the past few weeks. What is being done to ensure that such emerging issues will be dealt with effectively?

Bill Scott: As far as I am aware, the Scottish Government let the UK Government know that it intended to take measures to mitigate the impact of the abolition of housing benefit and housing allowance for 18 to 21-year-olds, but it needed time to do so. In other words, computer systems need to be changed. When such a change in regulations or entitlement takes place, action must be taken to enable what has been promised to be delivered on. The Scottish Government must be given the time that is needed to take those administrative measures so that it has in place a system that ensures that, when the change takes place, the 18 to 21-year-olds it intends to protect—and whose loss of benefit it intends to mitigate—are protected. Instead of that, we now have a

timescale of less than a month for that to take effect, which completely undermines the attempts of local authorities and the Scottish Government to deal with the issue.

Pete Wishart: I have a question for Professor McEwen. That is not the only example of a live or potential problem; there are also tensions between the two Governments on the bedroom tax and the benefit cap. From what you have observed, how have the two Governments been able to reconcile some of those difficulties and differences?

Professor McEwen: At the moment, they do not appear to have been able to do so.

I did not see a minute of the most recent meeting of the joint ministerial working group on welfare—I do not know whether that is available. However, in her evidence to the Social Security Committee, Jeane Freeman—the Scottish Government's Minister for Social Security—seemed to suggest that there was a difference of view on whether the benefit cap would be altered to accommodate the policy change that the Scottish Government wanted to make. If that is the case, that seems to me to be a clear breach of the fiscal framework agreement and there is a process within the fiscal framework agreement to raise that as a dispute and as an issue under no detriment. However, I do not know enough about the situation; I am just going on what we know to date.

The housing benefit issue is an interesting one. It seems to be one of timing—there is not enough time to do anything different—but I was a little surprised about something else, which might also be about timing. I had always understood that housing benefit for 18 to 21-year-olds would be an exemplary area in which the Scottish Government could use the new powers to enter into the arena and create a new benefit, were it inclined to do so, rather than trying to do something complex and technical by amending or mitigating existing UK benefits. There is clearly not time to do that in the timescale that Bill Scott refers to. In the longer term, it seems to be a possible route, but I have not seen it discussed anywhere in anything that the minister said.

09:45

John Dickie: That flags up how important it is to have clearer, more transparent processes in place that set out at what point each Government will engage with the other Government when it has a policy that may directly or indirectly interact or overlap with, affect or impact on the policy of the other Government.

In this case, the UK Government has a policy to remove entitlement to the housing element of universal credit from many 18 to 21-year-olds. I should stress that it is the housing element of

universal credit, so it will not affect those 18 to 21-year-olds who receive housing benefit—it will affect those who would have been eligible for the housing element of universal credit. At the same time, it is the Scottish Government's known policy intention to maintain that support for 18 to 21-year-olds in Scotland. Externally, we cannot see at what point the Governments are expected to engage on that issue and seek to understand the implications and the potential workarounds. Nicola McEwen has flagged up one potential workaround, if it is not possible within the powers that specifically relate to flexibilities within universal credit.

To get the process right, it needs to be absolutely clear to everybody in each Government and externally at what point that engagement should happen. This example flags up that that engagement should absolutely be as early as possible so that we do not find ourselves in a situation where, a month before eligibility changes, we have this kind of confusion about what the situation will be for young people in Scotland. There is potential confusion for them, for the people who are advising them and for housing providers.

Ian Murray MP (Scottish Affairs Committee): Professor McEwen mentioned the complicated nature of no detriment and the fiscal framework and how that all fits together. Is there an understanding of that in the two working groups? It is clear that, if the Scottish Government wished to put in an additional benefit, or a top-up, for 18 to 21-year-olds, that would not be included in the benefit cap. Is there a clear understanding in both the working groups that that can be done, taking that as the starting point? It seems as though a bit of smoke is being thrown up, rather than the two groups coming together to try to resolve some of these complicated issues.

Professor McEwen: You would need to ask the working groups—I cannot testify to their understanding. John Dickie's point is that this is about flexibilities within universal credit and it may well be that that makes for a more complicated situation than the one that I set out.

There is quite an important distinction between the power to create a new benefit and the power to top up an existing benefit. Sometimes those two are put together. Politically, I see very little attraction in topping up existing benefits—I imagine that that would raise many of the same complications that we are talking about here, because you would be trying to operate within the UK benefits system rather than creating something fresh and new, with greater scope for designing it how you wanted to design it. However, that is clearly a longer-term issue.

Again, timing is important here. You cannot just create a new benefit, introduce it and implement it within a couple of months.

John Dickie: This is another example of the need for more clarity and transparency around the process. It does not seem too clear to us, given the fiscal framework and the agreements that have been made through the Smith commission and since, that the benefit cap creates a barrier in itself—that would be a breach of the fiscal framework. The question then is what the issue is here. To a certain extent, that is what we cannot see. Is it an operational or technical difficulty? We are left, I suppose, to guess that that must be what the barrier is—how the operational system for universal credit takes account of the fact that people in Scotland will be getting additional support that would otherwise take them above the benefit cap and whether that should not kick in in Scotland.

The question whether a technical or operational issue is creating the problem is, I suppose, also a question of transparency. The fact that we are not seeing the issue externally is, without question, leading to confusion—and, more worrying, if it is leading to confusion for us, it must be leading to confusion for the people for whom this is potentially a vital source of financial support and for those who are trying to advise them.

Bill Scott: It is the DWP that will know who is affected by the abolition of the entitlement and can pass on those details to the Scottish Government, local authorities and so on. We need that level of co-operation; indeed, I think that, as Citizens Advice Scotland's submission to the committee makes clear, information sharing will be very important if the Scottish Government is to be able to utilise its powers as envisaged. If the DWP holds on to and will not share that information, the Scottish Government will have great difficulty in taking measures to mitigate these things.

The Convener: Do you have a supplementary question, Ben?

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Yes, convener. Following up on the theme of complications that Ian Murray has highlighted—indeed, Professor McEwen raised the same issue, too, along with the issue of timing—I want to focus on the related issue of claimants that John Dickie has mentioned. Do Mr Dickie and Bill Scott believe that the people their organisations represent understand the complexities involved and the time needed to put the policies and legislation in place before the benefits can be transferred and delivered by the Scottish Government?

Bill Scott: My answer is a straightforward no. It was very difficult for people to get a handle on the

benefits system as it was, far less how it is going to be in the future. Many people think that, because local authorities deliver some benefits, they are responsible. The DWP is responsible. People do not know where to go at times, and that problem will be magnified when three or more agencies are delivering benefits. It will then become incredibly important for communications between those organisations to be extremely good.

For example, in a case that recently came before me, a disabled man notified his local jobcentre that he wanted to go back into permitted work—in other words, work that is under 16 hours a week and subject to a maximum amount that can be earned. Lo and behold, a month after he started, his benefits were stopped; he was told that he was working over the hours threshold. He had already given all that information to his local jobcentre, so he went back and said, "I've given you this information." However, the people at that jobcentre said, "Yeah, we've got it, but we had to pass it on to another jobcentre, because that decision making is centralised." The man and his welfare rights worker contacted the other jobcentre, and the people there said, "It's not us. It's another one." He had to contact four jobcentres before he could get the matter resolved and, as a result, he had to go without his benefits for more than a month and endangered his employment and so on.

That is what is happening in the current system, and those are the current complexities as a result of centralisation, the handling of issues by call centres and so on. I think therefore that, when the new system comes into being, there will be a huge amount of confusion about which organisation people should deal with.

Ben Macpherson: I appreciate that, when it comes to delivery, there will need to be awareness raising about where the provision is coming from. I absolutely understand and agree with that point.

I just wonder—

The Convener: Is this another small supplementary based on previous points, Ben? Other people want to come in.

Ben Macpherson: Yes, convener. Is there an awareness that the policies and the legislation both need to be in place before the benefits in question can be transferred and delivered by the Scottish Government rather than the DWP?

John Dickie: I echo what Bill Scott has said. For claimants and the general public this is a complicated area anyway, and introducing another split, with two Governments responsible for two bits of the social security system, risks further complicating things.

Coming back to the question of what we can do about this and what systems need to be put in place to ensure that we mitigate the risk of claimants and those who advise and support them being further confused, it strikes me that there is scope for building on the existing memorandum of understanding and being more specific about the range of areas in which the two Governments will need to co-operate and the terms in which they will co-operate right from the policy inception stage through to the stage of communications with claimants. There is scope to build on the memorandum of understanding and spell out what the commitment is from each of the Governments and how they will work together to get those communications right and avoid that confusion.

Alison Johnstone (Lothian) (Green): Bill Scott spoke of there being two different cultures at work, but there is probably no precedent for the exercise of powers in a devolved area of responsibility requiring such extensive co-operation and joint working. What challenges does that pose? One Government refers to welfare, the other refers to social security. There seem to be different views.

