



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 27 August 2020

Session 5



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Pàrlamaid na h-Alba

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SOCIAL SECURITY COMMITTEE
14th Meeting 2020, Session 5

CONVENER

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

DEPUTY CONVENER

*Pauline McNeill (Glasgow) (Lab)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Jeremy Balfour (Lothian) (Con)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

Mark Griffin (Central Scotland) (Lab)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*Alison Johnstone (Lothian) (Green)

*Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Judith Paterson (Scottish Commission on Social Security)

Dr Mark Simpson (Scottish Commission on Social Security)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

Virtual Meeting

Scottish Parliament

Social Security Committee

Thursday 27 August 2020

[The Convener opened the meeting at 10:01]

Interests

The Convener (Bob Doris): Good morning, and welcome to the 14th meeting in 2020 of the Social Security Committee. We have received apologies from Mark Griffin, who cannot be with us today.

I welcome Rachael Hamilton MSP to the committee. It is good to have you on board, Rachael. I also put on record my thanks to Graham Simpson for his work on the committee. Ms Hamilton, do you have any relevant interests to declare?

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Thank you for that kind welcome, convener. I look forward to working on the committee. I have no interests to register at this point.

Decision on Taking Business in Private

10:02

The Convener: Next on the agenda is a decision on whether to take an item in private. Does the committee agree to take in private item 5, which will be consideration of evidence that is heard during today's meeting? Given the complexities of a group discussion using videoconferencing, I will assume that everyone agrees unless they indicate otherwise.

I see no disagreement, so the committee agrees to take item 5 in private.

Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020 [Draft]

10:02

The Convener: The next agenda item is the draft Winter Heating Assistance for Children and Young People (Scotland) Regulations 2020. The cabinet secretary sent the committee a letter, which was circulated to committee members yesterday. It advises that the regulations that we are considering will be laid on Monday 31 August, alongside its response to the Scottish Commission on Social Security's report, which we will also look at this morning.

The committee will take evidence from members of SCOSS on its scrutiny report on the draft regulations. I welcome Dr Mark Simpson and Judith Paterson, who are both members of SCOSS. You are both very welcome. Thank you for coming along this morning. Do you want to make some brief comments before we move to questioning?

Judith Paterson (Scottish Commission on Social Security): Thank you for the invitation to discuss SCOSS's report on the draft regulations. Our chair, Sally Witcher, cannot attend today and sends her apologies. That is why my colleague Mark Simpson and I—both members of SCOSS—are here today.

If I may, I will turn to our report and give a brief introduction. SCOSS welcomed the proposed introduction of winter heating assistance, which will give eligible disabled children and young people a payment of £200 each year to help with their household winter fuel costs. In our scrutiny of the draft regulations, we tried to identify where any improvements could be made and we made 11 recommendations in total. The Scottish Government plans to respond to the report and recommendations on Monday.

We know that SCOSS's scrutiny has already influenced the cabinet secretary's approach to preparing the draft regulations. Committee members will recall that there were provisions in the earlier draft Disability Assistance for Children and Young People (Scotland) Regulations 2020 that SCOSS scrutinised and reported on, including winter heating assistance provisions. We made a few recommendations then, and we are pleased to see that the cabinet secretary has included those in the new draft regulations.

Some of our recommendations in the report are specifically concerned with the wording of the draft regulations. For example, we thought that

entitlement to winter heating assistance should be extended to children in residential care, so that they are treated in the same way as children in hospital.

We have also made recommendations that are intended to bring greater transparency and understanding around the Government's policy intention. One example of that is our suggestion that the Scottish Government clarify its rationale for targeting winter heating assistance only at children and young people who receive the highest-rate care component of disability living allowance. That recommendation is aimed at joining up the social security policy with the fuel poverty strategy and the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019, which defines a wider group of disabled children and adults on any rate of disability benefit as being in fuel poverty. We thought that clarification would be helpful on that point and on whether eligibility might be extended in the future, given the wider fuel poverty strategy.

