OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 10 September 2020

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 10 September 2020

CONTENTS

SOCIAL SECURITY COMMITTEE
15th 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:

Monica Lennon (Central Scotland) (Lab) (Committee Substitute)
Shirley-Anne Somerville (The Cabinet Secretary for Social Security and Older People) (SNP)

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Social Security Committee

Thursday 10 September 2020

[The Convener opened the meeting at 09:33]

Interests

The Convener (Bob Doris): Good morning, everyone. I remind members, witnesses and staff to ensure that social distancing measures are respected during the meeting, including when entering and exiting the room. I will give a little information about the conduct of today's meeting. Pauline McNeill, Keith Brown, Shona Robison and Monica Lennon will dial in to the meeting. Mark Griffin has given his apologies, and Monica Lennon is attending as a substitute—I thank her for joining us.

The main item of business is item 2, which is stage 2 of the Social Security Administration and Tribunal Membership (Scotland) Bill. At item 3, the committee will look at a letter from the Secretary of State for Work and Pensions. No items will be taken in private this morning, so the meeting will not move to another platform as normally happens. If we go to a vote during item 2, I will outline clearly at that time how the process takes place. I remind members who are dialling in remotely that they can use the chat function, and both the clerk and I will observe the chat.

I am sorry for having to go through those housekeeping rules, which we would normally cover in private before the meeting. In addition, I ask people not to touch their microphones or consoles during the meeting; they will be operated automatically.

Item 1 is a declaration of interests. I invite Monica Lennon MSP to declare any relevant interests.

Monica Lennon (Central Scotland) (Lab): Good morning, convener and everyone else. I have no relevant interests to declare.

The Convener: Thank you. It is good to have you with us; thank you for coming along.

Social Security Administration and Tribunal Membership (Scotland) Bill: Stage 2

09:33

The Convener: We move to item 2. I welcome the Cabinet Secretary for Social Security and Older People and her officials to support us in this endeavour. Everyone who is taking part in the stage 2 process should have a list of the groupings and the marshalled list.

Section 1—Appointment of person to act on behalf of individual

The Convener: Amendment 6, in the name of the cabinet secretary, is grouped with amendments 7 and 18.

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): Good morning. Of all the areas on which the bill touches, the subject of appointees raises the most complex issues and has understandably attracted the most interest from the committee and from stakeholders. As members will know, I wrote to the committee to set out in detail how I have responded to the many issues that were raised. Although I will not go over the detail that I provided in that letter, I will take a bit of time now to highlight key areas of my proposals in this area.

I am keen to reassure members that I have taken seriously all the issues that have been raised, and worked to ensure that the amendments appropriately address key themes and the committee's recommendations. As members will know, we engaged with our experience panels, the ill health and disability benefits stakeholder reference group and the disability and carers benefits expert advisory group, and their recommendations, along with my response, were sent to the committee.

I turn first to the proposed use of guidelines to set out the processes that ministers will follow. Members will see that amendment 7 requires the guidelines to include information on how ministers will determine the suitability of an appointee; how they will handle requests for reviews of decisions about appointments; how they will include persons with an interest in their decision-making processes; and—crucially—how they will undertake periodic reviews and handle any concerns that are raised. Amendment 7 also requires all that guidance to be developed with stakeholders and to be published.

On the issue of safeguarding clients, which was raised at stage 1, I have paid careful attention to the committee's recommendations and to

recommendations from the disability and carers benefits expert advisory group, the ill health and disability benefits stakeholder reference group and the experience panels.

That consideration has led me to lodge amendment 7, which sets out in the bill, to be enshrined in law, a set of safeguarding principles, including principles that are drawn from the United Nations Convention on the Rights of Persons with Disabilities. I hope that members will agree that those are sound principles that will ensure that where an appointment is made, it is the most appropriate arrangement for the individual in question.

Jeremy Balfour (Lothian) (Con): Will the cabinet secretary take an intervention on that point?

The Convener: I am in your hands, cabinet secretary—I would have given members time for questions anyway.

Jeremy Balfour: Okay—I am sorry, convener.

The Convener: I will let the cabinet secretary decide. Cabinet secretary, do you want to finish your comments? There will absolutely be time for members to come in with questions afterwards. Members should think of this process as the same as the stage 3 process in the chamber—once the cabinet secretary has made her comments, members can make a bid to speak and make some observations and comments. That might be a more appropriate way to proceed.

Jeremy Balfour: It was a question, rather than a statement.

The Convener: You can ask that question once the cabinet secretary has finished.

Jeremy Balfour: Okay.

Shirley-Anne Somerville: Thank you, convener.