Bill Scott: There is a different culture not just at a political level but at an operational level, which will make things quite difficult. I know that we have not got them in operation yet, but the Scottish Government is already talking about people who use the social security system in Scotland being able to choose how they communicate with the proposed social security agency so that they can use the means most appropriate to themselves. That is in line with equality law, and any service should be making itself available to be contacted in as many formats as possible—by telephone, on paper, online—according to the person's needs. Instead of that, the DWP has a digital by default approach for universal credit that penalises people with learning difficulties, people with sensory impairments and so on. There is also the hypocrisy—I have to use that word—of the DWP saying, “You have to communicate with us online,” but refusing to communicate with a blind claimant by email even though they said that that is the only way in which they can read its communications. The DWP refused to email the person; it said that the communication had to be on paper.

That difference in the cultural approach of the two Governments will not only create tensions for the claimants but cause a huge amount of confusion. People will be able to do one thing with the social security agency but will not be able to do it with the DWP. How are they to know that the same approach will not work with both agencies? The issue of the cultural difference needs to be addressed.

The Convener: Does Stephen Hepburn want to come in on the back of that?

Stephen Hepburn MP (Scottish Affairs Committee): I have a question. We are constituency MPs in England, and our constituents have all sorts of problems with the DWP and the benefits agencies. What difficulties do the Scottish agencies have with the DWP? Are there the same stresses and complications that we, as constituency MPs, have with the DWP and other agencies in England?

John Dickie: I can answer both those questions. CPAG is on record as expressing concerns about the direction of UK social security policy and the stresses that that is creating for ordinary families—both in-work and out-of-work claimants—across the UK. That is a huge matter of concern, and we work hard with colleagues throughout the UK to influence the direction of UK social security policy.

Clearly, there is a policy divergence in the approach to social security that has been taken in Scotland and in the rest of the UK. That provides opportunities for the Scottish Parliament to take a different approach to social security but, clearly, only within the bits of the system that have been devolved. There is, therefore, a need to find a way of ensuring that co-operation happens in ways that recognise and work around those current policy divergences.

10:00

One way of doing that would be to clarify the purpose of that memorandum of understanding. We should be absolutely clear that it is about ensuring that the needs of claimants are met and that claimants come first. The purpose of working together across the two societal security systems would be to ensure that claimants get the financial support that they are entitled to in a timely way. Everyone across both Governments should be working to that end.

Bits of the memorandum of understanding refer to the need for co-operation, and state that the aim of co-operation should be to ensure the best possible outcomes. However, that is quite far down—in paragraph 11, I think. That should be put at the forefront, so that we are aware of what the purpose of the co-operation is. That would be a good starting point from which we could work around the clear tensions between the two approaches.

Professor McEwen: The difficulty emerges when the two Governments have different views of what the needs of claimants are. In the transitional period, that might emerge as a particular difficulty when there is a split between legislative and executive competence for disability benefits, which

I understand has been part of the agreement so far. I cannot propose an alternative way to do that, as there has to be time to allow the legislative process to unfold prior to the Scottish Government taking on responsibility for delivery and executive decision making. However, during that period, there will have to be careful oversight of the relationship between the two Governments and very good communication between them to ensure that nothing is taking place under the executive authority that will make it difficult to implement the legislation further down the line.

Bill Scott: I very much agree with that. We accept that it will take time to put the legislation and regulations into place. The system is extremely complex, and we want to ensure that—as opposed to the current situation with the housing allowance—on day 1, when the Scottish Government begins to deliver benefits to disabled people, no one misses out because the system that is in place is not good enough to deliver appropriately.

We have to take the correct amount of time to ensure that the system works. However, at the same time, there are massive changes happening to the personal independence payment that were not envisaged at the time of the Smith commission. Some of the changes that have taken place were envisaged, but the ones that have been brought in in the past few weeks were not. They will reduce the amount of money that comes to Scotland and will therefore reduce the Scottish Government's ability to ensure that people with mental health issues and people with learning difficulties are treated equitably in relation to those with physical impairments. I do not think that it is fair that someone who cannot go out unaccompanied because they have severe psychological problems will end up stranded in their home because there is no money available to get them a taxi that will enable them to go out with a companion.

The Convener: Absolutely. Before I bring in Alison Johnstone again, I just want to say that the roll-out of universal credit has been extremely problematic up here, and we are calling for a halt in what is happening, because we are seeing people getting into debt as soon as they go on to universal credit. Perhaps we can have a chat about that when we see you next week at Westminster.

Alison Johnstone: On Bill Scott's point, I accept that the relevant sections of the Scotland Act 2016 have not yet been commenced, but a lot of people have been extremely surprised about the extensive changes that have been made to DLA and PIP. Bill Scott referred to the fact that the UK Government recently had a ruling overturned via a tribunal, which means that people who suffer

from mental health conditions that make it difficult for them to travel on their own now need to score points in order to qualify for PIP. Does Mr Scott agree that that seems to go against the spirit of the devolution settlement?

Bill Scott: I agree. The negotiations took place in good faith. We were led to believe that the outcome would result in a certain amount of money coming to Scotland. At the time, we pointed out that, because it would take quite a while before DLA and PIP came to Scotland, a lot of people would experience loss in that period. There have been changes since then.

The two Upper Tribunal decisions should have resulted in people with mental health issues, people with learning difficulties and a small group of other people receiving the higher-rate mobility component of the personal independence payment, but now they will not. When the bill to introduce PIP was going through the Lords, the minister gave a commitment that such people would be treated more equitably than ever before alongside those who have physical impairments. However, that commitment is not going to materialise.

A lot of people who expected to qualify for the personal independence payment will not qualify and will have lost that benefit before the Scottish Government has the new powers. Furthermore, the Scottish Government will have a reduced budget with which to make up the difference. That does not seem fair to us.

John Dickie: I am thinking about what needs to be put in place to deal as best we can with the situation. I, too, am concerned about the policy. I see nothing in the MOU—or based on my understanding of how the arrangements will work—that spells out the scope and the points at which the UK Government will engage with the Scottish Government to flag up the policy intention.

The UK Government has changed its disability benefits policy, which will clearly have an impact on devolved welfare policy as powers are transferred, including an impact on cost. We argue that something should be in place to ensure that the UK Government is committed to reviewing the implications for social security policy in Scotland of a change in social security policy at the UK level, and vice versa because, as social security policy in Scotland develops, there will be implications for UK social security. The points at which information will be shared must be set out clearly at an early stage.

This is not just about one Government saying that it will do something; a Government must also say what the policy intent is and follow a process for reviewing the implications for the other

Government's social security programmes. As far as we can see, that information is not clear at the moment, and we are ending up with confusion close to the point at which the changes are happening.

Professor McEwen: That addresses directly the point that I made in my first remarks about the need for a forum such as the joint ministerial working group to think about the longer term, beyond implementation, and to have in place a process for ensuring that there is early communication.

I will make a broader point about the money. There are issues in the transitional period when policies that will be devolved are being altered pre-devolution, because that will affect the fiscal transfer at the point of devolution. Even if there is no policy change at the UK Government level, on-going difficulties will be inevitable because of the agreement that block grant adjustment for welfare will be Barnettised. A disproportionate spending obligation under current spending arrangements in Scotland—because of disproportionate need—will not be taken into account under a Barnett system.

When policy change reduces entitlement still further, there will be knock-on effects on the block grant. The Scottish Government will have difficult financial issues to deal with post devolution.

Adam Tomkins (Glasgow) (Con): I very much want to see good and close co-operative working at official and ministerial levels between the two Governments and to see good and close co-operation at the parliamentary level in holding both Governments to account. I therefore warmly welcome the members of Parliament from the House of Commons and welcome the fact that this is the first Holyrood committee to work jointly with the Scottish Affairs Committee on understanding the complexity of the new adventure and experiment that we are seeing in shared or joined-up government, to use an old phrase in a different context. With that in mind, I have one or two questions that might be particularly directed at Professor McEwen, but I would also welcome Bill Scott's and John Dickie's reflections on them, if they have any.

We have heard quite a lot about the policy differences between the UK Government and the Scottish Government. There is nothing in devolution to suggest that the UK Government and the Scottish Government cannot or should not have policy differences or, indeed, that devolution somehow prevents either Government from changing and adapting its policies in accordance with how it assesses the need to change. I will put some of the policy differences to one side and think about just the system.

Given that we have different Governments in different parts of the UK that in some respects have quite radically divergent policy needs, is the system for joint ministerial working that we have in the UK, which is also under development, fit for purpose? If it is not fit for purpose, what reforms to the system do we need to make it fit for purpose?

Professor McEwen: The short answer to your first question is no. As for the reforms that we need to see, as you will know, there are different types of forums, such as the multilateral forums under the auspices of the joint ministerial committee—

Adam Tomkins: I am talking specifically about social security.

Professor McEwen: Okay—I will come back to that point.

There are also the new bilateral forums, which seem to have been set up to deal with transfers of powers. The joint exchequer committee is probably a bit further down the line in dealing with on-going issues, because it has existed for longer. There is probably something to learn from that about the path ahead for the joint ministerial working group on welfare, if it exists for the longer term as an on-going management body. However, some social security issues will also be for the joint exchequer committee, because a lot of the issues that will emerge will be financial and under the auspices of the fiscal framework agreement.

The possibility of a multilateral forum to deal with welfare issues might well have appeal. I know that that has been discussed with a number of colleagues when finding a purpose for the joint ministerial committee beyond just chat and communication has come up. However, I am not sure that the current incarnation of the JMC for European negotiations, which had and has a purpose, is necessarily a sign of good things to come in that respect.