Another recommendation about widening eligibility concerned the qualifying period for winter heating assistance, which, as members will have seen, is tied to a single week in September. That follows the existing United Kingdom model, but we suggest that the Scottish Government consider the feasibility of widening the qualification window to include children and young people who get disability living allowance at the appropriate rate at any point through the winter months.

Our growing experience of scrutiny—we have now done seven reports—has allowed us to look across different sets of regulations, which has meant that we have seen some inconsistencies in similar provisions across the different types of social security assistance. One example of that is tests of residency in Scotland. We are not saying that there should be one single test, and there are good reasons why there are different tests, but we are saying that it is preferable for the social security system to be as consistent and straightforward as possible.

That said, there are many interactions between devolved and reserved systems that might bring additional complications. For example, the Scottish Government is dependent on the Department for Work and Pensions for the successful delivery of the winter heating assistance, because the DWP will provide the data that is required for Social Security Scotland to make the payments. We are all aware of the pressures that the DWP has been under as a result of Covid. We have therefore asked the Scottish Government to explain what would happen should that data not be available when it is expected, given that the policy intention is to deliver the winter heating assistance this winter.

SCOSS hopes that the responses to our recommendations will improve the draft regulations that the committee will scrutinise and that they will inform your detailed scrutiny of those regulations. However, even where there is perhaps disagreement with our comments and recommendations, we hope that the information that we have asked for in the course of our scrutiny will help the children and young people who will get the winter heating assistance, as well as their families, carers and advisers. We know that the committee shares SCOSS's view that our scrutiny must always consider first and foremost those who will benefit from new assistance.

We would be pleased to receive, either this morning or after the meeting, any feedback that the committee might have on our report. We are trying to be detailed in our work, but we are also trying to achieve that while making our reports more concise. Mark Simpson and I are happy to answer your questions.

The Convener: Thank you very much for that comprehensive review of the recommendations. I apologise in advance, because I think that we will mirror some of the comments that you have already made.

The payment will be £200, and it is estimated that it will go to 16,000 young people at a cost of £3.5 million. As you have noted, it is for young people who receive the higher-rate care component of DLA. Understandably, you have asked how the provision could be extended and you have asked the Government to consider widening the eligibility criteria. I believe that that would be desirable. However, was the Scottish Government right to pick, as a starting point, the indicator of young people being on the higher rate of DLA? Is that the group that is most at risk from fuel poverty? Are those the households that are most under pressure?

Judith Paterson: I think that the Scottish Government's reason for choosing that group was the fact that children who are on that rate have care needs at night as well as during the day, so they are likely to need a warmer home both day and night, which has a higher cost. The policy rationale makes sense in that the chosen group of households is likely to be at the highest risk of fuel poverty.

Our observation is that that does not quite square with the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 and the strategy. We are well aware that the strategy goes beyond cash help, so it is not necessarily inconsistent to choose to pay cash help to a smaller group and to offer wider types of fuel poverty assistance to a wider group. However, we would like to see how it joins up.

The Convener: That is perfectly reasonable, and it is helpful for the committee because it shows that, if one were to pick a relatively small group—albeit that 16,000 children is not a small group; it is a sizeable group—it would be realistic and appropriate, strategically, to start with that group and then, as SCOSS suggests, widen it out.

The committee also has a budget scrutiny role. It is not SCOSS's responsibility to be part of that, but, in every evidence session, we look at consequences. The positive consequences of the regulations would include more cash going to households that might be in fuel poverty or struggling to meet their heating needs. Have you crunched any numbers on widening the eligible group? How many more young people and households would benefit, and what would the cost look like? The committee gets lots of calls for additional cash to be spent, and the same pound cannot be spent twice; it is about choosing strategic priorities and making the best use of public cash. Has SCOSS given any consideration to the numbers for doing that?