We have gone further by also proposing that we set out in the bill new specific duties for Scottish ministers in relation to safeguarding. Those duties are that ministers must have regard to the views of individuals—or in the case of people who are regarded as not having capacity, their wishes and feelings—when deciding to make or terminate an appointment, as well as the views of other interested persons. There are new rights to allow a wide range of persons to request, at any time, that ministers review decisions about appointments.

There is a significant new right for individuals who are dissatisfied with the outcome of a review of an appointment decision to make an application to the First-tier Tribunal for a decision.

Taking on board concerns that the committee raised on the risk of coercion, there is a requirement for a third-party certification process for appointees for adults with capacity. The third party will act in a professional capacity to provide an additional safeguard against the possibility of coercive situations arising. Finally, there is a requirement for an appointee to have regard to any guidance that is issued by the Scottish ministers on the way in which appointments should be carried out.

I trust that all that serves to reassure members that we have addressed the committee's concerns, and that we have done so after thorough and careful consideration of the significant stakeholder evidence that was gathered. I hope that members will therefore support the amendments.

I move amendment 6.

The Convener: Thank you, cabinet secretary. I will bring in Mr Balfour first, but if any other member wishes to contribute to the debate, they can indicate just now or put a message in the chat box on the BlueJeans platform.

Jeremy Balfour: I welcome the amendments on appointees, but I seek some clarification with regard to face-to-face interviews, which are not in there. In some of the evidence that we took in committee, the feeling was expressed that people might have to go to Social Security Scotland or a relevant group for a face-to-face interview, rather than doing everything on paper, so that things could be worked out with no possibility of coercion. Why did you choose not to go down the route of face-to-face interviews? Can you explain a bit more about that?

The Convener: Before I give the cabinet secretary a chance to wind up in what is a very brief debate—she can address Mr Balfour's points then—does any other member wish to come in at this point?

Alison Johnstone (Lothian) (Green): I have another point of clarification that the cabinet secretary can perhaps touch on. The Child Poverty Action Group has confirmed that it supports amendments 6 and 7, but it says:

"It would ... be helpful to understand why the amendment in the name of the Cabinet Secretary has included paragraph (10) in the new Section 85D."

CPAG says that

"This prevents an individual from appealing against a First-tier Tribunal decision",

and that it would

"leave individuals with no option but to apply for judicial review",

which could prove very expensive. CPAG also notes that

"such appeals will be ... rare, but ... will occur".

I would be grateful for the Government's view on that.

The Convener: Are there any other contributions from members before we go to the cabinet secretary so that she can wind up?

I see that members have no more comments. I ask the cabinet secretary to sum up the debate.

Shirley-Anne Somerville: I will respond to the points from members. We considered face-to-face interviews, but we need to bear in mind—DACBEAG has been helpful on this—the need to set up something that ensures that we safeguard clients, but not in a way that becomes overly bureaucratic and time consuming. Some of the decisions on appointees may relate to clients who have a terminal illness, so we want the process to be completed safely but quickly, for the benefit of the client. We need to strike a balance on where to set those aspects.

We have said—DACBEAG has encouraged us in this—that we will have a test-and-learn approach to that. On this occasion, I think that we have got the balance right in respect of how we deal with those issues in relation to adults with capacity.

On Alison Johnstone's point, we have been clear that, rather than framing an application to a tribunal as an appeal, we think of the tribunal process as resolving a dispute in what is a sensitive administrative process. We chose a tribunal because we can ensure that the panel is composed of individuals who have the relevant knowledge and experience to handle such matters.

As is reflected in DACBEAG's advice, such disputes are rare, and they are not like decisions about entitlement to benefits, which revolve around fairly detailed criteria. Of course, in the reserved system, decisions about appointments are purely administrative and discretionary; there is no dispute mechanism for appointments. We have reflected on that, and have already introduced two ways in which a person might raise an objection if they are not satisfied. That is the reason that the amendments have been drafted in the way that they have.

I thank the committee for its engagement, for the constructive discussions that I have had with members over the summer and for the recommendations that the committee has made. In particular, I thank former committee member Graham Simpson for his engagement on the issue. Our detailed engagement with members and stakeholders has allowed us to resolve the issue of how we can best safeguard individuals and involve them in what is a crucial component of the social security system in Scotland. On that basis, I hope that members feel that they are able to support the amendments.

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

I will allow a moment for those members who are dialling in to look at the chat box format. I point out to those members that, if they stay silent in the chat box, I will assume that they agree—I will take their silence as compliance, if that is all right. I will not wait to see whether everyone has agreed, but that would be helpful.

I see that we are agreed.

Amendment 6 agreed to.

Section 1, as amended, agreed to.

After section 1

Amendment 7 moved—[Shirley-Anne Somerville]—and agreed to.