To go back to Mr Tomkins's first point, devolution has to come with different mandates and policy directions for both Governments. The difficulty is that the design of the devolution system in the Scotland Act 2016 adds significantly to the complexities and interdependences. That is new in the devolution settlement and is why I think that there is a need to have more robust systems and possibly also more robust dispute arbitration systems, because the way in which they have been designed so far seems to encourage indecision or non-decision, such that disputes that emerge that cannot be resolved will simply fall and possibly lead to inaction. Both Governments have always been reluctant to have independent arbitration, which might be something that we can look at again.

Bill Scott: I have a brief practical example. We have made the point that, because of the split in the benefits that are being transferred, control of all means-tested benefits—universal credit, income support and so on—will remain at Westminster. If the Scottish Government extended entitlement to disability benefits or carers allowance, the number of premiums that were awardable under means-tested benefits could rise. That would have a knock-on consequence for the amount that the UK Government paid out and, under the fiscal framework, that would be likely to lead to clawback.

That potential exists. Because of the split and because premiums are awarded to people because they are disabled or because they are a carer, it is more likely that the Scottish Government, rather than the UK Government, will end up on the wrong end of the fiscal framework and lose money. The split will cause some on-going difficulties over time.

10:15

John Dickie: I do not have a huge amount to add. I go back to much of what I said about the framework for officials to engage with each other and the need to identify the scope of that engagement and the points in the policy development process at which they engage with each other. The same points apply to joint ministerial working at the political level, where clear agreement is needed about the point at which people are committed to sharing information and engaging with each other on what the implications of their areas of social security policy might be for each other. That sort of thing needs to be clarified, brought out and agreed sooner rather than later.

Adam Tomkins: I will develop one or two of those points a bit more, if I may. If the joint ministerial working group on welfare is not fit for purpose, how does it need to be reformed to make it so?

Professor McEwen highlighted the joint exchequer committee as perhaps an example of bilateral relations from which the joint ministerial working group could usefully learn. What lessons should that group learn from that committee?

Professor McEwen: My point about intergovernmental relations, systems or processes not being fit for purpose was more general. I cannot give you a precise answer about the joint ministerial working group, because it does not have sufficient transparency for me or even this committee to make such a judgment.

There might well be lessons to learn from the joint exchequer committee, simply because it has gone beyond the point of transfer. I do not

remember how often it meets—I think that it is a couple of times a year—and I do not know enough about what goes on in the process to say precisely what lessons can be learned. However, that committee is worth looking at. It is clear that relationships between that committee and the working group will have to develop, given that social security is also a financial issue and given where most of the on-going difficulties and possible disputes might well emerge.

Adam Tomkins: Can I ask one more quick question, convener?

The Convener: You may have one small supplementary.

Adam Tomkins: Thank you, convener. You are being generous.

Given that we are not the only country in the world where different levels of government point in different political directions, can we learn any lessons from other multilevel democracies that are managing or have managed the processes of intergovernmental working specifically on social security for longer than we have in the United Kingdom?

The Convener: Is that question directed at Nicola McEwen?

Professor McEwen: I think so, convener.

The Convener: I was just checking.

Professor McEwen: The question is difficult, because no other country in the world has the degree of asymmetry that we have in the UK. There are examples of federal Governments engaging with provincial Governments, state Governments or whatever on social security and other issues, but I cannot think of an example of an intergovernmental or multilayered system in which the federal Government acts simultaneously for the largest part of the population of the state. That instils a degree of hierarchy in our system of intergovernmental relations that it is difficult to design out, if you see what I mean. It is part of the system—the dynamic—that is there. Processes can help, but they are just the underlying aspect; the politics lies on top of them, and the emerging relationships are difficult. That is a feature of the UK, which is becoming more and more complicated, and we will have to find ways of managing the situation. If I find any particular practical suggestions, I will be happy to share them with the committee.

Adam Tomkins: Thank you.

Bill Scott: Stormont has had social security powers since about 1920 or 1921 but, until recently, it has not exercised those powers any differently from the UK Government. It is only in recent years when it has exercised the powers

differently that problems have emerged. The UK Treasury has imposed fines on the Northern Ireland Assembly for not implementing parts of UK policy and, as a consequence, Northern Ireland's fiscal framework has been affected.

The Convener: Does Deidre Brock have a supplementary?

Deidre Brock MP (Scottish Affairs Committee): It is not a supplementary.

The Convener: Okay—I will bring in Margaret Ferrier.

Margaret Ferrier MP (Scottish Affairs Committee): At the start of the meeting a couple of witnesses said that they occasionally see minutes of joint meetings. The issue is that there is a lack of communication, or that communication could be much better. How could communication be improved among you, other organisations and the DWP and the Scottish Government?

As well as the joint ministerial committee and the joint senior officials group, we have the memorandum of understanding and the concordat. The concordat was designed to ensure good working relationships between the DWP and the Scottish Government, and it was last updated in 2010. We now have the Scotland Act 2016, so is it time for another update? I ask Bill Scott to go first.

Bill Scott: I am not an expert on intergovernmental working, but the answer is yes, it is certainly time for the concordat to be updated.

One aspect of the Smith commission approach to negotiations that we were very pleased about was the involvement of civic society. There were internal negotiations, but there was a great deal of openness about the process. The views of civic society were heard, as well as there being negotiations between officials and politicians. I would like there to be that sort of open Government approach, in which civic society has a role in intergovernmental relations, because we have a contribution to make to them. For that to work there must be a certain level of openness and a wee bit more in terms of minutes. As Nicola McEwen pointed out, we get fairly sparse minutes of what was discussed and agreed. They are sort of action points and we do not get very much insight into the detail that, to a certain extent, we probably need to know about.

Professor McEwen: The memorandum of understanding goes considerably beyond the 2010 concordat, which must be seen as a positive.

The transparency issue is not about relationships between the processes and us; it is about the relationship between the processes and the Parliaments. If that is transparent, it is easier for everyone else to see. The Scottish Parliament should be getting communications from the

Scottish Government; there is written agreement for that, which should be upheld. I do not know whether the minutes of the most recent meeting of the joint ministerial group on welfare have been published—it is entirely possible that I simply could not find them. They were not in the papers for this meeting. There may not have been minutes, but even if there were not, there should still have been communication from the Scottish Government to the Scottish Parliament about its participation in the intergovernmental process.

Back in the joint exchequer committee's early days, there were extensive minutes of the discussions that took place between the two Governments. For me as a scholar, that was fantastic. The roof never caved in when those minutes were published—it is probably only people like us who read them.

The more extensive and accurate the minutes are, the better. They should show not just what was agreed, but what was discussed and by whom, so that we can get a better understanding of where the issues and difficulties lie. That enables people such as John Dickie and Bill Scott, who have insights that Parliaments and Governments perhaps do not have, to feed into the process and help to overcome some of the difficulties.

The Convener: I have a small piece of information. As far as I know, the minute of the recent meeting of the joint ministerial group on welfare has not been published yet. We certainly have not seen it, so you have not missed it.

John Dickie: I echo what has been said. If there had been more transparency and more opportunities to engage and to share the thinking on the co-operation and engagement that there had been on, for example, 18 to 21-year-olds and universal credit flexibilities—if the discussion had been a bit more transparent and there had been opportunities for external engagement and scrutiny of that, perhaps some of the issues that have arisen would not have arisen, or we would not have found ourselves in this situation so late on in the process. There is a lot to be said about that.

I am not sure that this is directly related, but we think that the system for co-operation could be supported by having an independent statutory scrutiny body that would look at policy developments in devolved social security, draft regulations and draft legislation. It could provide a level of independent expert scrutiny that both Governments could have confidence in and which would perhaps take some of the heat out of the relationship. That impartial expertise could identify potential social security implications for the UK Government or the Scottish Government if a policy was being developed by one Government. There

could be an independent body along the lines of the Social Security Advisory Committee, which could evolve to deal with issues of split responsibilities for social security.

The Convener: Two members want to ask supplementary questions before Deidre Brock asks a question. Does Gordon Lindhurst have a small supplementary to the question that was asked?

Gordon Lindhurst (Lothian) (Con): I want to go back to a point that Professor McEwen made, but perhaps I could ask my question after Deidre Brock has asked hers.

George Adam (Paisley) (SNP): I have a supplementary question on what was mentioned after Margaret Ferrier's question. Obviously, the panel has given us an explanation of a very complex and difficult landscape. The problem is not political as such, although we have challenging political issues, it is also that the DWP at Westminster seems to just brenge on regardless, as if it is business as usual. An example of that is what happened with the jobcentre closures just before Christmas. The Scottish Government did not know about that; in fact, the Minister for Employability and Training came here and told us that he read about that in the *Daily Record* before he heard anything else. Is the situation not a lot less complex than has been suggested? Do we just have a system that seems to want to brenge on and continue and does not seem to look at the modern processes that we currently have and the changes that are happening?

The Convener: I know that Deidre Brock wants to come in on that particular issue.

Deidre Brock: I was going to raise that issue, too. With the knowledge that the witnesses have gleaned of the internal workings of the political and operational teams—I think that Bill Scott mentioned that the operational team seems to be ticking along fairly well at the moment—how do they think that that situation came about? The Minister for Employability and Training found out about what had happened in a newspaper and obviously did not have any warning of that beforehand. What lessons do you glean from that to take forward into the social security situation specifically?

