



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 19 September 2019

Session 5



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SOCIAL SECURITY COMMITTEE

20th Meeting 2019, Session 5

CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

DEPUTY CONVENER

*Pauline McNeill (Glasgow) (Lab)

COMMITTEE MEMBERS

- *Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)
- *Jeremy Balfour (Lothian) (Con)
- *Michelle Ballantyne (South Scotland) (Con)
- *Keith Brown (Clackmannanshire and Dunblane) (SNP)
- *Mark Griffin (Central Scotland) (Lab)
- *Alison Johnstone (Lothian) (Green)
- *Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Colin Brown (Scottish Government)
- Terry Shevlin (Scottish Commission on Social Security)
- Shirley-Anne Somerville (Cabinet Secretary for Social Security and Older People)
- Dr Sally Witcher (Scottish Commission on Social Security)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Social Security Committee

Thursday 19 September 2019

[The Convener opened the meeting at 09:09]

Young Carer Grant

The Convener (Bob Doris): Welcome to the 20th meeting in 2019 of the Social Security Committee. I remind everyone to switch mobile phones and other such devices to silent mode.

Agenda item 1 is an evidence session with the Scottish Commission on Social Security, on its report “Scrutiny Report on Draft Regulations: The Carer’s Assistance (Young Carer Grants) (Scotland) Regulations 2019”. The Scottish Commission on Social Security is an advisory non-departmental public body that was set up to provide independent scrutiny of the Scottish social security system, including benefit regulations. The young carer grant regulations are the first to be scrutinised by the commission.

I welcome Dr Sally Witcher, who is the chair, and Terry Shevlin, who is the secretary, from the Scottish Commission on Social Security. Good morning and thank you for coming. I invite Dr Witcher to make an opening statement, then we will move to questions.

Dr Sally Witcher (Scottish Commission on Social Security): Good morning, and thank you for the invitation to provide evidence on our report on the Scottish Government’s young carer grant regulations. I am giving evidence today on behalf of the whole of the Scottish Commission on Social Security.

This is our first report, so I hope that it will be helpful to make some broader points about SCOSS—as we have come to be known—before I highlight key issues from our report. Above all, I stress that we are an independent body; we are independent of the Scottish Government, the Scottish Parliament and the organisations that each of us works for in our day jobs.

We want to ensure that our work adds value and contributes to the development of a Scottish social security system that is effective at meeting people’s needs. Therefore, we would welcome the committee’s feedback on the usefulness—or otherwise—of our report, which was partly designed to inform the committee’s consideration of the draft regulations. I appreciate that the committee might wish to do that informally or offline, but we would welcome any views that you have on the report and our approach to it.

SCOSS was created in response to Parliament’s concerns that were expressed during the passage of the Social Security (Scotland) Bill, about the need for independent scrutiny of the Scottish Government’s social security proposals. Our new role will not, of course, usurp the committee’s expert scrutiny role. SCOSS is a very new body; we officially opened for business in February this year. The board has four members, including me, as chair. Members work for a limited number of days—therefore, we need to manage our time carefully.

SCOSS has a statutory role in providing independent expert advice as part of super-affirmative scrutiny of draft Scottish social security regulations. The Social Security (Scotland) Act 2018 specifies the benefits on which we are to report. In addition to reporting on draft regulations, the 2018 act defines our other two roles, which are reporting from time to time on the extent to which expectations in the social security charter are being met and making recommendations for improvements, and providing reports that are requested by Scottish ministers or the Scottish Parliament on any matter that is relevant to social security. We have been considering how we can best perform those duties and will be happy to discuss that with the committee at a later date.

I will return to the agenda for today’s meeting. We want to ensure that all our reports on draft regulations are consistent, rigorous and comprehensive. We have devised a draft scrutiny framework that sets out the questions that we will ask when considering regulations and drafting reports. However, that does not mean that all our reports will address every issue that is highlighted in the framework; our approach might depend on exactly what the regulations cover, or we might want to focus on one or two key points.

The scrutiny framework reflects the statutory requirement that SCOSS must, in considering draft regulations, have regard to the principles in the 2018 act and in international human rights instruments. We would welcome the committee’s initial views on the scrutiny framework, which is annexed to our report.

I will turn to the specifics of the young carer grant report. We received the initial draft regulations on 30 April and published our report on 20 May. The cabinet secretary provided a response on 21 June, when the revised draft instrument was also laid. The grant provides new support to 16 to 18-year-old carers, who cannot always access the opportunities that many young people can access. We welcome the grant as a progressive new form of financial support that is consistent both with the social security principles and with human rights obligations.

We are pleased that most of our recommendations were accepted by the cabinet secretary, and we consider that the draft regulations are in better shape as a result.

Our report recommended further work in some areas of policy analysis and development, and in aspects of the regulations; in particular, we recommended that the definition of “care” and the qualifying period be revisited.

We also made a number of recommendations about issues to monitor. We might be able to consider further some of those points under our separate statutory duty to report on whether the expectations in the social security charter are being met. If so, we want to avoid duplicating any work that the committee intends to undertake.

09:15

We appreciate that members might be interested in exploring those recommendations to which the Scottish Government did not agree. We are happy to explain why we made a particular recommendation, or to comment on further issues that the committee might wish to discuss with the Cabinet Secretary for Social Security and Older People. However, we do not intend to issue formal responses to cabinet secretary and Government responses. If we feel that there is a showstopper—something that is of real significance—our role is to put that in our scrutiny report. We suggest that it is the role of the committee to come to a view about whether the Government’s responses are adequate; otherwise, we will begin to blur the line between where our role stops and where the committee’s starts. Our role is about independent analysis.

Given that the report is our first, drafting it was a significant learning process for SCOSS members. Some of the recommendations were really requests for more information, because we came in halfway through the process. We expect that future reports, for which we will be involved right from the outset, will be more streamlined. We are also very keen to consider other suggestions for improving our scrutiny in order to best meet the committee’s needs.

We are very happy to take questions. Thank you.

The Convener: That was very helpful.

We will consider the specifics of the regulations in a moment. However, given that this is the first report, and the robust scrutiny that SCOSS has carried out, it is reasonable that we consider the process a bit more. We can all agree that the regulations are positive and progressive, and that they will make a difference to young carers. However, that does not mean that we should not

scrutinise them robustly to make sure that they are as good and as fit for purpose as possible.

Clearly, SCOSS would like the Government to accept all the recommendations that it makes. However, that will not always happen. Do you feel that the Government has made a proportionate response in relation to the overall process and your engagement with it? Are there lessons to be learned in relation to how the process worked?

Dr Witcher: There are always lessons to be learned. However, we had good involvement with officials throughout, who were helpful in providing us with information. Clearly, the issue was that we came in midway through the process and were not able to be involved from the outset. We wanted to get the report ready in time for it to be laid with the regulations, so there was limited time within which we were able to get additional information. The Government answered many of our questions and, although it has not accepted all the recommendations, we were very encouraged to see movement on areas that we considered to be of particular significance.