Section 2—Determination of entitlement to assistance: non-disclosure of information

09:45

The Convener: Group 2 is on the determination of entitlement to assistance. Amendment 22, in the name of Jeremy Balfour, is the only amendment in the group.

Jeremy Balfour: The issue of non-disclosure of information is clearly sensitive, and the committee has taken evidence on it.

Amendment 22 simply seeks to find out how often the non-disclosure power is being used to withhold information that may have a physical or mental impact on the patient. As we have discussed, and taken evidence on previously, that will be appropriate in some circumstances, but it should definitely be the exception rather than the norm. My amendment asks the Scottish ministers to report to the Scottish Parliament annually on how often the power has been used.

As a Parliament, we rightly pride ourselves on being open and transparent in regard to the power that we use. Amendment 22 would simply ensure that the power is not overused, and that the Scottish Government can show why it is being used—obviously with no reference to specifics—so that the Parliament can be satisfied that the power is not being abused or used without due course and thought.

The amendment would ensure that the use of the power is monitored in line with policy objectives, which would include highlighting the proportion of cases in which the power is used where someone does not have a terminal illness. A number of organisations such as Citizens

Advice Scotland and the Scottish Association for Mental Health have recognised that, although the power will be used predominantly in cases of terminal illness, other medical conditions will be caught by the provision. My amendment offers a way to help the Parliament to keep on top of what is going on and to ensure that the power is not being used inappropriately as we move forward.

I move amendment 22.

Tom Arthur (Renfrewshire South) (SNP): Perhaps Mr Balfour can clarify this point; I may have misunderstood it. As he recognises, each occasion on which information is not disclosed will be unique. However, from the way in which his amendment has been drafted, as I understand it, the analysis would be quantitative. It would seek to make a judgment, where information has not been disclosed, on whether that decision was appropriate based solely on the number of such decisions in a calendar year. The analysis is not qualitative, because that would involve revealing information about each particular set of circumstances.

As I understand it, the purpose of amendment 22 would be to determine whether the non-disclosure power is being used appropriately, but we could know whether that was the case only if we knew the details of each individual's circumstances. The amendment does not seek information on each individual's circumstances—it simply seeks information on the number of instances, which means that the analysis is only quantitative and not qualitative. How, therefore, would the amendment give effect to the policy objective that Mr Balfour outlined?

The Convener: Mr Balfour will have the opportunity to sum up at the end of the debate, so he can come back to that question. Do any other members wish to comment?

Alison Johnstone: I would like to understand whether Mr Balfour has undertaken any consultation with any organisations from which we may have expected to hear on the issue. I am thinking of the notable clinical organisations with which the committee is in regular contact, such as the British Medical Association, the Royal College of General Practitioners and so on.

Secondly, has any consideration been given to the potential, in the event that there is a very small number of cases of non-disclosure, for the information that the amendment is seeking to lead to the identification of those individuals?

Pauline McNeill (Glasgow) (Lab): It is actually—[*Inaudible.*]—an issue for the committee at stage 2. I agree with the sentiment behind the amendment; we would want to know, in a way in which information was not disclosed, that a decision that was arrived at was made in accordance with the guidelines. My question is whether such information would be useful for the Parliament. As Tom Arthur said, we would see only the number of times that the power was used. I am not convinced that that is the type of information that should be presented to the Parliament. I am happy for Jeremy Balfour to come back to me on that.

As clinicians would be making those decisions, such a reporting requirement would seem to be a wee bit out of step with current parliamentary reports. For example, we have annual parliamentary reports on child poverty and domestic violence. Is there any precedent for presenting to Parliament an annual report on the number of times that a particular power has been used?

I recall—it seems like many decades ago now—that we used to publish the number of times that a warrant was issued by ministers, but things have moved on since those days. That information told us the number of warrants that ministers had issued, but not why they had issued them. I am open minded on the amendment, but I would like to hear from Jeremy Balfour on those points, and I am interested to hear what the minister has to say about the amendment too.

Shirley-Anne Somerville: I absolutely understand Mr Balfour's interest in the provisions on non-disclosure of information, given Social Security Scotland's ethos of transparency and open communication, to which he referred in his opening remarks. That is why a very high bar has been set for the test that must be met. There must be no unintended consequences from any changes.

It is already the case that Social Security Scotland may withhold information from a client only where a registered medical practitioner or registered nurse has used their clinical judgment to determine that it would cause that client serious physical or mental harm.

I am happy to make a commitment now to report annually on how often those provisions have been used in relation to applications for standard disability assistance and applications for disability assistance on the grounds of terminal illness, provided that the numbers are not so low that reporting the information could lead to the identification of clients.