John Dickie: I do not know how that happened. We can avoid such situations arising by strengthening the memorandum of understanding or having a new concordat or memorandum of understanding that is absolutely clear about where the DWP needs to engage with the Scottish Government as policy is developed in the DWP. That should be done very early, and it should not be restricted to devolved areas but should extend to areas where DWP policy will rub along with and

impact on—even if it is not overlapping—devolved areas of social security. There needs to be a much clearer agreement that information on policy development will be shared by the DWP and vice versa. As policy develops, that will need to work both ways, although at the moment it is more about the DWP sharing information.

10:30

There is an agreement between the officials on the different programme boards, and the DWP has a Scottish devolution programme board, but the relationship between those programme boards and the programme boards in the DWP that are responsible for driving forward bits of policy—whether that is Jobcentre Plus or universal credit roll-out—is not clear to us from the memorandum of understanding. A clearer explanation in the memorandum of understanding, perhaps in an annex, of how the different programme boards relate to each other would be important. We are concerned that the Scottish Government's programme boards are one step removed from those bits of the DWP that are responsible for the day-to-day policy and operational development of the social security system. A clearer statement of how those programme boards all link together might help to ensure that, throughout the DWP, there is an understanding of the need to reflect on the implications of policy for devolved Scottish social security responsibilities. I am using the DWP as an example because the issue is current, but that communication will be important both ways as the transfer of powers continues.

Professor McEwen: There is nothing new in social security policy having an impact on devolved competence. That has always happened in the interface between social security and social policy. I draw the committee's attention to some work that was done recently by the Institute for Fiscal Studies on the changes that are coming to tax credits, particularly the child tax credit and the working families tax credit. Those changes will have an enormous impact on other areas of devolved competence—not on the social security powers, because those aspects of social security will not be devolved, but on other areas of social policy—and that will have a knock-on effect.

You asked how the situation before Christmas happened. I do not know—that is perhaps a question for the next panel. It seems to me that a lot of work has been done at Whitehall over the past few years to build up expertise in and knowledge of devolution. However, although in each department there is a group of officials who work on devolution and who probably have really good working relationships with the Scottish Government and communicate well with their counterparts here, I am not sure how much the

understanding of devolution issues among the rest of the officials in the DWP is developing, even though their decision making and policies will have an impact. That seems to be an internal challenge for Whitehall—and an on-going one, given the mobility of officials. Therefore, your question is perhaps more for the next panel.

Bill Scott: I echo that point. In the green paper “Work, health and disability: improving lives”, which was issued by the DWP, there was nary a mention of Scotland or how the proposals would work in Scotland even though a lot of it is about the DWP making referrals to the national health service. We have had a devolved NHS in Scotland since it was created, so the DWP could not make those referrals without negotiation.

The DWP is a massive department that employs 88,000 people. A political decision was made to reduce the staff complement and the number of DWP premises, but the operational decisions are made further down the line. The problem is that, because it is such a massive department, a lot of operational decisions are made elsewhere. I agree with Professor McEwen that officials in the DWP do not necessarily talk to each other about its relationship with Scotland or even what the devolution settlement means.

The Convener: Gordon Lindhurst is next, but I see that Margaret Ferrier has a supplementary. We are running out of time, so please make it short.

Margaret Ferrier: Are you aware of the experience panel, on to which the Scottish Government is looking to recruit people with recent experience of receiving benefits, so that it gets the social security system in Scotland right? Will you make the people whom you come into contact with aware of its existence?

Bill Scott: Very much. We are actively seeking to recruit disabled people who receive disability benefits for the experience panels, because we think that they represent a fantastic opportunity for Government policy to be informed by the end user. The way to reform services is to ask the people who rely on those services how they should change and adapt to meet their needs.

The Convener: A quick yes or no would be good, given that we are running short of time.

John Dickie: Yes, we are aware of that important development.

Gordon Lindhurst: Professor McEwen, you mentioned the possibility of arbitration. I would not want to dismiss that out of hand, but a lot of people would say that, ultimately, the decisions on the issues in question are political decisions. Regardless of their political complexions, the Scottish Government and the UK Government

might differ on such matters. Even in a system such as the federal system in Germany, in which there is not such an imbalance in the size of the component members of the unit, as it were, differences on social security have arisen between the federal Government and local government—the Bavarian Government is an example—in the past two years. Whatever system is set up, there will be such differences.

Could you develop your comment about arbitration? Could we look at other countries and see how they resolve such differences?

Professor McEwen: In other countries where there is more of a legal culture, there might be more of a role for constitutional courts to play. Adam Tomkins will know more about that than I do, so I will not say anything else about that.

I was not necessarily advocating the use of arbitration. I absolutely agree with you that, ultimately, a lot of this will boil down to politics, and that it is appropriate for the political actors to resolve matters or to decide not to resolve them and to take the consequences. However, some of the issue seems to be technical—or, at least, open to interpretation. We will go back to the fiscal framework agreement time and again because, in some ways, it is still quite ambiguous. It might have been necessary for it to be ambiguous for that political agreement to be reached when it needed to be reached, but it is open to interpretation, at least. Some interpretations will set precedents for the future.

You might be right—it might be more appropriate for the political actors to resolve matters rather than an independent arbiter, but if there was at least some independent or impartial evidence on which those political decisions could be based, that might help the process.

The Convener: Thank you very much. I thank the witnesses for staying a wee bit longer. I am sure that we could ask you lots more questions, but I must bring the session to a close. Thank you for attending and answering our questions.

10:38

Meeting suspended.

10:41

On resuming—

The Convener: I welcome our second panel, who are from the Department for Work and Pensions and the Scottish Government. Mary Pattison is here in the place of Richard Cornish. Is that correct?

Mary Pattison (Department for Work and Pensions): That is right.

The Convener: Both groups of witnesses have asked to make opening statements. Who wants to go first?

Mary Pattison: Stephen Kerr can start.

Stephen Kerr (Scottish Government): Thank you, convener and chair, for the opportunity to appear before both committees today to discuss the work that we are doing in collaboration with the Department for Work and Pensions to implement the devolution of social security powers under the Scotland Act 2016.

By any measure, social security will be the most complicated area of devolution ever undertaken by the Scottish Government. For me, the safe and secure transition of around £2.8 billion of annual benefit payments to approximately 1.4 million people in Scotland depends, above all else, on two important factors: first, a team of people across the Scottish Government who have the skills, capabilities, enthusiasm and determination to succeed; and, secondly, strong, constructive and effective working relationships with the UK Government and, particularly, our colleagues in the DWP. That the committees have asked us to appear together to provide you with an update on our work so far is entirely in keeping with the fact that this is a joint endeavour by both Governments.

I have been the director of social security for more than 12 months. In that time, I have been focused on establishing the foundations that we need for devolution to succeed. We have grown from a single division of around 30 people to a directorate of around 150, spanning policy, analysis, service design, operations, programme management, digital, legal, human resources, procurement and communications. I expect to have around 200 people in post by the end of this year, with further significant expansion in the years to come as the new social security agency begins to emerge.

The directorate has sought to recruit from across the Scottish Government and its agencies the right people with the right skills and experience at the right time. We are building capability across our organisation now and for the future, providing training and support for colleagues who are taking on new and different roles. We have also recruited

people permanently from a number of UK Government departments, including the DWP, the Treasury, the Cabinet Office, HM Revenue and Customs and the Ministry of Justice. We have just advertised our first suite of posts externally, looking to attract people from the wider public and private sectors. The result will be a diverse team with strength and depth.

Designing, testing and building new devolved services requires robust governance to support effective decision making by civil servants and ministers. Lisa Baron-Broadhurst is a key member of my team. Lisa is a civil servant with more than 20 years' experience in project and programme management. I am delighted that she is able to join me here today.

As you might imagine, we have been busy since the Scottish parliamentary elections in May 2016. In July, we published "A New Future for Social Security". In what was one of the most wide-ranging consultations ever undertaken by the Scottish Government, we held more than 120 engagement events, meeting people in every one of our 32 local authority areas. By the time the consultation closed at the end of October, we had received 521 responses from a wide range of individuals and organisations. The consultation was intended to provide ministers with a valuable and rich source of evidence that they can use during the next four years to guide the development of our work. Initially, it will inform the social security bill that is to be introduced before the summer recess, which is a key focus of activity in the directorate at the moment.

10:45

I want to say something briefly about how my team is going about its work. Engagement with people, particularly those who have lived experience of the services that are being devolved, will be crucial to our success. However, we will go further than the traditional approach that officials usually take to stakeholder engagement. We plan to design and build our social security system hand in hand with those who will come to rely on this new public service. Of course, as members would expect, the civil service has a term for that—"co-production" is the jargon, but in my view it is just common sense.

A good example is our experience panels, for which we plan to recruit more than 2,000 volunteers to guide our activity. I am pleased to be able to let the committee know that, after the first two weeks of a 10-week campaign, we have already recruited 550 people. The launch of the panels is important for another reason. It marks a significant milestone in our working relationship with the DWP, which will issue letters tomorrow on our behalf to a broad sample of people who are in

receipt of devolved benefits as the next phase of the campaign begins.