I also highlight that there will be opportunities to revisit quite a lot of the issues further down the line, when it comes to discussions about carers assistance. Inevitably, this process is just the starting point; however, as a starting point, it has been positive and progressive.

The Convener: A number of members want to ask about the process more generally. I—and others—will come back to ask for your thoughts on specifics.

Mark Griffin (Central Scotland) (Lab): I will ask about your general reflections. Obviously, this is the first report on regulations. I am very grateful to receive it and to see the amount of work that has gone into it. In reflecting on the process of producing the first report, will you say how the engagement with the Government was? Was the role of the commission valued and did it change the shape of the regulations sufficiently, in relation to the work that you put in?

Dr Witcher: Yes. As I said, we had good engagement with officials—not just around the young carers grant specifically, but more generally. I met unit heads and the whole division to talk about our role. It has been a learning process for everybody. We are developing a protocol on how we will work with Scottish Government officials, what we need from them, timelines and such like. We all want to get the most out of the engagement, so that protocol will help to crystallise and clarify our role to the benefit of everyone.

The engagement has been positive, although there is a lot of learning to do. We are a new part of a process in which new timelines need to be

factored in. We want to ensure that we have enough time—as we should have, according to the Social Security (Scotland) Act 2018. However, the reality is that there are commitments around when things will need to go live, and there are deadlines for when regulations must be laid. If we want to have an impact, we must ensure that we are given the time to do what we need to do to make that possible.

There has been a lot of concentration on bodies including the expert advisory group, and there have been lots of recommendations. The committee was involved in scrutiny. There is overlap, but we have come up with additional points, which shows, I hope, that we are adding value.

Keith Brown (Clackmannanshire and Dunblane) (SNP): My questions are in the same area as Mark Griffin's. I wonder about your obligation to consider the complexity that new regulations might present. I notice that you have recommended that the Scottish Government should check whether a particular invalid benefit that is provided by the Department for Work and Pensions is now finished.

Notwithstanding the fact that not all your recommendations were accepted in their entirety, are you satisfied that what is being proposed does not add unnecessarily to complexity? In the process of coming up with your recommendations, have you engaged with the UK Government?

Dr Witcher: We have not engaged with the UK Government. We have had some dealings with our sister body down south, which is the Social Security Advisory Committee. I have good links with that committee—in fact, I spoke to representatives of it this week. It has been helpful to get a sense of how the SSAC does things and to make some useful comparisons.

Could you say what you mean about additional complexity? I did not quite get your point on that.

Keith Brown: You have recommended that the Scottish Government check with DWP that it is no longer paying a particular invalidity benefit. In your scrutiny framework, one of the things that you have said that you will do is ensure that no unnecessary new complexity is brought in. Considering where we have ended up today, to what extent has that test been met?

Dr Witcher: There are occasions when complexity will be desirable—or rather, when difference will be desirable. For example, the carers allowance requires 35 hours a week of care, whereas 16 hours are required for the young carers grant. We would not argue that those requirements should be aligned in the interests of making things simpler. That is clearly not the point.

We need to look for what the unintended consequences and interfaces will be—not just in relation to benefits, but more widely. For instance, there might be implications whereby a benefit plugs a gap that would be better filled through social care support, mental health services or respite care. It is, unavoidably, a complex environment. If you change one bit, that will have consequences for other parts of a much wider system that is comprised of a wide range of forms of support.

We need to be as clear as we can be about the various interfaces and to check that the different elements do not undercut each other or operate counterproductively for the people who are, ultimately, on the receiving end. We have to engage with that complexity. The aim is to minimise it where we can and to point out where unnecessary additional complexity is being created. I hope that that is what we have done, and I hope that that is how we will go about scrutiny.

Keith Brown: When you are talking about complexity, as it is detailed in the framework, is it from the point of view of the benefit applicant or recipient or in relation to how the Government and agencies deal with it? Or is it both?

Dr Witcher: That needs to be considered across the piece. Clearly, the level of complexity is critically important for the person who is on the receiving end. One of the reasons why benefits are not taken up to a greater extent is that the system is far too complex—it is a maze. We must, of course, keep it as simple and as light as possible from the perspective of the user.

However, to deliver benefits efficiently—which is also very much in the interests of the user—the admin side must also be kept as simple as possible, so addressing just one part of the system will not necessarily cut complexity. Ultimately, the focus is on getting the best possible outcome for the person who is using the system, but that will not be achieved if all that is focused on is the point at which the person applies.

The Convener: We will look at some of the specifics of the regulations. Our committee, as well as SCOSS, I think, has been discussing with the Government the issue of young carers who may not qualify. Certain elements of disability benefits still do not allow people to access the young carer grant and there are restrictions that mean that the Government could not create an alternative passported benefit.

Do you have any reflections on the eligibility criteria relating to the qualifying benefits of the cared-for person? On balance, has the Government got it right, or should it go further, whether this year or in future years?

Dr Witcher: From the figures, you can see that a lot of young carers, even within this age group, will not be covered. In theory, there is always scope to do more for more people. I suspect that one of the issues is what disability benefits the person who is being cared for needs to have in order for that person to become eligible for carers assistance.

A lot of regulations on disability assistance are coming up and the Government has competence to do things differently, whatever it wishes or intends to do about this issue. There may indeed be scope to do more, but you can pick that up in the disability assistance regulations.

The Scottish Government has also referred to continuing engagement with young carers. That could be an important way to identify who is really missing out. One of our concerns is that the responses to our recommendations on equalities show that the data is not there.

We want to be clear about whether particular groups of young carers are missing out. That could be established through engagement. There may be the legislative scope to do more within the Scottish Government's competence shortly. It is also about the monitoring and evaluation of what is put in place to get more learning about who is missing out and where particular initiatives might need to be targeted.

Pauline McNeill (Glasgow) (Lab): You have largely covered the points that I wanted to raise, but a particular concern of mine is the construction of the regulations. It may come down to issues to do with our competence but, in principle, I would have preferred it if a way had been found to widen the scope for eligibility beyond qualifying benefits. I am sure that we miss out lots of people who are caring for someone simply because that cared-for person is not on a qualifying benefit. I know that you share my concerns and the concerns of the convener about that. How can we keep this issue under constant review?

Dr Witcher: You have the means of engaging with people—indeed, you will be talking to the cabinet secretary right after this session. You may wish to explore those issues further with the cabinet secretary.

At this stage, I am not sure that there is a great deal more that I can say. I think that there are opportunities. Our role is not to set out policy direction but to scrutinise regulations. It might be helpful to draw a distinction between where our remit stops and those of the committee, the cabinet secretary and the Scottish Government start.

09:30

In an ideal world, we would love everybody to get everything that they could possibly need in order to have the fullest possible lives; that is what everybody would want, but it is never going to be that straightforward. Therefore, the question is about the judgments that policy makers must make and the basis on which they make them. Our role on this occasion was to scrutinise the regulations that were put before us and to make recommendations in that regard. I hope that that is helpful in separating out a little bit where our role stops and those of others start.