Judith Paterson: We have not crunched any of the numbers on that, convener. Mark Simpson might have comments about the extent to which the policy could contribute to reducing poverty—which, given that it is one of the social security principles, is something that SCOSS considers.

The Convener: If Dr Simpson is able to supplement the information that you have given, that would be really helpful.

Dr Mark Simpson (Scottish Commission on Social Security): As Judith Paterson says, we have not done the sums on how much more it would cost to bring particular groups into eligibility. I think that our role is to flag the options for the development of the policy.

As members will be aware, there is a set of principles in the Social Security (Scotland) Act 2018. One of those is about reducing poverty, but another is about the efficient use of resources. At times, there might be a little bit of tension between those two principles, and political judgments will have to be made about how resources can be targeted.

As Judith Paterson stressed, the Government has defined a group that, if it is not most likely to be poor, is certainly most likely to have additional heating-related costs. There is a clear logic to that decision, but it is not the only possible decision.

The Convener: Because of time constraints, I will not explore that issue further, but it would be interesting to work out what other groups the provision could be extended to and the rationale for doing that. Perhaps another member will come back to that at some point, but I want to move on.

Before I bring in Alison Johnstone, I have one more question, which is about the week in September in which children have to be on the higher-rate care component to qualify for the payment. That all seems very artificial. It seems to be driven by data rather than need, as it captures need artificially, in one given week. Winter is a long time; it is not just one week in September. From my reading of it, it seems to be driven by the data requirements of the Department for Work and Pensions, as opposed to delivering on the policy intent.

Judith Paterson mentioned that in her opening remarks, and the committee will speak to the Government about it. We want to know whether we should be pushing the Scottish Government, to see whether its policy intent is to extend the qualifying period for receiving the £200, or whether we should be looking to the DWP. The relationship that we have is with the Scottish Government and its policy intent, so the question is how we could interact with the DWP. Can you give us a bit more information about what the technical restrictions are? I would hope that, in policy terms, the Scottish Government would be open to changing its policy and would see that assessment based on only one week in September appears to be a bit artificial.

10:15

Judith Paterson: Yes, absolutely. That is a good issue to pick up on. I think that the process is driven by operational needs, but the good side of it—a side that we would normally lose—is that it allows an automated payment of winter heating assistance, because applications are not required. That is quite prized in social security, because it means that take-up is massively increased from what we might expect to see if applications were required, particularly for a relatively small payment such as this, the take-up of which could be quite low. We think that it might be possible to keep the week-long automatic qualifying period and allow applications over an extended period. That would be more of a mix-and-match approach, which might mean not losing the benefits and making more gains, if that makes sense.

I suspect that it is true that the relationship with the DWP will be critical. However, the policy controls lie with the Scottish Government, because it has the flexibility to invite applications while also making automated payments.

I think that the Government is also looking at which week might be the qualifying week, as part of a wider look at winter heating assistance. Children are in the first tranche to receive the payment, but it will be brought in later for people over the state pension age, and there are issues

about rural poverty and whether the current qualifying week, should it be retained, is the best.

The Convener: That is helpful. Dr Simpson wants to add to that.

Dr Simpson: You have highlighted an important issue, convener, and we encourage the Scottish Government to look at it again—certainly at the point at which Social Security Scotland starts to take over the administration of the payment in full.

At the moment, it is difficult to say strongly that this is something that you can do, because we do not know about the intricacies of the relationship with the DWP. The DWP might not be able or willing to provide information on an on-going basis rather than for one week in the year, although there might be scope to negotiate which week that is, as Judith Paterson suggested. When Scotland takes over the running of disability benefits, many things will become possible, including changing the qualifying week and extending eligibility over a longer period during the winter. We would certainly encourage consideration of those things.

The Convener: That is helpful, Dr Simpson. The committee can pick up the question whether there is a policy intention to extend the qualifying period, even if it is not practically deliverable while the DWP is operationally in charge. I am sure that we will pick that up with the Scottish Government.