The partnership between the two Governments goes deeper than my directorate and the teams that Mary Pattison and Pete Searle lead. Our two executive teams met last year to underline the seriousness of their commitment to the work, and they will meet again in the spring. That sends a clear signal to both organisations that only the right leadership culture, in which openness, trust and collaboration are encouraged, will help us to meet and overcome the challenges that lie ahead.

Beyond those more formal occasions, intergovernmental co-operation in the area of social security happens on a number of fronts. Mary Pattison and I jointly chair a group of senior officials that supports the joint ministerial working group that members have been talking about this morning. Together with the Scotland Office, at that group's meetings we progress key ministerial priorities, such as the commencement of Scotland Act 2016 provisions and joint communications activity, and we look at our emerging programme of work. Indeed, on Thursday, the four of us who are here met our senior teams to review and discuss how we can work more effectively in future. Every day—and it is every day—people from my directorate speak to people from the devolution teams in the DWP and have joint workshops or meetings to progress that activity.

As civil servants, what we do is guided by various things. At a general level, we have the civil service code, which sets out the values that we are expected to live and breathe each day. They are honesty, integrity, impartiality and objectivity. More specific to social security, we have a memorandum of understanding with the DWP that contains certain procedures that we have agreed to follow in a number of areas such as information sharing. The MOU has been critical in cementing a close working relationship between our teams and building my directorate's knowledge and understanding of the benefits to be devolved.

My remarks are not designed to be exhaustive but I trust that they provide members with an insight into how the two Governments are working well to achieve the safe and secure transition of social security powers from the UK Government to the Scottish Government.

With your permission, convener, I will hand over to Mary Pattison to make her opening remarks before we take members' questions.

Mary Pattison: I thank the convener, the chair and members of both committees for the opportunity to come here today to talk about the work that the DWP is doing with Scottish Government colleagues to support the transfer of social security powers to Scotland.

The Scotland Act 2016 provided the legislative means for the United Kingdom Government to devolve power over more than £2.8 billion of welfare benefits and payments for more than 1 million Scottish citizens. That was just the start, and we are now embarking on an ambitious undertaking to ensure the successful, secure and safe transfer of powers and responsibilities.

As Stephen Kerr has noted, success relies on strong working relationships between the DWP and the Scottish Government, underpinned by robust governance. The DWP is committed to making a success of that. Since taking over the role of senior responsible owner, I have sought to build on the excellent working relationships that were developed by my predecessor, Richard Cornish, to continue to share our learning and experience of running the UK social security systems, and to seek solutions by working collaboratively with the Scottish Government as we work through the details of this joint endeavour.

It is worth rehearsing the range of powers that the Scotland Act 2016 devolves to Scotland. They include the ability to create new benefits and make discretionary payments; responsibility for a range of current DWP benefits; the ability to change certain defined elements of universal credit; and powers to create new employment programmes. The key interest for both our Governments is that the powers are delivered securely, safely and smoothly. It is essential that we ensure that Scottish customers receive high-quality support.

Stephen Kerr has already touched on the important governance arrangements that we have in place, which include the joint ministerial working group on welfare and joint meetings of officials between the DWP and the Scottish Government, including at the executive team level, to share knowledge and experience at the most senior levels. The DWP is investing significant resource to take that forward. Pete Searle and I have dedicated policy and programme teams in place to support the devolution of powers. Those teams draw on expertise from across the department and ensure that the work is given appropriate priority.

Alongside that work, we have shared our extensive corporate knowledge and expertise on the design and delivery of welfare benefits to help build capability in and understanding of that complex area. We have shared more than 300 pieces of information with the Scottish Government on our business processes and customer journeys, and have arranged and delivered well in excess of 100 meetings and workshops to explain the processes in more detail. Within the DWP, we are also building capability in and understanding of the devolution settlement

and how and when to engage with the Scottish Government in the new landscape.

There has been significant progress to date. The first transfer of powers, covering 11 of the 13 social security sections in the Scotland Act 2016, took place in July 2016. As a result of close co-operation, progress has been made on a number of early priorities, including the new devolved employment support—work able Scotland and work first Scotland—which will be launched in April this year. Those services will use existing DWP systems to underpin delivery. Work is now focused on the remaining two sections of the 2016 act, covering existing disability, industrial injury, carers and maternity benefits, and funeral and heating expenses. At the request of Scottish Government ministers and with agreement from the joint ministerial working group on welfare, the DWP is progressing an innovative and unprecedented approach to commencing those remaining sections by splitting the competence. That will allow the Scottish Government space to legislate for its new arrangements, while the UK Government remains accountable for delivery during the transition period up to 2020. We are on track to lay the regulations in April.

Also at the request of the Scottish Government, we have completed a feasibility study exploring options to deliver a carers allowance increase in Scotland. I know that the Scottish Government is considering the initial findings. As Stephen Kerr mentioned, we are also supporting the experience panels with the mailing that is going out tomorrow.

In summary, therefore, although our two Governments might not have the same view on the policy approach, our aim is to work closely and constructively at all levels to find solutions to the challenges that are presented. Good progress has been made to date, but there is obviously a way to go. Things will begin to take shape as we see the Scottish Government's social security bill and as we work with Scottish Government officials and colleagues as they shape their new system. A close, constructive and productive relationship with the Scottish Government is at the heart of delivering the new powers in a successful, secure and safe way. I look forward to continuing to build on the good work that we have done to date.

The Convener: Thank you. I also welcome to the meeting Lisa Baron-Broadhurst, programme director in the Scottish Government's social security directorate, and Pete Searle, director in the DWP's working-age benefit and devolution directorate. I am sorry that I did not mention you at the beginning—that was remiss of me.

I will kick off the questions. One of the questions that we asked the previous panel, who certainly had a good overview of the issue, was about working relationships. Mary Pattison and Stephen

Kerr have said that both sides work in partnership. However, Mary Pattison also said that both Governments have different approaches—that is, Westminster takes a welfare approach, and the Scottish Government takes a social security approach that is based on dignity and respect. In that respect, the witnesses have different political masters, if I can call them that: one views what they deliver as welfare, while the other views what they deliver as social security, and they have different approaches. Bearing in mind those different approaches, how would you describe your working relationships? Do they cause difficulties for your ability to work together? I am thinking about correspondence on the jobcentre closures, which we did not know anything about until we read the newspapers.

Mary Pattison: I would not have said that there were difficulties. Clearly, our ministers will sometimes have different views on how they might approach things, and part of the reason for having the joint ministerial group on welfare is so that such issues can be discussed. When issues come up, we work on them together, as we have been doing recently. Ministers on both sides are committed to devolution and to making it work successfully. In the main, the different approaches do not create problems. As civil servants, we provide neutral advice on the available options, and that is what we have been doing.

Stephen Kerr: I think much the same. We do not exist in a vacuum; we work in the political circumstances of the day, and our job is not to let that constrain us but to keep focused on solutions to issues that arise.

I have been working with UK Government departments for 13 years. On my list of shame—or glory—are the Department for Education and Skills, the Department for Education, the Department for Business, Innovation and Skills, the Department for Innovation, Universities and Skills, the Foreign and Commonwealth Office and the DWP, to name but a few. In the way that I and the Scottish Government have gone about business, I have never found that such things have prevented us from working together. In the lead-up to the independence referendum, for example, we introduced new devolved powers in relation to the Scottish welfare fund in partnership with the DWP at a time when our ministers were pursuing policies for an independent Scotland. We find ways to make things work.

The Convener: I will open up the session to members. Pete Wishart wants to ask a question.

Pete Wishart: Thank you, convener. I am very grateful to you for having us along this morning. These are unusual surroundings for us members of the Scottish Affairs Committee, and we are grateful for the opportunity to ask a few questions.

My question is about a process issue. The Scottish Government is creating a new department out of absolutely nothing, with no history, background or culture of delivering welfare benefits in Scotland, whereas the DWP has been in existence for 100 years. It is perhaps the largest Whitehall department, with more than 80,000 staff. How is the process working? Mr Kerr, are you getting adequate resource from the DWP to build and create the new department? Do you require anything else to ensure the realisation of Scottish Government intentions?

Stephen Kerr: I point to Lisa Baron-Broadhurst, who is sitting on my left, as a visible manifestation of resource from the DWP. She can perhaps say something about her experience.

So far we have found that resources have been forthcoming in response to requests that we have made. There have been lots of workshops, meetings and sharing of information. In fairness to colleagues in the UK Government, the convener's point about capability building is important. We must be in a certain place of readiness before we can engage meaningfully with the DWP, which, as you say, is a department with a 100-year history. I have an obligation to ensure that I have enough players on the field to be able to engage with the DWP. That can sometimes prove to be challenging, but where the DWP can help us, it is doing so, and where other Government areas can help us, they are doing so as well.

Lisa Baron-Broadhurst (Scottish Government): Stephen Kerr alluded to bringing in more people to support us. We have recruited people from all the other Government departments, which is great. Through external advertisements, we are now reaching out across local government and other areas to bring in even more capability.

Pete Wishart: In the session with the previous panel, there were quite a few exchanges about some of the tensions in the relationship. I was very impressed with your very political answers about how you serve different political masters and how these things are all evened out and everything works seamlessly. However, I will suggest a couple of areas in which there might be a bit of concern.