Jeremy Balfour (Lothian) (Con): I add my thanks for all the work that you have put into this. I have two areas to explore. The first is the fact that, when there is more than one sibling in a household, only one sibling can get the money. Do you have concerns about that and is it something that we should revisit in the future?

Dr Witcher: The challenge is to get the balance right. Such judgments are clearly not straightforward, and there are trade-offs between having a system that is straightforward to deliver and will much more easily get to a particular bunch of people, and doing something that is more onerous to verify and which would require additional evidence. It will always be a balancing act.

On this occasion, our view is that, as is proposed, the grant should be aimed at one sibling and not others. To do otherwise at this stage might engender greater complexity, which could risk problems for the people who claim it. It is a trade-off, and no doubt it would be well worth monitoring the position to see whether there is an issue. As I said before, monitoring and evaluation, and the framework for that, will be very important, but we need to start somewhere.

Jeremy Balfour: Your point that we have got to start somewhere leads nicely on to my second question. The Government came up with a figure of £300 for whatever reason. Clearly, the amount will be a budgetary decision for the Parliament to make over the coming years, but do you think that £300 can make a significant difference to a person? Do we need to review that in years to come, to decide whether that £300 has made a significant difference with regard to what the benefit is meant to do?

Dr Witcher: We recommended that there should be monitoring and evaluation of the impact that the grant has had on people's lives. The short answer is that, at this stage, we do not know. I would take seriously the views of young carers themselves about whether it is helpful. I think that the view was that they do, and other stakeholders thought that there is a good balance between

making a contribution and not somehow implying or reinforcing the idea that young people should be in a carer role.

It goes back to the point that I made earlier about the right balance between the different forms of support and the role of each of them. We would not want a situation in which people are given cash benefits as a means of plugging gaps in social care support. Maybe the best way to deal with that issue is not by channelling money to individuals but by doing more to improve social care support. Those are big questions and we do not know the answers at the moment.

There are lots of possible alternatives, such as proposals around paying the grant more frequently, but that would bring administrative and other issues. As I said, it is a good starting point and a positive initiative, but there will be a lot to learn. That is why SCOSS was keen to highlight a number of issues that we felt it would be critically important to monitor. That is the case not just for the young carer grant but because the young carer grant may have implications for carers assistance and disability assistance. There could also be learning there.

Alison Johnstone (Lothian) (Green): It has been an interesting discussion this morning. You say that everyone might be tempted to question the £300, but you also say that society should not accept that caring is purely a role for young people and that we should pay them for that. We need to look at social care and other issues in the round.

In the SCOSS report on the draft regulations, the foreword says:

“It is our hope that this package of support will continue to evolve and grow over time, as the impact is measured.”

Does the commission have the resources and capacity to do that fully?

Dr Witcher: I am pretty sure that it is not our role to do that. That is a matter for policy makers. If it had an interest, it would perhaps be for the committee to keep that on the agenda.

There is scope to develop the young carer grant as well as the wider package of support that includes travel concessions and other things. It is a starting point. Our role in that is around the regulations. We also have an interest in monitoring and evaluation, because it might have implications for our role with regard to the social security charter. When we set out, we did not appreciate that, in some ways, those two roles come together, but we have increasingly worked out that perhaps they do.

That is all that I can say on that at this stage.

Alison Johnstone: I appreciate what you say about your role being in the scrutiny of the

regulations. The young carer grant was a Scottish Green Party manifesto proposal, which the First Minister welcomed whole-heartedly. I envisaged that it might include more than 2,400 young people, so there is the question of the eligibility criteria, which Pauline McNeill and others have mentioned.

I know that you are about scrutinising the regulations that are brought forward, but do you think that the eligibility criteria are too narrow? What do you think of the Scottish Government’s justification for not extending eligibility to young adults over the age of 18 who are not eligible for carers allowance?

Dr Witcher: Once again, I need to be clear. We are not here to make judgments about policy direction. We cannot do that; that is not our role. We are here to scrutinise regulations. If, having looked at the scrutiny framework, we feel that there is a significant issue with the regulations, on occasion, we might come up with something that we feel is a showstopper. The fact that the eligibility does not go as far as it could is not a showstopper. To that extent, we support the initiative and the regulations.

The Convener: I have two more bids for questions. Time is upon us, so I apologise for the fact that they must be relatively brief questions.

Michelle Ballantyne (South Scotland) (Con): Dr Witcher, I found the report useful, particularly the policy framework, which helped me to understand where you came from in writing the report.

Dr Witcher: Thank you.

Michelle Ballantyne: Given that we are short of time, I will touch on one point, which is about the definition of care. You wrote a long piece on the issues with the definition of care. The cabinet secretary has come back and said, “Yes, we have changed it, but the regulations require a definition of care, because that gives a framework in which to work.” Does the revised definition meet the commission’s feelings about it? Does it go far enough? In the report, you imply that there ought not to be a definition.

Dr Witcher: We think that the revised definition is helpful. It is an improvement on what was there before. It is a challenge to reach the people who are eligible, many of whom will not identify as carers. There is a question about how to do that—what needs to go into the regulations, what needs to go into the publicity and what needs to go into the guidance.

What has been done is useful. When we get to the point of carers assistance—I note that there is not currently a definition for UK carers allowance—there may be an opportunity to reflect

on whether that has been helpful. Again, you might want to monitor what happens, to see whether there is any evidence that the definition has meant that people who could get it are not applying. We will be keen to see that it is not just young carers who are getting it who are involved in the monitoring and evaluation, as it is important also to include young carers who are not getting it. That might give us some evidence on that issue, as well as on many other issues.

Michelle Ballantyne: Was any evidence supplied that the UK's lack of definition has caused problems?

Dr Witcher: No. The only argument that might be made is that the group that we are discussing might not see themselves as carers. They might not identify as such for a range of reasons, whereas older carers might do so more readily. Because of that, there are some particular challenges to do with how we reach the people who are entitled while not going over the top and suggesting to a load of people who will not be entitled that they might be.

Michelle Ballantyne: Thank you.

Shona Robison (Dundee City East) (SNP): Good morning. It is obvious that you have a challenging and sometimes delicate balance to strike. It is notable that your recommendations set out ways in which the Scottish Government could monitor the impact, whether of the rate or of the criteria, and create an evidence base. For me, that is the kind of tone that comes through.

In recommendation 17, which has 12 elements to it, you talk a lot about monitoring, evaluation and research. I think that you said earlier that further discussions are being had about the commission potentially having a role in post-legislative scrutiny. Did I pick that up correctly? Is there some discussion about that, or am I reading too much into it?

Dr Witcher: This is where our two roles potentially come together. The charter contains a lot of commitments and expectations around how things are delivered, how policy is designed and who is involved in that, which is why we have commented on the process of getting to the regulations.