However, Mr Balfour's amendment would go much further, in requiring reporting on all forms of assistance, including on whether information has been withheld because the serious physical or serious mental harm element of the test has been met. The amendment would require us to publish granular information every year, regardless of whether that could lead to the identification of

clients. Clinicians do not withhold information from their patients lightly. I therefore expect that the provisions would be used rarely, and primarily where a clinical judgment is provided to certify that a client is terminally ill. The financial memorandum that accompanies the bill estimates that harmful information could be withheld from clients who are terminally ill approximately 350 times per year.

The committee will be aware that there was a duty on the chief medical officer to draft guidance to support the new legal definition of terminal illness, in consultation with registered medical practitioners. Significant and close consultation and engagement took place with clinicians, wider stakeholders and unions to develop and sign off the clinical aspects of that guidance. Mr Balfour's amendment would require the chief medical officer to revisit that guidance and the supporting form, and I do not believe that that should be done without again consulting those on whom it would have an impact.

Changes to the guidance that impact on how a clinical judgment is given need to be agreed by the clinicians and the relevant unions involved in the development of the guidance. I would be happy to explore the matter with them, but that would—understandably—take some time, and it would not automatically mean that there would be agreement on the issue. However, it is vital that clinicians are consulted—given that they are the intended users of the guidance—and that the requirement is not imposed on them.

I therefore urge Mr Balfour not to press amendment 22. If he does press the amendment, I urge the committee to vote against it.

Jeremy Balfour: The debate has been helpful, and I welcome the contributions from members and the cabinet secretary.

As the cabinet secretary said, we are setting ourselves a high bar; recording information from any patient or client has to be done only in rare circumstances. I welcome the cabinet secretary's comment that she is willing to publish some of the information, which is helpful.

I turn to the comments from Mr Arthur. I accept that the information that we would get would be purely a number, but—as we are all aware—we are setting legislation for not just the next two or three years but probably a decade and beyond. The concern would be that, if the numbers started to increase, at that point this committee or another committee would want to do a deep dive into that and get more information. The amendment would, in effect, put in place a warning system for the Parliament and this committee so that, if the numbers grew over a number of years, we could do that deep dive.

Alison Johnstone made some helpful comments. I have not consulted with the wider medical profession, on the presumption that, if my amendment is accepted, there would have to be consultation.

To some extent, we as a Parliament need to have that information—it is important. Having said that, I would like to reflect further on the comments from the cabinet secretary and members. I seek to withdraw my amendment.

Amendment 22, by agreement, withdrawn.

Sections 2 and 3 agreed to.

Section 4—Assistance given in error: First-tier Tribunal's jurisdiction

The Convener: The next group is on assistance given in error. Amendment 8, in the name of the cabinet secretary, is grouped with amendments 17, 19 and 21.

Shirley-Anne Somerville: I thank Jeremy Balfour for highlighting the opportunity that the bill gives us to reaffirm our commitment to moving areas of competence and jurisdiction—those relating to the recovery of money owed—that sit with the sheriff courts to the First-tier Tribunal. I recognise the principles at stake and the sincerity with which Mr Balfour has raised these issues, and I am grateful to him for his constructive engagement on them. It has allowed for the crafting of a Scottish Government amendment that demonstrates that commitment while also allowing a consultative and considered approach to ensure that the transfer is effected appropriately and to guard against any unintended consequences.

The Scottish Government has always intended to transfer some or all of the competence and jurisdiction in relation to the recovery of overpayment from the sheriff courts to the First-tier Tribunal, and I agree with Mr Balfour that the bill gives us an opportunity to achieve that.

It is important that we recognise that those stakeholders who deal with these matters daily must be consulted to ensure that the system that we implement works for the clients involved and for those who will administrate it. Therefore, if members agree with the approach that we have set out in these amendments, we will formally seek stakeholders' views to guide the approach; the bill sets out that that will be done before the early part of next year. I hope that the inclusion in the bill of a firm date for the required consultation shows that that is a priority area for us.

Amendment 17 places a duty on the Scottish ministers to make regulations to effect the transfer of jurisdiction, and places an obligation on them to undertake consultation on the matter before 1 April 2021 and to ensure that key stakeholders are

appropriately engaged to guide the correct outcome. The amendments avoid effecting the transfer in the bill itself, and instead provide for that to be done through regulations. That will provide the flexibility that is needed around how, and to what degree, competence and jurisdiction should be transferred. Of course, we will not know the answers until we consult key stakeholders, including the Lord President of the Court of Session and the president of the Scottish Courts and Tribunals Service.