I am interested in your views as civil servants who are expected to deliver programmes for your respective Governments. There seem to be tensions about the changes in personal independence payments that we have seen at Westminster; the jobcentre closure programme, on which we had a one-off session to try to better understand the process; and, in particular, housing benefit for 18 to 21-year-olds, which the Scottish Government has clearly said that it will retain, whereas the UK Government is determined to

progress with its removal. Perhaps Mary Pattison can tell me where we are on that. Will the UK Government plough on with its plans, regardless of what the Scottish Government wants to do as an early priority with its welfare powers?

11:00

Pete Searle (Department for Work and Pensions): I will start on that question, and Stephen Kerr might want to come in.

We have been talking about housing benefit for 18 to 21-year-olds for a while and both Governments have clear policy positions on the issue. We have been trying to work through the issue together to find the best way of enabling the UK Government and the Scottish Government to deliver what they want to deliver. However, it is an area in which we are in a bit of a transition, because the Scottish Government has not yet had time to put in place all the frameworks, the agency and the legislation that it needs to build its own system. We are therefore having to find a way through with the existing legislation of either the UK Parliament or the Scottish Parliament. There will be such issues in relation to which there is no perfect way through, but we will keep talking to each other to find a way through that best fits the needs of both Governments.

Pete Wishart: Have those been mainly issues for the joint ministerial working group on welfare to deal with? Are things worked out at a political level, after which you are expected to come up with an arrangement that meets the requirements of both Governments?

Pete Searle: Typically, we know what our Governments want to achieve and we are asked at official level to work out the different ways of achieving that through changes in either UK or Scottish Government legislation or approach. We then take options and recommended—and, ideally, agreed—solutions to the ministers, and it is ultimately for them to decide.

Pete Wishart: Does Stephen Kerr want to add anything?

Stephen Kerr: Pete Searle has covered the territory well. As he says, the UK Government has a policy position and the Scottish Government has a policy position, and our job is to arrive at a place where both policies can be implemented. Discussions on the issue have been intense over a good few weeks, and we are still actively discussing it.

Pete Wishart: I do not want to wilfully suggest this, but is there any sense that, because the Scottish Government's department is new and does not have as much experience or history, it tends to go along with the UK Government's policy

ambitions? Take the jobcentre closures, for example, and the changes in PIP, as well as the tensions around the bedroom tax and the benefit cap. Do you feel that your early priorities are being addressed and met? Can we hear from the UK civil servants that they will take into account the early priorities of the Scottish Government and do all that they can to support it in ensuring that those are delivered?

Mary Pattison: Yes. Inevitably, we look at the areas of tension, but there have been early successes. For example, although it is not a matter for this committee, the employability change that is happening in April has involved very close joint working between both Governments to support the implementation of the work programmes. Our looking at options for how the carers allowance increase, which is not a UK Government policy, might be delivered early is another good example of that.

Stephen Kerr: It is fair to say that I work for a group of ministers who I do not think would allow us just to accept the views of the UK Government ministers. They are—rightly—always pushing us to secure the outcomes that they seek to achieve.

The Convener: Stephen Hepburn has a supplementary question.

Stephen Hepburn: Bearing in mind that the two systems are evolving either side of the border, I wonder whether there are any border issues. If there are, can you give us examples of how you are overcoming them?

Pete Searle: I do not think that we have come up against many so far, but I would expect there to be some border issues. For example, when someone on one side of the border is caring for someone on the other side of the border, there might be issues with the policy detail of how that will work as we go forwards. I do not think that we have come up against any concrete problems so far, but we are probably at a fairly early stage of policy development in Scotland and that is the sort of thing that we will need to look at closely.

Stephen Hepburn: Do you have any special working party that is looking specifically at possible border problems?

Pete Searle: No particular working party is looking at that issue. We will probably take each policy as it comes, work through it and think about border issues as part of that work. It might be that, over time, we reach the stage where it looks as though it has become a bigger cross-cutting issue that we would need to look at separately across a number of areas. However, at the moment, we are taking it on a policy-by-policy basis.

Stephen Kerr: Just because a forum or a group is not looking at the issue does not mean that

people from my team and from the DWP are not looking at it—they are. They are talking about cross-cutting issues such as residency. For example, in our bill, we will have to be able to mark out, for the first time, the territory of who is a Scottish benefit claimant. As we start to implement the legislation, there will be a requirement to keep the issue under review.

Chris Law: Given the timing challenges that you face with some of your policies, are your ministers open to delaying implementation—and preparing for such a delay—if no common agreement is found between the two Governments?

Pete Searle: The UK Government has clear policy positions on what it wants to implement across the UK at certain points. It is open to having conversations with the Scottish Government about what it wants to achieve and how best we can do that. I think that it is fair to say that, generally, the UK Government would be reluctant to delay its plans in the light of difficulties between the two Governments on implementation, because it wants to deliver what it is committed to publicly. However—crucially—it would want to talk extensively to the Scottish Government to try to find a common way through that could meet both Governments' needs.

Stephen Kerr: On implementation, I do not think that there is a minister in either Government who would just crack on regardless of an issue that arose. There are things that I must do in the Scottish Government to enable our system to be ready, and there are things that DWP must do to ensure that its system is ready, too. No one is going to proceed with decisions on either side until we are both happy that we are good to go. The term “safe and secure transition” was not made up overnight; it sits deeply at the programme's heart. After all, this is about people, and it would be a difficult and bad position for both Governments to be in if we were to press on regardless without being satisfied that we were good to go on the implementation side.

Mark Griffin (Central Scotland) (Lab): Pete Wishart touched on the UK Government's intention to abolish the bedroom tax and the apparent conflict with the benefit cap. The previous panel's position, which seems to be many people's position, is that the agreements on the fiscal framework and the policy of no detriment mean that, if the Scottish Government were to abolish the bedroom tax and make any change to make more generous provision in a benefit, create a new benefit or top up a benefit, that money would not be clawed back. Is that both Governments' agreed positions?

Mary Pattison: Both Governments are clear about the outcome: there would be no detriment.

We are trying to work through a technical way of ensuring that there is no difference.

Mark Griffin: To clarify, you are saying that there is no political difference—the political will is that there should be no detriment, and that the Scottish Government should be able to carry out its ambition without any penalty being imposed on any recipient in Scotland—and that it is purely a technical issue.

Pete Searle: It is a technical issue. In the short to medium term, we are focused on the outcome that the Scottish Government wants to achieve: to reverse the removal of the spare room subsidy through UC and to ensure that the people who have been affected by its removal are able to benefit from that.

In practical terms, in the short term it is difficult to do that through the UC system, so we are talking about alternative ways in which it could be achieved through discretionary housing payments. In effect, the Scottish Government would pay no more than it pays in total for the removal of the spare room subsidy change, but it would do that through discretionary housing payments rather than through the UC system. That is a technical, practical option for how we might address the issue in the short term, and we would look at longer-term solutions later.

Stephen Kerr: We cannot really divorce the two things, as I think that my DWP colleagues will agree. The Government's manifesto commitment was to abolish the bedroom tax "at source"; those two words are really important, because they refer to the UK Government's universal credit system, which is still being built, developed and rolled out across the UK. Getting into that system is what is required to deliver that manifesto commitment, and when you hear language with regard to the technical aspects of implementation, that is what the discussion is referring to.

I also underline the point about the outcome. Our ministers have made that outcome very clear: the UK Government's policy should be reversed, and the benefit cap should have no impact in that respect. That has been heard loud and clear; that is what we are focusing on; and with, for example, housing benefit, our discussions are all about how one gives effect to that policy.

The Convener: Did you want to come back in, Mark?

Mark Griffin: Just briefly, convener. Does the Scottish Government have a continuing commitment to mitigate the bedroom tax until it is, as you have said, removed "at source"?

Stephen Kerr: Yes, that is the commitment that ministers have made.

Ruth Maguire (Cunninghame South) (SNP):

Good morning, panel. I want to ask a little bit more about the experience panels. I think it inherently sensible to use the expertise of people who have lived experience of benefits, but how do you view the dilemma that might arise if you go down one road with delivery and the views of the experience panels show that they want something different?

Stephen Kerr: You are right to say that this is the correct approach for such an undertaking. If we end up with complete divergence, we will have quite obviously done something wrong, because the panels are there to help us develop the system, the policy and the practice. Might there be occasions when we cannot deliver what the panels want? Yes. Will we explain why? Yes. Will we then focus on compromises, different ways of achieving the same outcome and the best ways of overcoming the issue that has been identified? Absolutely.

The experience panels will provide quite a rich source of evidence, but they will not be the only place we will go to. For example, there is the new disability and carers benefits expert advisory group—I can never remember the name of the thing myself, but there you go—chaired by Dr Jim McCormick, who will be familiar to many people around the table. That is another place where the voice of individuals claiming benefits can be captured.

We are quite excited about this. I do not know whether you have ever seen any Scottish Government analysts—actually, I do know; Dr Signorini comes here and is always very disappointed that you never ask him any questions. His team are wildly excited by all of this, because they think that this is a magnificent approach to policy that the Scottish Government is taking, and we are looking at it as something that will provide us with a huge seam of evidence over the next few years.

Ruth Maguire: I think that the experience panels approach is the right one to take. After all, if everyone is clear about why decisions are being taken, we will avoid any mishaps arising from different directions being taken.