Alison Johnstone (Lothian) (Green): I will ask about the adequacy of the payment. The annual sum will be £200. Do you know how that figure was arrived at, and are you satisfied that it is sufficient?

Judith Paterson: I think that the figure is taken from the UK amount for winter fuel payments. Mark Simpson might have more to add. I am not sure that I do.

Dr Simpson: That seems to be the main factor in the choice of amount. There is an argument that it is a little bit arbitrary but, inevitably, depending on people's housing, what age their property is, how well insulated it is, where they live and the effect of that on fuel costs, households will have very different additional heating needs related to disability. To that extent, the payment is a bit of a blunt instrument. It is probably best understood as a contribution to those additional costs.

If the Government were to start trying to identify what each household needs in terms of heating support, that would become a hugely complex calculation, and probably quite an intrusive one. There are obviously pros and cons, but in respect of keeping things simple, that is the only way to do it.

Alison Johnstone: If the amount is copied from the £200 winter fuel payment for older people, will its value not have declined markedly, since that

payment was introduced several years ago? Is that a concern for SCOSS?

Dr Simpson: I do not think that that was discussed in our consideration of the regulations, but once the devolved payment is up and running, it can be considered each year. Certainly, across the range of devolved assistance, if payments are to continue to be able to do the job that they are supposed to do, to the same extent over time, uprating will have to be discussed. At this point, it is a case of getting the payment up and running; uprating will be part of the conversation in future.

Alison Johnstone: I was about to ask whether you think that uprating should be applied. It will have to be applied if we are to align with Scotland's social security principle that it should contribute to reduction of poverty.

Are the eligibility criteria clear enough?

Judith Paterson: Essentially, yes; the regulations are fairly straightforward. In one area—the retrospective award of disability living allowance—we thought that the meaning was not completely unambiguous, but the policy is perfectly clear on the DLA award. After an appeal, for example, it is backdated to the qualifying week and the person qualifies, but the regulations do not say that explicitly—it is kind of implied. That can be okay—it is a common thing in regulations—but very clear guidance for operational staff is needed to ensure that they get that right and give clear information for young people, and their families and advisers too. That was one area that we picked out.

Alison Johnstone: Convener, may I ask one more quick question?

The Convener: Yes—but I am keen to get Shona Robison in. Go for it, if it is brief.

Alison Johnstone: Judith Paterson commented on the discrepancy between children in residential care and children in hospital care in relation to the payment. Have any conversations with the Government suggested that that might change?

Judith Paterson: The Government was very open to what we had to say about that. I do not recall that we were given any guarantees about its response, although it looked to us as though that might have been an unintended consequence of how the regulations were framed, which I think makes it easier to adapt them.

Looking ahead to when winter heating assistance will be brought in for people of pensionable age, we have noted that some pensioners in care homes currently get the assistance. It would be odd if disabled children were excluded while pensioners in care homes were included. We will see what happens on Monday.

Shona Robison (Dundee City East) (SNP): I have a couple of questions that follow on from Alison Johnstone's. Is the regulation that states that a payment condition is not met, if the individual has died before the qualifying week, necessary?

Judith Paterson: It is not. When we saw the regulation, our first thought was that we had not seen that provision in any other set of regulations. It stood out, and it was not clear why it was there. It seems to us that when somebody dies, their entitlements stop. It is not necessary, or even appropriate, to legislate and to have that regulation. It is more important to have, in the background, processes that are dignified and respectful, and which work for families in such circumstances.

Shona Robison: The regulation might have been changed. I guess that we will see on Monday whether that point has been taken on board.

My other question is about personal independence payments. What needs to happen to ensure that eligibility will be clear enough for 16 to 18-year-olds who might choose to claim PIP?