The principles, which we are obliged to look at when we scrutinise regulations and which are reflected in and translated by the charter into what people can expect, include the advancement of things such as equality and non-discrimination, so there is a lot here. There is, in effect, a continuous improvement principle.

For us to do our job both in reporting on the charter and having evidence of whether expectations are being met, as well as in

scrutinising regulations, we have to take that much longer view. What we will not do under our scrutiny brief is come back to check up on what has happened with regard to that issue. However, we would be interested to know about the monitoring and evaluation, first and foremost with regard to our charter role.

As I said, this is where the two things start to come together. We are still in the process of thrashing out how they come together, but there are clearly interconnections.

Shona Robison: It would be helpful if, once you have reached that point, you could come back to the committee with some further information so that we can better understand how those things align.

Dr Witcher: We welcome that opportunity and will be keen to get your views, too. Thank you.

The Convener: The deputy convener has a brief final question before we move on to the next agenda item.

Pauline McNeill: I really like the layout of your report. It is easy to read and easy to see what recommendations were adopted. I found it extremely helpful, so, like other committee members, I thank you for your work on it. In the earlier process, we were keen that there should be an independent analysis, because we all knew that we could do not do all the work on this, and we want to get it right. I put on the record my thanks for the work that you have done.

I also want to make sure that the super-affirmative procedure that we have ended up with is really super. The committee fed its comments back through the convener and we can see that there is some crossover and some similarities. Did you see the correspondence that we sent to the cabinet secretary? Do you see that?

09:45

Dr Witcher: I do not think that we do as a matter of course.

Terry Shevlin (Scottish Commission on Social Security): It is all published and we have had updates from the clerks. I was not here for that particular exchange of correspondence, but we are in contact with the clerks.

Dr Witcher: We have good communication with the committee clerk, via the secretary in particular, and, as Terry Shevlin says, there is a lot in the public domain. Maybe the question is more about the extent to which that is formalised. At the moment, we are looking at the case for protocols, for want of a better word, which would be for the benefit of everybody and would bottom out these kinds of issues so that everybody is clear about

expectations and timings and so on. That is a helpful question; thank you for raising it. I do not think that we had thought of that before.

Pauline McNeill: At this stage, I suppose that it is just testing how the process all fits together, because we will be asked to make a decision later on today, which will be to accept or reject the regulations. I will put the same question to the cabinet secretary. I want to be reassured that your report and the committee's comments are seen as one single part of the process. There are quite a number of points that we agreed with you on. Thank you again.

The Convener: Thank you very much to Pauline McNeill for raising that final question. The committee will have an on-going role in post-legislative implementation and scrutiny of the delivery side, given that payments may start to be made in a few weeks' time. Of course, we have mentioned the £300, so that takes us into budget cycles. SCOSS is not necessarily involved with either of those areas, but it will be good to get those lines of communication so that we are keeping a dialogue going, even if SCOSS does not necessarily have a formal role.

For the formal role that you do have, the committee thanks you again for all your work. It has been impeccable. We thank you for your time and your efforts.

09:47

Meeting suspended.

10:01

On resuming—

Subordinate Legislation

Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 [Draft]

The Convener: Agenda item 2 is consideration of subordinate legislation. The committee will take evidence on the draft Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019, which are subject to the affirmative procedure. The motion to approve the instrument will be considered under agenda item 3.

I welcome Shirley-Anne Somerville, the Cabinet Secretary for Social Security and Older People, and her officials, Nicola Davidson, young carer grant policy lead, and Colin Brown, senior principal legal officer. I thank you all for coming along this morning.

I invite the cabinet secretary to make an opening statement before we move to questions.

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): I begin by apologising for my croaky voice and the sporadic coughing fits that will accompany my contributions during this agenda item. I might rely on my officials more than I normally would at committee to ensure that I have some voice left for the members' business debate on Shona Robison's motion later today.

Young carers make an invaluable contribution to society. At a time when young people might be finishing school and undertaking new opportunities through work, study and travel, opportunities for young carers can be limited by their caring responsibilities. The young carer grant, alongside a range of other measures in the Carers (Scotland) Act 2016, will help to improve the quality of life for young carers and will promote a wider range of life opportunities to ensure that that group is treated with dignity, fairness and respect.

I welcome the chance to discuss the regulations today, and I thank Dr Sally Witcher and the Scottish Commission on Social Security for their input earlier in the process. Due to their recommendations, we have changed the regulations to allow breaks in care, broaden the definition of care, remove outdated terms and allow a redetermination to take place when a qualifying benefit is backdated, without the young person needing to reapply. Those important changes will improve how the young carer grant operates.

If approved, the young carer grant will be a brand-new benefit—unlike any other in the UK—specifically designed to support young carers.

As well as input from SCOSS, the regulations have been co-designed with the help of those who will be using the grant. Over the past 28 weeks, we have spoken with more than 100 young carers to ensure that the new benefit will work for them. That is on top of speaking with the young carer grant working group, carrying out a full public consultation, meeting with young carer panels and undertaking our user research.

I extend my appreciation to the Social Security Committee for its input early in the process, as well as to the disability and carers benefits expert advisory group for its recommendations. All those contributions have helped to shape the regulations, which were laid on 21 June.

I welcome the opportunity to discuss the regulations, and I am happy to take questions.

The Convener: I feel slightly guilty for asking questions. I hope that your voice holds out, and I am sorry to see that you are poorly.

We just heard evidence from Dr Witcher, and it is reasonable to describe the engagement between SCOSS and the Scottish Government as constructive, which we welcome. Dr Witcher said that there is a good starting point and that it is a positive initiative, which we also welcome.

As you would expect, we will look at some of the specifics of the young carer grant, one of which is the eligibility criteria. As you know, the committee was keen for the Scottish Government to consider opening eligibility to all those aged between 16 and 25 who are in full-time education, rather than just 16 to 18-year-olds. If that had been actioned, it would have increased from 2,400 to 9,700 the estimated number of eligible young people, which would have come with an estimated price tag of £3 million in 2020-21. That was one of the recommendations that you felt unable to accept, so I would welcome your thoughts on that.

Shirley-Anne Somerville: I appreciate that that was one of the areas that the committee asked us to look at. You are right to point out that extending to 25 the eligibility age limit would increase the expenditure from £700,000 to approximately £3 million for 2020-21. People might have different views on whether we have taken the correct decision to keep the benefit for 16 to 18-year-olds only, but we have to be clear to anybody who wants to extend the eligibility that there would be a budgetary implication with that.

The young carer grant is one element of a package of support for young carers. Further assistance is available to younger carers under the age of 16 through the Young Scot national

entitlement card, and we will be working with Transport Scotland to ensure that those who receive the young carer grant will also receive a bus pass. Due to recipients of the young carer grant being entitled to a free bus pass, the cost of extending eligibility to those aged up to 25 would be more than the £3 million that I mentioned.

The Convener: It is helpful to get that on the record.