Alison Johnstone: I feel that we have heard relatively little from either Government about the issue of topping up reserved benefits. Do the systems for such topping up currently exist?

Stephen Kerr: If you are talking about whether the DWP systems allow that to happen, we are looking in particular at carers allowance. You have heard a bit about the feasibility work that has gone on, and at the moment we are trying to understand the options with regard to the DWP doing that on our behalf or whether there are any other routes.

We have talked about governance and programmes, because it is important for members of both committees to understand that, although there is a lot of informal contact, the Scottish Government also works in a formal way. I have to look at the study that will be produced and decide whether, for example, the value-for-money case stacks up. We have put in place project boards to look at the carers allowance work, and that work will come to a programme board of which I am a member, too. We are currently going through a process to understand whether the DWP systems could top up carers allowance, what the costs would be and how quickly that could be done.

11:15

Mary Pattison: Carers allowance is the first UK Government benefit to have been looked at from the point of view of a variation being made in advance of the benefit being fully devolved or during the transition period. My feeling is that, when ideas come forward for topping up reserved benefits in future, there will be discussion between the two Governments about the feasibility and the deliverability of that. That is a hybrid area, because it is a devolved benefit.

Stephen Kerr: When the systems in question were developed by the UK Government, the scenario that we are in now was never envisaged, so we are having to look at the capability of infrastructure that, in many cases, is several decades old and whether it can cope with that.

Alison Johnstone: My party would like child benefit to be increased by £5. Is any discussion taking place on what might happen if, in future, a Scottish Government proposed such a change?

Mary Pattison: No, not as far as I know.

Stephen Kerr: No. I am focused on what the current Scottish Government is doing.

Mary Pattison: Child benefit is administered by HMRC.

Adam Tomkins: In our discussion with the previous panel, we heard quite a lot about the importance of transparency. It is in all our interests as parliamentarians, regardless of which Parliament we serve in and of whether we are Government or Opposition politicians, to have as much transparency as possible in intergovernmental communications and intergovernmental operations.

It seems that the key piece of the interinstitutional architecture is the joint ministerial working group on welfare, which you have all been operating for some months. How can it be made more transparent so that we can do our jobs more effectively?

Stephen Kerr: I know that you have an answer to that, Professor Tomkins. You have raised with my ministers the idea of being in the room when the discussions take place.

Adam Tomkins: You are putting words in my mouth.

Stephen Kerr: You should explore such issues with our ministers. You will recognise that there is a balance to be struck between allowing the space for the necessary discussions to take place between ministers and making sure that there is a degree of visibility about what is discussed when those discussions take place. As you all know, ministers are accountable to both Parliaments, so you can ask them questions at any time in this committee.

I would like to move the question on to an area that I can say something more about. In the discussion with the first panel, it was asked whether officials could do more with stakeholders, for example by having forums between officials and stakeholders. I think that we were all struck by that suggestion, and I would be very happy to consider it, but as far as the transparency of the ministerial group is concerned, we would ask you to explore that further with our ministers next week.

The Convener: Ian Murray has a supplementary question.

Ian Murray: To an extent, I agree with Mr Tomkins. We saw the communiqués that came out of the joint ministerial committee meetings on the fiscal framework. I remember one, in particular, that said that the Scottish Government's finance secretary and the Chief Secretary to the Treasury had met, that it was the sixth time that they had met and that they looked forward to meeting again soon. That was the extent of the minute of that meeting. We understand why there is a bit of frustration about our ability to hold the Governments to account when we do not really know what is happening in such discussions.

My question is about the way in which your respective organisations are working together. You are undoubtedly doing a tremendous job in pulling together extremely complex issues that ultimately affect the lives of the most vulnerable and it is, therefore, incredibly important that we get it right. A communiqué was issued in October last year about splitting executive competence for two of the remaining competencies—disability allowance and carers allowance being the biggest of them—from legislative competence. Will you explain why you came to that decision? Why do those two competencies need to be split to push the process out to 2020?

Pete Searle: The purpose is to ensure that the system can carry on and that people keep getting

the very important benefits that they need to get while the Scottish Government develops its plans—particularly its legislation—for the new system that it wants to bring in. The communiqué says that, in the short term, we can give the Scottish Government legislative competence. It can introduce its social security bill a bit later in the year, and the point at which that is commenced will be the point at which we transfer executive competence. In the meantime, the UK Government can retain that competence so that it can carry on delivering benefits and people can carry on getting those very important payments.

The crucial thing is to ensure that only one Government has executive competence at one time, so there is an immediate point of transfer when the UK Government will pass that across to the Scottish Government. At that point, the Scottish Government might still want the UK Government's support in delivering some benefits and on some issues, but we would deliver for the Scottish Government very much under agency agreements rather than for ourselves.

Stephen Kerr: That could be put in another way. If we did not do that, what would happen when we passed our legislation? We would become responsible for delivering the benefits but, with the best will in the world, we would not have the infrastructure in place in time to do that. That is why there is a need to separate those things out.

Ian Murray: Why is the approach for those two competencies different from the approach for the other 10 or 11 competencies out of the package of 13? Are they just easier to administer because there is a single transfer?

Pete Searle: The ones that are left over are, in essence, the benefits that we currently deliver. The employability support is different because it is transferring across pretty much immediately, and discretionary housing payments will transfer this April, but the other 11 or so benefits need to carry on being delivered throughout the transition period. That is why we have taken that particular approach.

That is a really good example of the two Governments and the two sets of officials working closely together to find a solution that works. Crucially, it provides a seamless transition for the customer, first, and for both Governments.

Margaret Ferrier: I think that Stephen Kerr mentioned briefly at the beginning of this session the involvement of the Scotland Office. Will you expand on that? What has its role been in ensuring the smooth transition of powers between both Governments? Could it do more, or is it doing enough?

Stephen Kerr: The Scotland Office is not represented here today. If we have had lots of fun

today, we might think about reconvening with the Scotland Office, too. It provides a useful place for both Governments. If I do not quite understand what is happening behind the scenes at a UK level, I can pick up the phone and speak to people in the Scotland Office who can help. Scotland Office ministers are always keen to broker compromises between the Scottish Government and UK Government departments. David Mundell is very active in that regard. The Scotland Office can also sometimes help to unblock things that happen from time to time at official level. If the Scotland Office was not there, we probably would miss it and think that there was a need for something like it in the system to make the devolution of the powers that we are discussing, in particular, work.

Mary Pattison: Yes. The Scotland Office brings expertise from having worked in the area for a long time, and we can go to it for advice about issues to do with Scotland. As Stephen Kerr said, it can help us, not least because it has a picture of the whole landscape of devolution and what is happening. It can also potentially show us good practice in other departments, which we can learn from. It can hold the ring on that, as well.

Deidre Brock: Mr Searle and Ms Pattison, how do you respond to the previous panel's suggestion that the sheer size of the DWP is a problem? Although a few senior civil servants such as you have a great knowledge of Scotland and devolution issues, many others in different sections of the DWP do not, and they do not think at all about the impact on Scotland of changes that they might introduce. What specifically can you do to improve that situation?

Mary Pattison: We have a devolution capability building plan, which is made up of a number of elements. For example, we have a network of devolution champions who meet about once a month and advise. They work on the implications of devolution with colleagues who are working on policy, operations or administration.

Nevertheless, it is fair to say that we need to continue to build knowledge and understanding. We are undertaking some joint communications, and we have a joint communications framework to ensure that colleagues in both organisations hear things expressed in the same way. The work that we did on employability for 2017 saw a lot of close working between Scottish Government colleagues and our colleagues in Jobcentre Plus to work through and understand the implications of the changes and what they will mean in practice.

The work takes place on different levels in that colleagues who are working on policy need to think about devolution in terms of policy and our staff who are working on the ground in our front-line offices need to understand the implications of

support coming directly from Scotland and the interactions involved. As we work through the implementation, there has to be, alongside that, a robust communications learning and development plan. We have already talked a bit about communicating with the public, and it is just as important that we communicate with our staff about the changes and the different landscape that we are working in.

It is still a work in progress because, as was said, the DWP is a very big organisation. We have an intranet site on devolution that is updated regularly. It is about ensuring that there is a general understanding so that the policy colleagues who are working specifically on policies that might have an impact gain a deeper understanding and that, when we implement changes, the staff on the ground who are working with those changes understand how they work in practice. It is about awareness at those different levels.

Deidre Brock: It sounds as though there is some good work going on. Can you give an assurance that what happened with the jobcentre closures, which a Scottish Government minister was not informed of despite the area being his responsibility, will not happen again? Are there sufficient structures in place to prevent anything like that from happening again?

Mary Pattison: I was not directly involved in that, but I believe that there were specific issues to do with the commercial arrangements around the Jobcentre Plus closures. However, generally, when we are working on future changes that might have implications for Scotland, the idea is that we will build our knowledge within the department in that regard.

George Adam: It is good to hear that all the officials are working together and that things seem to be going well in that respect. It is nice to know that the civil service can have a wee team huddle and get things sorted out. However, the fact is that, as was mentioned earlier, the officials involved have different political masters. Does that lead to tensions between officials regarding delivery? For example, does it mean pressure for Stephen Kerr to deliver earlier than he would expect to? How does trying to deliver for two Governments that are diametrically opposed on some matters add to the tensions for civil servants? For example, the Governments do not agree on what they call the service: one calls it welfare and the other calls it social security. How do you manage to balance that out and make sure that you can deliver?