Judith Paterson: We are aware that the regulations on the so-called rising 16 policy are coming up shortly on the committee's agenda. Eligibility criteria for heating assistance for 16 to 18-year-olds who are already on the highest rate of benefit is such that there is not much incentive for young people to claim PIP. However, we are aware that the transition period from 16 to 18 can be very confusing, so we think fundamentally that young people need to be encouraged to get independent advice on what is best for them in their circumstances. Some individuals might gain more by moving to PIP than the £200 that they would lose if they stay—[Inaudible.]

—if they did the wrong thing, so independent advice is really important.

The issues are more likely to be with practice than with the regulations. The situation in Scotland will be different to that in the UK, where the benefit is delivered by the DWP, so there is a risk that things might go wrong and be hard to correct. We would like good guidance for operational staff, advisers and young people.

The Convener: Jeremy Balfour has indicated that he wants to come in on that theme. We have covered most of the areas, but do you want to follow up on some?

Jeremy Balfour (Lothian) (Con): Thank you, convener. I will follow up a wee bit on your first question. I appreciate from Judith Paterson's earlier answer that you have not done number crunching on how much it would cost to bring other children in. If you could choose to extend the

scheme further, which benefit would you look at? I am thinking of children who have the higher rate mobility component but not necessarily the higher rate care allowance. Have you considered which benefit option you would look at—children on high rate mobility or those who are on middle rate care?

10:30

Judith Paterson: It might be stretching our remit to make such policy recommendations to the Scottish Government. The fuel poverty strategy does not pick and choose different rates of benefit. If we were looking for consistency in the strategies, we would be looking at disability benefits as an indicator of extra needs and additional fuel poverty risk. As I said, that does not necessarily require a cash response.

Dr Simpson: I flag up that the emphasis being on the higher rate care component as opposed to being on the mobility component seems to reflect the fact that there are night-time care needs and therefore an assumption that a home needs to be kept warm for 24 hours, rather than just for 16 hours a day. The mobility component does not give an equivalent indicator of the hidden needs of round-the-clock care. From memory, the fuel poverty strategy requires other rates of the care component to imply 16 hours a day of heating.

This comes back to what we said in response to the initial question. It can be sliced up in various ways, but the Government has taken a position that has a sort of logic to it—the Government has drawn a line. Although different lines could be drawn, we can see the reasoning behind choosing the care component rather than the mobility component as the test.

Jeremy Balfour: Thank you; that was helpful.

My second question is on a similar theme. There has been a lot of delay by the Scottish Government, which has meant that the new PIP has not yet been fully taken over by the agency, which is really disappointing. Are you suggesting that, when that finally happens, whenever a child goes on to that high rate care component, they will automatically become entitled to a winter payment at the appropriate time? Will it be a rolling programme, so that when a person gets the high rate, someone ticks the box on the computer and the person becomes entitled to the payment over the winter period, or is there an on-going qualifying period over the winter when, if people get the high rate, they are entitled to the winter payment? I am trying to clarify how it will work in practice. When we take over the payment, will there be a rolling programme in which the agency monitors who qualifies?

The Convener: Mr Balfour was right to mention the delay in implementation of the Scottish disability benefits, which is, as he said, disappointing. It would be helpful to know whether that delay has been understandable, from SCOSS's point of view. It would be great to get that fleshed out.

Dr Simpson: The delay is disappointing for all concerned, including us. However, in light of the situation with the coronavirus, there are many things that Governments in all parts of the UK would have liked to have done that have been delayed; for example, some very important social security developments that are coming down the line in Northern Ireland are also being delayed. It is not something that has affected only Scotland. An appropriate take on the situation would be to say that it is disappointing but understandable.

On the question regarding automatic entitlement, the intention certainly seemed to be that automatic passporting would continue. We assume that that will be the case, regardless of the qualifying period that is chosen. Ultimately, it will be the Government's call when the qualifying period is—whether the qualifying week is closer to the start of winter, or something a bit more radical is done.