Amendment 19 will ensure that the provisions on the transfer of jurisdiction will come into effect the day after royal assent, which underlines the priority that I attach to the issue. Amendment 21 will alter the long title of the bill to more accurately reflect that the issue is addressed within it. Our approach places a duty on the Scottish ministers to prioritise that work, achieves the desired outcome though the appropriate process and avoids any risk of unintended consequences. I hope that the committee will support it.

I move amendment 8.

Jeremy Balfour: I thank the cabinet secretary for these amendments. This issue had, between all of us, fallen through the cracks when the original Social Security (Scotland) Bill was considered. Its inclusion in this bill is important, because it would be unfair and overburdensome for a normal claimant to have to go to a civil court. I hope that the consultation is constructive and quick, and that the provisions in the amendments can come into force as soon as possible. I put on record my thanks to the cabinet secretary for her work on this area.

Pauline McNeill: My point is similar to the one that Jeremy Balfour raised. I want to put on the record that what the cabinet secretary outlined is a significant and progressive move on behalf of the Government, and I thank Mr Balfour for drawing the issue to the Government's attention.

10:00

As I have said already, it is significant that those who may be the subject of an overpayment are able to appear in a more appropriate forum, in particular in the city that I represent. In Glasgow, the sheriff court is very daunting—not that it will not be daunting, I suppose, if someone is appearing before an administrative tribunal, but the tribunal is more practical and appropriate for the issue concerned. I thank everybody who has been involved in the matter.

Shirley-Anne Somerville: I do not have a great deal to add, convener. I thank Mr Balfour once again for bringing the issue into the bill, and for his amendment, which, although he has now withdrawn it, nevertheless helped us to engage with the issue and provoked the constructive engagement that we have had with him on the issue. I hope that we have found a way to use the bill to firm up our commitment to take forward the issue, as we had always intended to do, and I hope that members will now help us to meet that commitment by voting in favour of the amendments.

Amendment 8 agreed to.

Sections 5 and 6 agreed to.

After section 6

The Convener: The next group is on identifying possible eligibility. Amendment 9, in the name of the cabinet secretary, is grouped with amendments 10 and 20.

Shirley-Anne Somerville: Promoting take-up is a duty that is placed on the Scottish Government by the Social Security (Scotland) Act 2018, but it is much more than that. It is a moral imperative and a fundamental priority that feeds into our wider commitments around tackling poverty and inequalities in all forms. This group of three amendments meets the Social Security Committee's recommendation at stage 1 and enjoys the support of a broad range of stakeholders.

Section 53 of the 2018 act places a duty on the Scottish ministers to inform individuals of their possible eligibility for other forms of assistance under part 2 of the act when making a determination on their eligibility for any form of assistance under that part of the act. However, as the Scottish child payment is to be made under the top-up powers in section 79 of the act, it is not covered by the existing duty. Amendment 9 extends the duty in section 53 to include informing individuals of their possible eligibility for the Scottish child payment. It also ensures that the Scottish ministers must inform an individual of their possible eligibility for any other forms of assistance under section 79.

Amendments 10 and 20 are consequential amendments. Amendment 10 stipulates a transitional provision to put beyond doubt that anything that is done under section 53 is, in the future, to be treated as having been done under the newly renumbered section. Amendment 20 modifies the long title to refer specifically to

"the duty to inform about possible eligibility".

This group of amendments extends and strengthens our existing duties on take-up. I hope that the committee will agree with the approach that is being taken and will support the amendments in this group.

I move amendment 9.

Alison Johnstone: I speak in support of the amendments. This is an important step forward, and anything that we can do to ensure that those who are entitled to benefits receive them is welcome. We know that investing in advice bears fruit—according to research, every £1 that we spend on advice returns over £20—so that approach is very welcome.

Pauline McNeill: My view is similar to that of Alison Johnstone. We know that some of the revisions that we are making to this bill at stage 2 are because of things that were missed when we debated the original bill. It is worth putting on record again that the significance of the provisions in the 2018 act is that there is an obligation on the social security system to see whether people are eligible for other benefits. That is an important departure from the Department for Work and Pensions system for all those involved. When we get to the end of this process, it is important to remind people that, when they apply to the social security system for one benefit, there is a duty on the system to ascertain whether they are eligible for other benefits. I whole-heartedly support that approach.

The Convener: Does the cabinet secretary wish to wind up?

Shirley-Anne Somerville: I have nothing to add, convener.

Amendment 9 agreed to.

Amendment 10 moved—[Shirley-Anne Somerville]—and agreed to.

Section 7—Persons who can give diagnosis

The Convener: The next group is on diagnosing terminal illness. Amendment 11, in the name of the cabinet secretary, is grouped with amendments 5 and 12 to 14.

Shirley-Anne Somerville: This is a large group, so I will take a bit of time to go over my intentions and address the non-Government amendment in the name of Jeremy Balfour.