Mary Pattison: I have a couple of thoughts on that. We have focused quite a lot today on the issues to which you refer. When they arise, we try to work across the piece to find solutions wherever

we can and offer those up. Ministers from the different departments and organisations are clear that they want to see safe implementation of the devolution of powers. I am very experienced in undertaking programmes for change and would expect to talk to Stephen Kerr about delivery dates, how safe the programmes are, how we can make the delivery happen and about the risks and issues around anything. I know that the different ministers, following agreements about the devolution of powers, want the devolution to be safely implemented.

11:30

We are working through that, but we are delivering complex and significant change. It is a complex system involving a variety of welfare payments and benefits that interact with one another and with the DWP. We therefore need to work through that and, particularly on the DWP side, as the Scottish Government works through its plans and design, we need to understand both how best to provide what the Scottish Government needs for Scottish customers from our IT systems, our new business processes, our customer-facing products and what we may need to design into our system, such as new processes and new IT functionality. We must ensure that we get information flow both ways when that is needed. It is a complicated delivery but we will work through that together and talk to our ministers jointly. The joint ministerial working group will no doubt move on to milestones for delivery, how we are doing against them and so on.

Stephen Kerr: George Adam mentioned pressure, and I think that Mary Pattison dealt with the point about political pressure. We understand the political environment in which we work, but our job within that is to achieve ministers' objectives. Do we feel pressure in what we are doing? Absolutely. We tell everyone who comes to work in the area that these will be difficult jobs and hard times, but I have no doubt at all that we can do it, working together.

We have worked hard—I personally have worked hard—to develop an open, honest relationship with both the cabinet secretary and the minister. I enjoy working with them. They listen to and respect our advice, and we operate on the basis of no surprises. We therefore have the key ingredients that we need for working with ministers in the future to ensure that the endeavour is successful.

Pete Wishart: We will speak to ministers next week, and we are very much looking forward to that session. As senior civil servants, would you have the confidence to say to senior ministers, "Hold on a minute. This looks like it's cutting across devolved competencies. There might be an

issue that we want to alert you to”? Is it within your brief or competence to say clearly to ministers, “There’s an issue here”? I am thinking once again about the issue of housing benefit for 18 to 21-year-olds, which seems to be unresolved, possibly to the detriment of Scottish 18 to 21-year olds. What do you say to ministers on something like that?

Pete Searle: We would, absolutely, be open to sharing all the information and advice with them. If it looked as though something could cut across devolved competence or the Scottish Government felt that it could, we would make that clear to our ministers and put the options before them. In that particular case, as we said earlier, there are two Governments with two different objectives and policies. We need to work together to find the best way through, which we continue to do. Our respective ministers will talk about that further next week. We are still exploring. It is a challenge because time is tight, but we are working together.

The Convener: I have two supplementary questions, but time is short, because our MP colleagues have to head down to Westminster for the Brexit vote. Chris Law has a question.

Chris Law: It is interesting that you mentioned Brexit, convener. While we are on that topic, what will happen if, due to Brexit, other pressures or even plain political will, it is made clear that working with Scotland on a transition is not a key priority for the DWP? How would that affect staff working on the transition process at DWP level and the joint working relationship that Pete Searle said is key? I would like to hear from Stephen Kerr and Lisa Baron-Broadhurst on that as well.

Pete Searle: It is difficult to talk in the abstract, because that is not the position now: making this agenda work is one of our top priorities and I expect that to carry on being the case. Pressures will inevitably arise from all sorts of different directions, Brexit being one of them, so departments will need to think about how they allocate resource, but I cannot envisage a situation in which getting the right resource in place to support the agenda would not remain a priority for my department and my Government.

Stephen Kerr: That is good to hear, but I did not need to be here to know that to be the case at official level.

If the scenario that Chris Law is painting were to happen, as unnatural and unlikely as we think that is, the Scottish Government would look at how we could develop that work at our own hand. A lot of work needs to be done to establish an agency and that work could continue quite easily at our hand, but it is a joint programme of work for a reason. We are embarked on that together.

Lisa Baron-Broadhurst: The most important thing for me, which we have not quite touched on, is that everything that we do to join up the two Governments—the joint working, the workshops and good relationships that we have with the UK Government—is about what we are doing for the customer and it puts the customer at the heart of everything. We should not, and will not, come to a point at which we have to stop, because it has to be progressed in order to support the people.

The Convener: Margaret Ferrier has a small supplementary question.

Margaret Ferrier: It is quite a small question for Mary Pattison. I notice that you are the director of the pensions and ageing society policy area.

There has been some criticism regarding communication between the DWP and the Scottish Government. My colleagues and I also asked the minister whether the DWP would approach claimants and let them know that the jobcentres in their areas were closing, but it refused to do that. A lot of the women against state pension inequality did not know that those changes were coming down the road for them. There seems to be a bit of a pattern forming. How can communication between the DWP and its clients be improved?

Mary Pattison: We can always look at different ways of communicating with customers. As we develop the universal credit service, we are talking to people more online. The check your state pension service that is now online is very accessible and allows people to find out what their state pension will be. We continue to work through all sorts of different ways of communicating using new, as well as traditional, technologies. Sometimes letters are the right answer, although sometimes people do not see or respond to them and sometimes we do not get the right addresses for people. For various reasons, we want to look at a range of ways of communicating with people about DWP services.

Lisa Baron-Broadhurst: Even now, we are working together on a joint communications plan so that there are joint milestones to make sure that we talk to each other and inform the people who are due to receive those benefits. We touched earlier on how important communication will be—it will be critical that there is a seamless service and that people can go to the Scottish Government or to the DWP or to other UK departments. It is critical that we get that right.

Margaret Ferrier: Absolutely; perhaps we should have a communications minister, because we do not seem to have got it right so far.

The Convener: Thank you very much. We have learned quite a lot—I did not know that there were devolution champions. Are they in a specific group

or were they taken from various groups? In the spirit of transparency, can we get a list of their names?

Mary Pattison: They are officials within the department. Pete Searle has devolution policy in his area and I have not only pensions, but carers allowance, attendance allowance and winter fuel payment responsibility in my directorate, so there are champions from our areas. They work across that network and meet to ensure that they are building their understanding. They set up a devolution awareness week—I think that it was last week—during which there were lots of sessions for staff to find out about devolution.

The Convener: You have set up a group of devolution champions. Do they have any say about the memorandum of understanding or other groups? Who do they feed their information to?

Mary Pattison: Primarily, they feed information to Pete Searle's devolution team at the moment. However, as we start working through the implementation of devolution, they will potentially interact with the programme team. Their role will evolve over time.

Pete Searle: Going back to the earlier point, their primary role is to make sure that it is not just people such as me, Mary Pattison and our teams who understand and work in that space. Instead, people right across the department will understand what the Scottish Government wants to achieve and what we need to do to support that, and they will not do things that cut across it. We do not always get it right every time, but we certainly try to.

The Convener: Perhaps I can be a wee bit cheeky and ask Stephen Kerr a question. Devolution champions are feeding in and there are minutes that talk about communication and transparency. Would the committee be able to see those papers or minutes?

Stephen Kerr: The devolution champions are a DWP initiative.

Pete Searle: It is not a formal piece of governance in that way; it is more a network of officials in the DWP who ensure that that awareness of devolution exists. It is not something for which we would have formal minutes.

The Convener: Are there any minutes at all?

Pete Searle: I am not aware that there are. There might be some sort of high-level internal record of what has been discussed, but it is just a mechanism for raising awareness at official level throughout the organisation. It is nothing more than that.

The Convener: I do not want to labour the point, but you have talked about transparency and

corresponding with people. The issue of the jobcentre closures has been brought up on a number of occasions. We visited Musselburgh jobcentre and spoke to people there, and they said that no one from the DWP told them that it was in the process of closing the jobcentre. I wonder why, if the information that you are collating from the devolution team can be fed back in, elected politicians cannot be party to that knowledge. I would like to know what those officials are feeding in.

Pete Searle: It is partly about what they are feeding in, but it is also about what they are feeding out to their teams. It might be that someone is working on labour market issues and their role is to ensure that their wider team—their colleagues in that part of the DWP—you understand and are thinking about the devolution consequences of their policies.

Going back to the issue of the DWP estate, I know that it is a sensitive issue but the closure decision followed sensitive commercial negotiations and it simply was not possible to make that information widely known before those negotiations had finished. It would not have been in the interests of the taxpayer to do so. I know that people are not happy with that, but that is the reason for that situation.

The Convener: The DWP certainly did not communicate with the landlords. In areas of Glasgow—in Castlemilk, for instance—the landlords approached the DWP and said that they would accept reduced payments from the DWP, but nobody listened to them. I am not blaming you. Perhaps we can raise the issue at our joint committee meeting next week.

Thank you very much for coming along. It has been a pleasure to speak to you and to get your information. I also thank the members of the Scottish Affairs Committee for participating in the meeting.

I remind everyone that our next meeting will be on Monday 20 March at Westminster, under Pete Wishart's auspices.

Meeting closed at 11:42.

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