There will always have to be a cut-off point. The winter heating needs of a person who becomes entitled to the qualifying benefit on 28 February will be less than those of someone who becomes entitled to the qualifying benefit on 31 December. I presume that, at some point, a more or less arbitrary cut-off point will be applied, but we certainly feel that that is worth thinking about once the devolved disability benefits are up and running and come online.

Jeremy Balfour: That is helpful.

The Convener: We move to theme 1, on which one member has made a bid to ask questions. I ask anyone else who wants to come in to please use the chat box. If there are no other bids, we will move to theme 3, on which the deputy convener has questions.

Rachael Hamilton: One of the commission's recommendations is that the Scottish Government should ensure that the voices of young people are heard. How important is it to include children and young people in the development of the policy and the draft regulations?

Dr Simpson: It is important to include the voice of the service user in the development of policy and in processes generally. In this case, the service users are children and young people with disabilities. The Scottish Government and Parliament have recognised the importance of involving the user voice in the social security

principles. They have set the standard quite high, and we are here to hold them to that standard.

We do not know, to the extent that we would like, how extensively and effectively the user group was involved in the process. We have been told that some consultation with young people and their families took place, but those findings have not been published, so we do not know what was involved or how the policy developed as a result of that consultation. We are not going to say that young people were not sufficiently involved or were not seen to be sufficiently involved but, either way, it is important that both those boxes are ticked through the process and that the high standards that have been set are upheld.

Rachael Hamilton: I am slightly concerned about the evidence that the commission had not seen a document setting out how the process was informed. Given that you have just pointed out that you were not aware of what had happened, it would be helpful for the committee and the Scottish Government to know whether you would want to see such evidence and documentation and to know what the consultation process involved, who was involved and to what extent they were involved.

Dr Simpson: Judith Paterson might have a view on that, so I will give her a chance to come in in a moment.

There is a balance to be struck between getting all the information that is needed and being swamped with paperwork. In some cases when policy documents and impact assessments are provided to us, we do not get a line-by-line account of the conversations that occurred, but we get enough information to show in broad terms what was done and the impact that it had. In most cases, that is probably enough, but it is fair to say that, in this case, we did not get the clarity that we would have liked.

Judith Paterson: There is no sense that anything was withheld from us; we are not suggesting that. However, we are keen to get all the policy development information at the right time for our scrutiny, which is not always happening yet. We need to get that at the same time as we get the regulations, so that we can see everything that fed into the development of those regulations. We are not getting that at the moment. We often manage to tease that out through a question and answer process over time, but it is better to have all that information up front. As we scrutinise each set of regulations, things are gradually improving.

Rachael Hamilton: Did you feel that it was easier to scrutinise the draft regulations on a stand-alone basis than as part of the wider regulations?

It is great that you made extensive recommendations. You put out a public call on Twitter. How much response did you get to that? How valuable was the response that you received?

Judith Paterson: It was interesting to scrutinise the provisions first when they were embedded in the regulations and then separately. Being able to look at them on a stand-alone basis made our scrutiny easier; we also saw a real difference in them, in that they had all the necessary provisions, applications and determinations that we did not see in the embedded version. It appeared that the stand-alone regulations had benefited from specific attention from the Scottish Government, as well as from extra scrutiny. Having observed that, the Scottish Government could reflect on whether that is a good model to follow.

We were dipping our toe in the water with the extra scrutiny on Twitter. We are still developing our policy on stakeholder engagement. It is extremely important to us that we engage directly with the people who will benefit from any assistance. Twitter is one way to do that. This time round, we had a limited response. We did not give people much time. The commission saw the Twitter responses and we took them into account. That is a starting point for us rather than an end point.

Rachael Hamilton: This is a statement rather than a question: I think that children and young people should be further informed about how the process is working and about how it will be evaluated in future.

The Convener: I am sure that the committee can follow that through to see how robust and effective the process is.