One of the committee's recommendations that the Scottish Government was, thankfully, able to accept was an early review of the young carer grant. In your response to my question, I did not hear anything about extending eligibility not being a positive thing, apart from that it would come with a cost. I get that you might want to monitor the success of the initial tranche of 16 to 18-year-olds. Given that I did not hear any arguments against the extension of eligibility—other than monetary and budgetary reasons, and I get that budgets are tight—might the Scottish Government give consideration to that in the early review, which I think will take place after the first year?

Shirley-Anne Somerville: There would be implications with that, and we need to bear in mind that people might be eligible for and should receive the carers allowance rather than the young carer grant. That is an important consideration for carers as they get slightly older.

On the wider aspects of the review and ensuring that the benefit works as we intend it to do, monitoring and evaluation was important to the committee and SCOSS, and we are taking that very seriously, particularly because it is a brand new benefit. We have done extensive consultation with young carers and stakeholders to get the benefit fit for purpose, but there has to be constant learning and review when a new benefit comes in. It will be important to receive direct feedback from young carers and hear what they think about how the implementation of the young carer grant has worked.

The Convener: My committee members are not normally this shy about asking questions—I see that hands are now going up. The deputy convener was the first person to indicate that she wished to ask a question.

Pauline McNeill: We are testing the process. The draft regulations were published some time ago, under the super-affirmative procedure, and here we are today. We have heard from the Scottish Commission on Social Security, which was extremely helpful. The Government's response to the commission's report was also extremely helpful, because it accepted a number of its recommendations, and I put on record my support for that.

I want to ensure that the process is as robust as it can be. The cabinet secretary will be aware that the convener wrote to her with the committee's suggestions, some of which duplicated the commission's recommendations—which is good, because that means that we are thinking alike. I do not want to say that the committee's suggestions should have been given equal weight to those of the commission, but where did they fit into the Government's thinking in the process for coming up with the draft regulations?

Shirley-Anne Somerville: I understand that that question came up towards the end of the previous evidence session. To clarify, the Scottish Government gave information about the committee's recommendations to SCOSS. Some changes were made after the committee saw the draft regulations, so the regulations that went to SCOSS were not the same as those that came before the committee, but we ensured a flow of information. The way in which we operated with SCOSS on the young carer grant was slightly different, simply because SCOSS was a brand new organisation that came in about halfway through consideration of the young carer grant policy. That has meant that we will have a much greater period in which to ensure good communications with SCOSS.

In my deliberations, I look seriously at each point in the process to see what can be changed. As I said, when the committee gave its recommendations on the draft regulations, changes were made. The regulations then went to SCOSS, and further changes were made. I certainly consider it very important that, at every point in the journey, I look seriously at making changes, following recommendations that are made. I am not able to say that the Government will accept all recommendations from the committee or SCOSS every time, but, in many ways, I give all recommendations equal weight and consideration in order to get regulations fit for purpose for the next step in the journey. That work goes on even before the committee gets involved in the process. We ensure that we do what we can with stakeholders and young people in order to make regulations fit for purpose before we present them to the committee.

Pauline McNeill: The convener has partly covered this issue, but I am interested in how eligibility relates to qualifying benefits. I am fully aware of the barriers to going beyond such a system. Given that you have said that there will be a review, do you intend to come back to that issue and to meet UK ministers, if that is appropriate?

Shirley-Anne Somerville: I will bring in Colin Brown in a moment—partly to give my voice a rest.

During the review, we will look at what we can change. We cannot change areas in which we do not have competence. I am not sure what the point would be of reviewing areas in which we do not have competence and in which we therefore cannot extend eligibility, because we would not be able to do anything at the end of the process. If young carers say to us that there is a gap or a problem, we will need to look seriously at that. However, that would not be a matter that only the Scottish Government could consider; there would need to be a discussion about changing competences.

10:15

Colin Brown (Scottish Government): There are two levels of restriction but, in this case, they are effectively the same. One is the restrictions that come from the Scotland Act 2016, which are the powers of this Parliament and their limits, and then there is what the Social Security Act 2018 constrains, which is designed to reflect those limits.

A person's eligibility for any form of carers assistance requires that they provide "regular and substantial" care. That is not defined in the 2018 act, but the care must be regular and substantial, so there is a limit of a sort. It must also be care for a person to whom a disability benefit is payable.

Eligibility for the young carer grant is linked to care for a person in receipt of a disability benefit that would entitle their carer to carers assistance. Effectively, that means care for someone who receives any current disability benefit, which will include disability benefits that the Scottish ministers create. Such benefits would have to be for a disability as defined within the limits of devolved competence.

Eligibility is not unrestricted. There is some flexibility at the margins, but we cannot get away from the fact that the care must be for a person who is in receipt of a disability benefit.

Jeremy Balfour: I want to pursue the point that only one sibling can get the young carer grant. I understand the reason why you have gone down that road, but I have two concerns. First, will we end up with sibling rivalry where one person applies and gets more money and another one is giving care but not getting more money?

Secondly, will the system be first come, first served? If there are three members in the family, will whoever gets the form into the agency first get the money, even though they will not have to show that they are doing the caring? A sibling who is not doing the caring could apply for and get the money. My understanding is that those situations will not be checked by the agency and there will be no right of appeal.

I appreciate that I am talking about a small number of people, but I wonder whether you have thought that through.

Shirley-Anne Somerville: I gave serious consideration to that area. Indeed, when I was at the recent young carers festival, I spoke to young carers about that issue. I go back to some of the feedback that we got from the disability and carers benefits expert advisory group, and I understand that, in the earlier session today, Dr Witcher made some comments about ensuring that we make applying for the benefit as simple as possible. If we were looking at more than one sibling, the complexity of verification might put people off and make applying for the benefit more difficult and less simplified.

I looked long and hard at the issue and the decision was about balancing the need for simplicity against the understandable concern that a young person might not be able to apply when they should.

The benefit is administered on a first come, first served basis, so if you apply and get the young carer grant, you are the young carer for that cared-for person. To ensure that the benefit is as simple as possible, the only verification that is done is that the young carer must give the details of the cared-for person, and that cared-for person is sent letter that says that the young person has said that they are the carer. The cared-for person does not have to reply to that, so that there is no delay in getting the benefit, but it gives the named person the ability to say whether the care does happen and to feed that back.

I hope that that provides some reassurance on the process of verification that care actually takes place. We intend that the process will be as simple as possible—and have designed it that way—for both the young person and the cared-for person.

Jeremy Balfour: I know that the Government will be reviewing the policy, as you said in your letter to the committee. I feel that it would be worth keeping it under it review.

My other question is about how the figure of £300 was reached. It think that it has been welcomed by everyone, and it seems to be a good starting point, but I wonder how you and your officials decided on it.

Shirley-Anne Somerville: It came about through very early discussions with both the young carer grant working group and young carers themselves. A balance needed to be struck: we needed to ensure that the figure was significant enough to make a difference, but not in a way that might put pressure on a young person to take on a caring role or stay in one. Arguably, we struck that balance. The £300 figure seemed to work well

through the user testing phase that we used as a sense check.