My amendments provide a technical fix to the provision of a clinical judgment certifying that a client is terminally ill. That relates to clients who are resident outside the United Kingdom. The European Union rules on the co-ordination of social security systems allow for the payment of assistance to individuals who are resident outside the UK in some cases. It is vital that clients who are eligible for disability assistance under these rules can access it without undue barriers. That applies in particular to terminally ill clients, who require expedited access to assistance. The amendments therefore allow for an overseas healthcare professional to confirm that their patient meets the terminal illness definition.

Amendment 11 allows ministers to accept a diagnosis of terminal illness that has not been formed with regard to the chief medical officer's guidance, but only if the client is not resident in the UK, and only if it would not be reasonable to insist on a clinical judgment that has been formed with regard to the CMO guidance.

Amendment 12 clarifies that, where the individual receiving the diagnosis is not resident in the UK, different requirements that an appropriate healthcare practitioner must meet may be prescribed. That addresses the fact that, under the current provisions, the definition of "an appropriate healthcare professional" must include being a registered medical professional or a registered nurse, which, by definition, means that they must have current membership of the General Medical Council or the Nursing and Midwifery Council, which are both UK regulatory bodies.

Amendment 13 clarifies that the duty on the CMO to consult "appropriate healthcare professionals" when preparing or revising the CMO guidance does not extend to healthcare professionals who are not registered in the UK.

Amendment 14 corrects a cross-reference in a consequential amendment made in the introduction of the bill, which removes the definition of "registered practitioner" and replaces it with "appropriate healthcare professional".

I hope that the committee will support all those amendments.

I will also address Jeremy Balfour's amendment 5 in this group. Mr Balfour discussed his intention in this area with me; I was able to set out my position in correspondence with him, and I thank him for his engagement on the issue. Amendment 5 would require a registered nurse or registered medical practitioner, when providing a clinical judgment certifying a patient as terminally ill, to have

"appropriate skills and training, as prescribed by the Scottish Ministers in the regulations".

Although I share Mr Balfour's view that only appropriate registered nurses or registered medical practitioners should provide a clinical judgment, I do not believe that his amendment would achieve that aim. Ensuring that only appropriate registered nurses and registered medical practitioners provide a clinical judgment is about competence, and it is absolutely the case that they should have the appropriate skills, training and experience. However, the mandatory requirements should be those that guarantee the highest level of competence, rather than making it mandatory for ministers to specify skills and training requirements.

I am also mindful that there is no stakeholder consensus on the issue. Although two stakeholders have proposed training, that approach does not have majority stakeholder support. In particular, the Royal College of Nursing does not support a requirement for mandatory training for registered nurses, and Macmillan Cancer Support has said that nurses do not require specific specialist training to act under the terminal illness provisions.

However, I have considered the issue carefully and believe that we can take action in this area. I therefore propose that a more appropriate and robust approach to ensuring that only appropriate registered nurses and registered medical practitioners provide a clinical judgment is to include a number of requirements in a combination of regulations and the chief medical officer's guidance.

The requirements that I propose have been agreed in consultation with stakeholders, the CMO and the chief nursing officer. They require that the registered medical practitioner or nurse must meet the following five criteria: they should have appropriate skills, knowledge and experience to carry out the clinical judgment, be involved in the diagnosis or care of the patient; act in their professional capacity; work in accordance with a clinical governance framework; and meet the requirements or contractual obligations of their employer.

It is important that, where we include criteria in regulations, Social Security Scotland is able to verify that the registered medical practitioner or registered nurse meets those criteria. I therefore intend to include criterion 2, which requires that they are involved in the diagnosis or care of the patient, and criterion 3, which requires that they are acting in their professional capacity, in the regulations for each form of disability assistance. The remaining criteria are governed by employers and registration requirements. For those reasons, they should be included in the chief medical officer's guidance rather than in regulations.

I recognise that the improved terminal illness definition in Scotland presents a significant change for registered medical practitioners and nurses. That is why the CMO guidance is very detailed and is intended to provide all the information that is required to provide a clinical judgment, including tools to support practitioners and nurses should they need them.

Furthermore, a raft of support measures are being developed with the terminal illness national implementation group. Those include carefully crafted communications; a one-stop online hub for all related information; frequently asked questions; easy-read information leaflets that are tailored for both clients and medical professionals; and—importantly—a clinical helpline that is managed by Social Security Scotland.

I hope that both Mr Balfour and the wider committee would agree that that proposal meets the intention of Mr Balfour's amendments, but in a better way. I therefore ask him not to move amendment 5.

I move amendment 11.

Jeremy Balfour: First, I thank the cabinet secretary for the constructive way in which she has communicated with me over the past number of weeks. My amendment has given the cabinet secretary an opportunity to give a bit more detail on her thinking and to move the issue forward.