Pauline McNeill (Glasgow) (Lab): To what extent do the regulations fit with the principle of reducing poverty? In your report, you say:

“The targeting of CWA at children in receipt of the highest rate care component of DLA excludes both children in receipt of DLA at lower rates and households in which only an adult is disabled. Yet such households with a disabled person are also disproportionately likely to be fuel poor”.

You will be familiar with that. You go on to say:

“Principle (h) states that the Scottish social security system should be efficient and deliver value for money. The Scottish Government’s explanation that it is targeting support at households in which children are known to require care at night—so that warmer temperatures are required for longer periods—seems to speak to this principle.”

I noted that the sentence after that says:

“However, it is always important to reflect on whether efficiency and value for money are achieved at the expense of fairness.”

That jumped out at me. Given that you said that, to what extent do you think that the regulations that we now have fit with the principle of reducing poverty? Are you telling us that we could have gone a bit further?

Judith Paterson: I will pass that to Mark Simpson.

10:45

Dr Simpson: In a situation of unlimited resources, it would always be possible to go further, and we would welcome the ability to do that, but we are not in that position. I come back to some of the previous points that have been made, not least that there are political choices to be made, particularly when there is a bit of tension between the various principles that are—*[Inaudible.]*

We have already gone over the question of different rates of DLA. No matter what rate of DLA a child is on, there are additional costs to the household. This group has been identified as having night-time heating needs, which is a particular cost.

There is an interesting question around children who live in households where an adult is in receipt of the higher rate of disability benefit because, arguably, the additional heating needs in such households could be just as great.

There is an issue with PIP not indicating care needs through the night as explicitly as DLA does. Nonetheless, someone who is in receipt of PIP at the higher rate is likely to indicate higher disability-related costs across the board in the same way that a child in receipt of higher-rate DLA will. That is certainly an issue to think about, but it might be more appropriately thought about once the full suite of disability benefits has been taken on at the devolved level. However, it is appropriate to flag up the issue.

The other issue, which we have touched on before, is that when it comes to reducing poverty, this payment identifies households with additional disability-related costs, as opposed to specifically identifying households that are in poverty. There is likely to be a significant overlap, but they are not the same thing. The payment might be best understood as something that will make a limited but real contribution to reducing poverty, but it serves other purposes as well, and they are also legitimate purposes.

Pauline McNeill: Thank you.

The Convener: Do you have anything to add, Pauline?

Pauline McNeill: I thank the commission for highlighting that point. It is not your decision to

make and you are quite right to comment on the issue of resources, but it is helpful to know your view that, as Mark Simpson said, the need of children who live in households with a disabled adult might be just as great as that of the children we are helping with these regulations. I am grateful to SCOSS for highlighting that.

Keith Brown (Clackmannanshire and Dunblane) (SNP): My question is on delivery; it has been partly answered already. I am grateful for the clarification that the issues with delivery go wider than, and are not intrinsic or unique to, the Scottish Government. Such issues are being experienced across the board and are largely related to coronavirus.

On the issue of the DWP and how the Scottish delivery of the policy will be reliant on it, the committee raised a concern about what would happen if that system falls over. I know that this is not strictly within the remit of SCOSS, but do you have any more intelligence on the likelihood of that happening? Are there any indications that there might be problems at the DWP that could cause problems for the delivery of the policy?

Judith Paterson: We do not have any other indications. We have always been given to believe that the DWP and the Scottish Government are working well together and that things are on track. However, given the coronavirus situation, we are conscious that that situation might potentially be at risk. It is not clear to us—*[Inaudible.]*—might be possible at a late stage, either, apart from further delay.

You might think that if the data was not forthcoming, we could simply invite people to apply for the assistance. However, I would not have thought that that would be operationally possible at this stage, simply because of the number of staff available for Social Security Scotland and the ability of its information technology systems to deliver that kind of fast-moving response.