Alison Johnstone: I would like to understand the eligibility aspect better. Given that a relatively small pool of young people will be eligible, are you content that that aspect is sufficiently wide?

Shirley-Anne Somerville: Part of the point that Colin Brown discussed earlier was that eligibility involves the person who receives a disability benefit. That is the basis on which we can provide a carers assistance benefit. We are slightly stuck in a loop, as far as the definitions of our competence on that are concerned.

I go back to the fact that this is one part of the support that is available to a young person who is a carer. Because the grants are not benefits, eligibility for them does not have to be verified in the same way. We are limited in what we can do on eligibility for a carers assistance package for a young person as far as benefits are concerned, but that does not prevent us from looking at wider aspects of eligibility in other parts of Government policy, such as the Young Scot entitlement scheme.

Alison Johnstone: I appreciate that answer.

Obviously we want to ensure that the 2,400 young people who are eligible for the grant manage to take it up. What steps are being taken to ensure that the take-up rate is as high as possible?

Shirley-Anne Somerville: As members will be well aware, one of the main challenges is that many young carers do not define themselves as young carers, so we have had discussions with the young carer grant working group and directly with young carers about where young people might get information and where we might best reach out to them. We have excellent working relationships with young carer and other stakeholder groups that can pass the message through their networks. The other challenge is that many young carers who do not see themselves in that role also do not attend local groups in their area.

We are taking very seriously the task of getting the message out in a medium that works for them. As with all benefits, that will be done in a specific way that will suit the demographic. As we move towards going live, I will be happy to provide the committee with further details of how we are doing that. All our benefit take-up challenges will be analysed to ensure that we are doing everything that we can. However, we recognise there is a particular challenge with this benefit simply because of the demographic, in that many of the young people involved who might be eligible might not feel that they are.

Alison Johnstone: We have to ensure that young people understand what a carer looks like and what caring involves. It would be helpful if we could continue to monitor uptake.

It would help the young people who understand that they are eligible if we made the process as simple as possible. I believe that the current carers allowance form is 25 pages long. Will the process be simple so that that someone who has caring responsibilities and other things going on in their life can get to grips with it quite easily?

Shirley-Anne Somerville: I would say that it is very simple; it is certainly not as onerous as the carers allowance process by any manner of means. I recently ran through a showcase with officials on both the paper application and the online application, and they were very easy to fill in. I am content that that is the case, because the application has been tested, retested and tested again with young carers to see whether it works for them. There is constant learning as we go through user testing, whereby we change the application form and the online process to work out what information the applicant will need before they start, so that we encourage them to apply and ensure that they know whether they are eligible. For example, we had a discussion around the video clips that could be used to explain the process in a way that is particularly designed for young people. They may not look like the standard Social Security Scotland videos, because they will be designed to suit that demographic.

For both online and paper applications, the processes have been simplified. Of course, the young person can also phone up Social Security Scotland's offices and submit the application over the telephone.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): Could you comment on the commission's recommendations about people who care for those with fluctuating conditions and changes to the regulations to make sure that everyone is captured? I am looking to establish whether you are satisfied that those concerns have been addressed.

Shirley-Anne Somerville: I certainly think that they have been addressed. The commission came back with a particularly important point in that regard. We had to look seriously at situations in which a young carer gives care, but the person for whom they care has a fluctuating condition or is in hospital for a period of time, or the young person is away from the cared-for person for a while. Such circumstances should not annul eligibility.

In order to be able to take account of fluctuating conditions, for example, our response as a Government is to look at care given over a period of time, rather than recipients having to

demonstrate that each week. I certainly believe that we have looked at the point seriously and that we have adapted as a result of the recommendations that we got back.

Shona Robison: You will be aware that a lot of the SCOSS recommendations centre around making sure that there is robust on-going monitoring and evaluation of the impact of the grant, presumably to build an evidence base, given that it is a new grant. Will you say a little bit about how you intend to do that, to make sure that, after the grant's first year of operation, we see a tangible evaluation of the impact that it is making in the lives of young carers?

Shirley-Anne Somerville: Absolutely. As I said earlier, monitoring and evaluation are critical, and even more so when it comes to a new benefit such as the young carer grant.

In common with all the other benefits that we have implemented to date, we will conduct evaluation research around one year after the launch. That will involve a summary of the management data on the administration of the benefit that we have available to us, any data from other Scottish Government sources and bespoke research with the recipients of the young carer grant. It is important to recognise that the cohort of people who come through in the first year will be reasonably small, so we need to ensure that, rather than simply relying on the management information that the agency receives, we speak to young people directly to get their feedback. All of that will be in place.

10:30

We will clarify the aims of the evaluation over the coming months. I know that the young carer grant working group is keen to play an advisory role in what that will look like. We need to use the working groups and contacts that we have for user research and policy development to assist us in designing the monitoring and evaluation system to ensure that it is fit for purpose.

Michelle Ballantyne: I want to go back to the definition of care. The commission suggested that it would be better not to have a specific definition of care in order to allow for more flexibility, and because having a definition might potentially impact on the subsequent replacement for the UK carers allowance. However, you have chosen simply to amend the definition to provide a slightly less defined term. Can you explain why you felt that not having a definition was the wrong way to go?

Shirley-Anne Somerville: A specific issue arises when we talk about young carers, which I discussed in my previous answers: many of the young people involved simply do not see

themselves as carers at all. We therefore felt that it was important to have in place a definition to give a framework for what a carer could be and to ensure that eligibility was clear. The commission advised that we look again at that area, and we did. I did not feel comfortable taking out the definition in its entirety because of the challenge of ensuring that young carers recognise themselves as such. We attempted to ensure that the wording was redrafted in a way that dealt with the concerns around the definition being too restrictive. Along with a definition of care, the pre-application part of what happens online also includes young people's personas—again, we want to demonstrate to young people the types of care that might be involved.

There is not necessarily a read-through to what the Scottish Government will do with the carers allowance, because that involves a different demographic, but with young carers we felt that the correct decision was to keep the definition while listening carefully to the concerns of the commission in particular about whether the wording in our previous drafts was too inflexible.

Michelle Ballantyne: I suspect that most young carers will not read the legislation in full; they will rely on the advertising and promotional literature, and perhaps on face-to-face contact with young carers organisations, if they are turning 16. What the legislation says is therefore probably of little relevance to young people. However, the definition of eligibility could have an impact. Although you say that your decision does not relate to what you may or may not do with carers allowance when it comes to Scotland—or rather when you take control of it—it may relate to that, in the sense that the definition could be challenged. If there are two different definitions of care, there could be an issue. That is a slight concern for me, and I suspect that it was a concern for the commission, too.

Shirley-Anne Somerville: I will bring in Colin Brown on the final issue that you raised, but I have no concerns that we are laying down a difficulty for ourselves later on in the process.