I lodged the amendment because I was concerned. I had been contacted by a number of district nurses and practice nurses who felt that they may be caught by the provisions without having the relevant experience or any understanding of what was being asked of them.

What the cabinet secretary has set out this morning meets what I am looking for, so I will not move amendment 5.

The Convener: I ask the cabinet secretary to wind up.

Shirley-Anne Somerville: I have very little to add—I believe that we have found a way to achieve what Mr Balfour has been seeking, and once again I thank him for the constructive discussions that we have had since stage 1 to take the matter forward.

Amendment 11 agreed to.

Amendment 5 not moved.

Amendments 12 to 14 moved—[Shirley-Anne Somerville]—and agreed to.

Section 7, as amended, agreed to.

After section 7

10:15

The Convener: Amendment 15, in the name of the cabinet secretary, is grouped with amendment 16.

Shirley-Anne Somerville: During the stage 1 debate, I said that I would lodge amendments at stage 2 to provide for suspension of assistance, conditional on receiving broad stakeholder support. Stakeholders have made a clear case for the need to make provision for suspension and non-payment of assistance, in a narrow range of circumstances, for relevant forms of assistance. The amendments in this group have been developed to achieve that, and I am pleased that key stakeholders such as CPAG, CAS, Inclusion

Scotland and the Health and Social Care Alliance Scotland have all responded positively to those proposals.

I will not go over the detail that I provided to the committee in my letter; however, I want to emphasise, and put on the record, that suspending payment of social security benefits will be used only as a last resort, and only when we have explored all other alternatives.

Amendment 15 will enable the Scottish ministers to temporarily suspend payment of assistance under part 2 of the 2018 act, and it introduces the power to make regulations prescribing the three circumstances in which such payments may be suspended. The three circumstances in which suspensions are intended to best support clients have been developed on the basis of the views of stakeholders and the committee's stage 1 consideration.

I provided full details in my letter to the committee, but in summary those circumstances are as follows: one, where a client does not provide necessary information required to ensure on-going entitlement; two, where payment should not be paid to a third party acting on a client's behalf because of concerns raised about potential financial abuse; and three, where a client requests that their benefit is suspended because they do not have access to their bank account.

Regulations will also set out a number of safeguards that I believe are crucial to ensuring that the rights of the individual are respected and that our approach aligns with our core values of dignity, fairness and respect. Those include the provision that the individual's financial circumstances must be considered before suspending payment, and that where payment is suspended, the individual will have the right to have the decision to suspend reviewed by Scottish ministers.

Individuals who have their payment of assistance suspended must be given notice of the decision to suspend; the reasons for the suspension; what steps they may take in order for Scottish ministers to consider ending the suspension; and their right to request a review of the decision. Once a decision is made to end a suspension, regulations will provide that the individual will become immediately entitled to be paid any assistance due under the period of suspension, subject to any new determination of entitlement.

The Scottish Government has also been asked by stakeholders to lodge amendments that allow for the value of certain types of on-going assistance to be set at zero, to avoid a situation in which an individual would otherwise see their entitlement to assistance come to an end under the existing provisions of the 2018 act.

I recognise the importance of clients being able to retain what is called "underlying entitlement" to certain aspects of reserved, means-tested benefits, and amendment 16 achieves that. Amendment 16 will allow payment of specific types of on-going devolved assistance to be more quickly and easily restarted when an individual is no longer resident in a specific place, such as a care home, hospital or legal detention.

I move amendment 15.

The Convener: Does any member want to contribute to the debate? I see that Alison Johnstone wants to come in. I apologise—it is Rachael Hamilton.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Thank you, convener. I agree with everything that the cabinet secretary has said, but I would like her to clarify one point regarding the time period for gathering information. I know that it is at the Scottish ministers' discretion to set a time period—that relates to section 54 of the 2018 act. However, in this specific circumstance, the DWP sets a time limit—a blanket period—of around 14 days.

Have you considered that, cabinet secretary? If you have not, perhaps you might consider it.

The Convener: I am sorry, Rachael, for my memory blank there in trying to bring in Alison Johnstone. I suppose that I should check, as a courtesy, whether she would like to come in. Alison, would you like to contribute to the debate?

Alison Johnstone: Not at the moment, convener.

The Convener: Does anyone else wish to come in at this point?

As there are no other contributions, I ask the cabinet secretary to wind up.