Keith Brown: I assume that, given the imminence of delivery, it is unlikely that there would be a problem, otherwise I am sure that we would have heard something from the Scottish Government and the DWP. The worst that could happen is being told at the last minute that there is an issue. However, I take comfort from the fact that both SCOSS and the Scottish Government have not heard of any problems, which is relatively reassuring.

The Convener: Thank you, Mr Brown. I do not see any further bids for questions in the chat box, but I will wait a few seconds to see whether anything appears before I end the session.

Rachael Hamilton has a question.

Rachael Hamilton: I apologise if I did not pick this up when Alison Johnstone asked her question, but can Judith Paterson confirm that there are no issues around eligibility for the payment, using that one-week qualifying period in September?

Judith Paterson: The policy has already been shown to work at UK and Scotland level. Whether it is the best policy for the future is another matter, and that is what we have asked the Scottish Government to consider. However, we do not have issues as regards deliverability this winter.

Rachael Hamilton: If you decided that it was not the best policy in Scotland, can you confirm that that would be based on factors to do with the weather and connection with fuel-poverty targets?

Judith Paterson: The weather and rural poverty is one issue, as is connection with the fuel poverty strategy. That could result in it being asked whether the chosen qualifying week is the right week. My understanding is that the week was originally chosen at the UK level in order to allow enough time, administratively speaking, to get payments to people before Christmas, rather than because it was thought that that was the best week to choose for people who will get the entitlement. It could be asked whether people who have to pay for their fuel in a different way might need to get payments earlier than Christmas. For example, people who are not connected to the grids for electricity and gas might have different needs, but we do not know.

As well as the question about what the right week is, there is the other, broader question about whether the chosen week unnecessarily excludes people simply for operational reasons. However, we should bear it in mind that operational reasons are important reasons, too, particularly given how desirable it is, as I said before, to make automated payments for winter heating assistance. We would not want to lose sight of that.

The Convener: Because of the time, I will not let Rachael Hamilton back in. However, I see that Mark Simpson wants to make a comment, so he will have the last word. Rachael Hamilton picked up on where we started the evidence session, which was in trying to tease out whether the Scottish Government is wedded to that one week in September because it thinks that that is the best way to run things or because it is the only practical way to do so, given the data constraints following the discussions with the DWP. The committee might want to ask the Scottish Government about that more generally.

Dr Simpson, any additional reflections that you have on what you have heard, including that last point, will be welcome.

Dr Simpson: There certainly seem to be powerful reasons of expediency for the Scottish Government having the current eligibility period, which might or might not apply once everything has been fully devolved. If we look at the situation from a poverty point of view, extending the eligibility period might allow more people to benefit. However, realistically, we would have to look at the level of benefit and so on if we came at it from that point of view. As far as when the qualifying period falls is concerned, it might be more of a take-up issue. I am sure that that will be looked at.

If this is going to be the last word on the subject, I would like to thank committee members for their questions. It has been stimulating, as it was before, and we are grateful for the opportunity to work with members on the subject. We look forward to the Government's response next week and to continuing to hone how we work with it as well as with the committee over the coming months.

The Convener: Thank you. It would be remiss of me not to thank Mark Simpson and Judith Paterson for attending the committee this morning. Thank you for helping us with our scrutiny of the regulations, and thank you for the work of SCOSS. Please pass on our thanks to the wider team as well.

Subordinate Legislation

10:58

Meeting continued in private until 11:24.

Personal Independence Payment (Transitional Provisions) Amendment (Scotland) Regulations 2020 (SSI 2020/218)

10:57

The Convener: We move to agenda item 4. I refer members to paper 3 and the note by the clerk. Members are asked to consider SSI 2020/218, which is subject to negative procedure.

No member has made it known in advance that they have any issue with the regulations. That said, I formally ask members whether they are happy simply to note the instrument. Given the nature of this online platform, I will wait a few seconds, but I will assume that members are happy to do so unless anyone speaks up.

Okay—we will note the instrument.

We will take agenda item 5 in private, so I now end the public session.

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

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