I fully appreciate that, outwith this room and certain other places, young people will not read the regulations in their entirety. I appreciate that they do not make for exciting reading, but they lay the bedrock for eligibility and allow those who are assisting young people to be confident that what a young person defines as care is also what we mean by care in the regulations. Without the definition, that would be more challenging. It is arguable that it could be done without the definition, but it would be more challenging if it was not there.

Colin Brown wants to say a little bit around the fact that there will be no issue in future.

Colin Brown: Yes. For the purpose of the regulations, we tried to craft a wide description for people who will read them, although I take the point that most young people will not, which is a shame.

There must be

“activity that promotes the physical, mental or emotional well-being of the person being cared for.”

That is a very general description of what care would involve, albeit that it also then sets some limits.

Carer regulations that are laid in future could operate with the same description or with different elements; it is a choice. There would be nothing legally difficult about having different descriptions of what care involves for different purposes.

Michelle Ballantyne: With the convener's indulgence, I want to reflect on an earlier question about siblings. To qualify for the young carer grant, a young carer has to deliver care for 208 hours over 13 weeks, with a minimum of 10 weeks in which the carer is active. That is less than three hours a day. It is more than feasible that two siblings—or potentially three, but let us say two, for the sake of argument—between the ages of 16 and 18 will provide that amount of care, and the care that they deliver will meet your definition. However, you are saying, “Actually, we have to go with just one.”

It seems to me that there is a potential discriminatory position if two siblings deliver care of the same value to their disabled mother, father or other sibling. In your discussions, how did you arrive at the conclusion that it was fair, right and equitable that where two siblings are delivering the same level of care, only one of them should receive support?

Shirley-Anne Somerville: I think that Jeremy Balfour asked questions about that subject. We have committed to looking very seriously at monitoring and evaluation in this area to see whether there are any unintended consequences. I do not suppose that I can say much more—and not just because of my voice—than I said to Jeremy Balfour about the reasons why we came to our decision on simplification and ensuring that the benefit did not require a number of verification steps, which would have made the process a lot less simple for young people. We will monitor and evaluate. I have spoken to young carers directly about the issue. I have heard their concerns and have gone through with them the reasons why I came to my decision. I am not sure that there is much more that I can say, apart from explaining why we have got to where we are and to give an absolutely firm commitment to monitor and evaluate the area.

Michelle Ballantyne: On complication and validity checks, you have made it quite clear that your validity checking will be done simply by sending out a letter to the cared-for person that does not require a response unless the person is not delivering the care and the cared-for person wants to identify that. Surely, the validity check would be no different whether there was one young carer or two. What would be different? Why would it complicate the process?

Shirley-Anne Somerville: We would have to put in other steps around verification and validity rather than the simple process that we have. The process is simple because it is one person applying for one or more cared-for persons. That is the reason why it can be so simple.

If more than one sibling were to apply for the grant, the application would not simply follow the same path. We would have to put in different parts of the pathway for the young persons involved, to ensure that the verification was as stringent as it needs to be. I appreciate where Michelle Ballantyne is coming from; it is an area in which people have flagged some concerns. I go back to what was said at DACBEAG and, indeed, in the committee's session with Dr Witcher; DACBEAG said that what we are trying to do around simplicity and verification is a "reasonable compromise".

Keith Brown: On the first point, I hope that you resist calls to make the process more complex. That, in my view, is how we end up with 25-page application forms.

I can see the work that has been done—the inputs that you mentioned to get to this stage, including the discussions with SCOSS and the consultations with the groups that you have mentioned—to try to get the best possible outcome, which, if the regulations are approved today, should result in hundreds of people getting a cheque for £300 in a few weeks' time. To me, that is the definition of doing the day job. However, I wonder about the other side, which Alison Johnstone mentioned.

Last week, we heard from a number of stakeholders who could not point to any research from the UK Government, either ad hoc or systematic, that looks at the reasons for and incidence of non-take-up of benefits. There was some intuitive guessing that people might feel that there is a stigma attached to that kind of thing, but nobody knew because no research had been done.

You said that you will look at the effect of the grant on young carers who receive it, but will you be able to go further? Such research is difficult because, by definition, you are trying to find out the views of people you do not know about. Will you be able to do thorough research to find that

element—people who are not involved in the groups that you mentioned but do not get helped by the grant when they are entitled to it? How can you take things further and do that research, which the UK Government does not appear to be doing?

Shirley-Anne Somerville: One of the main challenges around benefit take-up is how to identify people who are eligible but are not applying, to ask them why they are not. I am sure that, when we speak to young carers for the monitoring and evaluation, they will point out why either they or people they know of have not applied for the young carer grant. We will be able to use that monitoring and evaluation to see whether there are lessons to learn—easy or hard, and for the short, medium or long term—around the take-up of that grant.

We will look very seriously at that, not just because we are obligated by the 2018 act to look into benefit take-up in general but because one of the major challenges in improving benefit take-up is in identifying the people who are eligible and working out why they are not applying. Some of the answer is about making it as simple as possible for people to apply. The application process is one of the main barriers to take-up, but there may be others. We think that we have looked at them all, but that needs to be tested when the grant goes live and young people are experiencing the process in a live, rather than a test, situation.

I hope that that provides reassurance that we will take on the difficult area of ensuring benefit take-up. We hope that the work that we are doing with user groups—young carers, in this instance—will tease out some of that. It will also look at people with protected characteristics, which will be an even smaller number of people. We will need to look at the Gypsy Traveller community, for example, and whether they would apply for the young carer grant. What are the specific barriers for them? Some of the work that we did as the regulations went through the process to get here today was about getting them fit for purpose for communities that often do not apply for payments to which they are entitled.

The Convener: We move to item 3. I invite Shirley-Anne Somerville to speak to and move motion S5M-18221. We will vote on the motion shortly. Minister, do you wish to speak to the motion?

Shirley-Anne Somerville: I will simply move the motion.

Motion moved,

That the Social Security Committee recommends that the Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019 [draft] be approved.—[*Shirley-Anne Somerville*]

10:45

The Convener: I thought that you might choose just to move it. According to protocols, I have to give you the opportunity to speak. Likewise, I give MSPs the opportunity not to ask questions at this point. However, if they choose, they can contribute to a brief debate.

Jeremy Balfour: I thank the cabinet secretary for her answers, and I wish her well for the debate this afternoon.

I have two comments. One is about the process and one is about these regulations.

I hold myself as guilty as anyone else. With regard to the process, as a committee, we need to look at how we have done this today. The regulations will, rightly, be approved today. However, to have two sets of evidence, one after another and to approve the draft regulations immediately after that is not the way forward, particularly when we get to more controversial regulations. As a committee, we must look at how we scrutinise such instruments and how, if we had wanted to make changes, we would have influenced the Government earlier on.

With regard to the specifics, I have concerns around the sibling issue. In eight years' time, my two daughters could apply for that benefit. If it is required, they might both be helping me. Why would it be fair if one of them got the grant and the other did not? I appreciate that we are talking about a small number of individuals, but I ask the Government, as I said in my questions, to look afresh at that situation and see whether it causes issues and whether we can simplify the procedure so that any children who give care benefit from it.

I welcome the cabinet secretary's remark that that issue will be looked at.

Michelle Ballantyne: I echo some of that. I, too, have significant concerns around the sibling issue. It is a small number, and it applies particularly where there are twins—or siblings who are only a year apart—who share responsibility. It should not necessarily make verification more complicated. The verification system could remain the same. The other issue that, over time, we might like to revisit is the definition of care. It will be interesting to monitor that. Overall, I welcome the regulation that is being brought forward today, and I hope that it makes a difference on the ground.

Keith Brown: I do not agree with the attempts to make it more complex. In 2000, the pension credit application form had 100 questions for pensioners, the last one of which was, as I have said before, "Are you pregnant?" Those matters become complex. In relation to siblings, we would need cross-referencing. We might also need to consider apportionment. I am not in favour of

making the process more complex. We need to make it as simple as possible. It is important that all benefits are simple but not simplistic. I am supportive of the grant and I think that it will have a major impact on the lives of young carers. I hope to see the evidence for that in due course.

Alison Johnstone: The grant was a Scottish Green Party manifesto proposal. I am pleased that we are where we are now, but, although it is a strong beginning, it is nowhere near the end of the process. It is important that the committee continues to monitor what happens. We want to make sure that the package of support will evolve and grow as required.

I am sympathetic to the points that Jeremy Balfour makes. We could look at doing something that does not require extra layers of complexity. It is important that we monitor all the policy areas and continue to support young carers as well as we possibly can, not just through this benefit but through a range of policy areas.

Pauline McNeill: I echo Alison Johnstone's view that it is a very strong start, but I think that there are some big outstanding issues. However, there is going to be a review, which I wholeheartedly welcome. I also welcome what the cabinet secretary said about the process—it is vital that the committee has a role to play, and the cabinet secretary has put that on record. I was pleased that some of the committee's recommendations were used to change the formulation before the regulations went out to the commission. For me, that is a very important element, and I welcome it.

I am still concerned that some groups might be missing out. I put my hand up and say that I do not know whether that is the case for sure, and I do not even know who those groups might be, but that has been my experience when we have dealt with other benefits, because of the structure and the duties that we are bound to, which Colin Brown very ably explained. However, it is an issue to which I would like to return in the review.

I thank the cabinet secretary for her comments.

The Convener: In a moment, we will come to the policy intent and the substance of the regulations that are before us. However, Mr Balfour commented on the process and how the committee can perhaps deal with it more effectively. I know that that is not the concern of the cabinet secretary, but, as the issue has been raised in this forum, I think it is worth putting something on the record.

The committee held evidence sessions on the matter and, in December last year, we wrote to the cabinet secretary and made a number of recommendations. Some of those recommendations were accepted, including those

on having an early review—which will take place after a year—and on ensuring that, for someone who does not necessarily care for one individual for 16 hours but cares for more than one individual, the combined number of care hours is taken into account such that they qualify for the young carer grant.

It is reasonable to say that not everything that the committee asked for has been accepted by the Government, but we were an active part of the process—we took evidence from carers during a round-table session and we have been proactive. Committee members can, of course, discuss among ourselves whether we think that there are improvements to be made in that regard.

It is also worth putting on the record that the SCOSS report was sent to members on 23 May and, at the request of members, an email was circulated about subordinate legislation procedures on 7 June. The instrument was laid on 21 June and was circulated to members on the same day. That was three months ago, and no member has been in touch to question or raise concerns about that process until today's meeting. I think that it is reasonable to put that on the record, Mr Balfour. You will have the opportunity to come back, should you wish to do so.

If we look at the substance of the regulations, we see that the cabinet secretary and the Scottish Government have cross-party support. I welcome the £300 grant, which will make a real and focused difference to the lives of young carers in all our constituencies. It is vital that the Scottish Government monitors the impact that the grant makes, to see whether we are getting the balance right, whether the sum should be £300 or another amount of cash and, of course, whether the eligibility criteria should change.

The regulations bring into sharp focus the responsibilities of the committee and the Parliament. This week, funeral assistance grants—which, on average, could be up to £1,300 towards the cost of funerals for those on low incomes and certain qualifying benefits—became open for applications. Of course, we also have the carers allowance supplement and the best start grant, and there are others that I could mention. They all come with a price tag, which feeds into a wider budget process not only for this committee but for the Parliament. It is fair to put that on the record, because we would love to go beyond £300 but the grant has to be sustainable and we have to measure the outcomes against how money could be spent on other key priority areas in the social security system. Therefore, it is important to put that on the record. I absolutely welcome the regulations.

Mr Balfour, I am conscious that I name-checked you—would you like to come back with any comments?

Jeremy Balfour: Very briefly, convener. There is cross-party agreement on the regulations, but my point is that the regulations were laid the week before the recess and we had only three sessions in which to look at them. We may have wanted to call the instrument in earlier to look at it. As we get to more controversial regulations, going forward, there needs to be a stage between our asking questions and our voting on the instrument.

As a committee—I hold my hand up—we need to be a bit more proactive about doing that at an earlier stage, so that there can be proper scrutiny. That would also allow the Government to respond to any questions or suggestions that we or other third parties might come up with.

The Convener: Absolutely, Mr Balfour. Let us improve the process where we can. I just wanted to put on record the opportunities that the committee has had, which I thought was reasonable in a balanced debate.

As there are no other comments from members in this brief debate, does Ms Somerville wish to sum up?

Shirley-Anne Somerville: No, thank you, convener.

The Convener: I thought that that might be your answer. Is the committee content to recommend approval of the instrument?

Members indicated agreement.

The Convener: I thank the cabinet secretary for persevering despite the fact that her voice is wavering slightly—we very much appreciate it.

Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations 2019 (SSI 2019/232)

The Convener: Agenda item 4 is also subordinate legislation. I refer members to paper 4, which is a note by the clerk. The committee is invited to consider the Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations 2019 (SSI 2019/232), which are subject to the negative procedure.

The amending instrument has been brought forward to address the Delegated Powers and Law Reform Committee's recommendation that regulation 18 of the Welfare Foods (Best Start Foods) (Scotland) Regulations 2019 (SSI 2019/193) could be clearer.

The instrument is technical and does not change the policy intention. On 3 September 2019, the DPLR Committee drew the amending

instrument to the attention of the Parliament, as the 28-day laying requirement had not been complied with. The DPLR Committee is content that the failure to comply was acceptable given the circumstances. I am sorry for that extensive comment, but it is important to put that in the *Official Report*.

Given all that, is the committee content to note the instrument?

Members *indicated agreement.*

The Convener: I thank committee members for their time and efforts this morning. We have a couple of matters to discuss after the meeting has been closed, so members should hang about.

Meeting closed at 10:57.

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