Shirley-Anne Somerville: First, I will address Rachael Hamilton's point. The idea of setting prescriptive timescales for the maximum or minimum duration of a suspension would limit our ability to tailor our approach to the client. We have made it clear that a suspension would not be in force for any longer than necessary. If an arbitrary timescale was included in the bill, in many cases, if information had not been received by that date, the only possible action would be to end the individual's entitlement to assistance, and we do not believe that that would necessarily be in the best interests of the client. The approach that we are undertaking in the bill gives us the ability to tailor the decisions to the specific needs of that individual client and what has come forward in their specific case.

I thank all the stakeholders who contributed to the discussion on this issue and who have helped to shape the approach to the suspension of assistance. I also thank the committee for its continued engagement in this area.

The safeguards that we have set out as part of these amendments are testament to the continued positive dialogue between the Scottish Government and stakeholders, and that dialogue will continue to help shape the detailed provision that will be made by way of regulations. These amendments are essential to help us ensure that clients are paid the right amount at the right time.

Amendment 15 agreed to.

Amendments 16 and 17 moved—[Shirley-Anne Somerville]—and agreed to.

Sections 8 to 10 agreed to.

Section 11—Commencement

Amendments 18 and 19 moved—[Shirley-Anne Somerville]—and agreed to.

Section 11, as amended, agreed to.

Section 12 agreed to.

Long Title

Amendments 20 and 21 moved—[Shirley-Anne Somerville]—and agreed to.

Long title, as amended, agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary and her officials for coming along this morning and engaging in the process. The bill will now be reprinted as amended at stage 2. The Parliament has not yet determined when stage 3 will take place—members will be informed of that in due course, along with the deadline for lodging any stage 3 amendments that they may wish to be considered. In the meantime, stage 3 amendments can be lodged with the clerks in the legislation team.

I suspend the meeting briefly before we move to the next agenda item.

10:24

Meeting suspended.

10:28

On resuming—

Correspondence

The Convener: Item 3 is to consider correspondence that the committee has received from Thérèse Coffey, the Secretary of State for Work and Pensions. At our work programme discussion on 20 August, the committee agreed to write to the secretary of state to invite her—again—to attend one of our meetings. The clerks have helpfully prepared a brief timeline for me to put on the record before I ask members to comment on her response.

We first issued an invitation in September 2019. In October 2019, I had a telephone call with the secretary of state, and I repeated the invitation. I put on the record that that conversation was positive and constructive. In January and March 2020, our invitation was repeated in correspondence on other matters, and again in June and August 2020.

I point out that the timeline of our attempts to get a relevant minister or secretary of state to appear at the committee goes back a couple of years, and predates September 2019, when we first asked the current Secretary of State for Work and Pensions to attend the committee.

10:30

I think that it is reasonable to say that the committee has been disappointed, perplexed and frustrated at the lack of engagement; I am being diplomatic when I say that.

We have now had a response, dated 1 September, on which I will reflect after I hear members' comments. Once the discussion has concluded, we will decide whether we wish to take any action. I will then close the meeting, as this is the final item of business on today's agenda.

I already have one request to speak, from Shona Robison, so I will bring her in first. I ask members in the room to indicate—as they are doing—if they wish to speak, and those who are participating online should do so, too.

Shona Robison (Dundee City East) (SNP): I have just been rereading the letter, and I have a few points to make. The tone of the first paragraph, which discusses which ministers are accountable to which Parliament, is, while factual, quite extraordinary. The Scottish ministers have regularly gone down to the UK Parliament to give evidence without ever, as I recall, saying that they are accountable only to the Scottish Parliament and are therefore not required to appear in another place. The tone is rather unfortunate.

The second paragraph expresses the idea that it is really for officials to appear before the committee. That is very much a step backwards from where we had hoped to get to with our repeated requests for a minister to come and give evidence. We have had DWP officials appearing before the committee on previous occasions—they have been very good on operational matters in particular—but it would be unfair to ask officials to come here to talk about policy decisions, which are ultimately ministerial decisions. That is the whole point of having a minister at the committee.

I would not be content to let the matter go, because it would set a very bad precedent. It would suggest that a secretary of state can basically turn around and say, "Well, you can have officials, and we'll identify the person who is best suited to attend the committee." That is disrespectful and would set a bad precedent. We should not allow the current position to stand—we should go back to the secretary of state and say that, if we wanted officials to appear before the committee, we would ask for them. A minister is ultimately accountable for policy decisions, which is why we have asked for a minister or secretary of state to attend.

I hope that that gives a flavour of my view of the letter.

Jeremy Balfour: This feels a bit like an English higher exam, in which you are given a letter and you have to interpret what it says, and you will be marked on what you come up with. My interpretation is slightly different from the one that Shona Robison has given, in particular with regard to the last paragraph, which is the key part of the letter.

I read that paragraph as saying that it is up to us to go back to the DWP to say what we want to discuss with it, and the DWP will then decide who would be the appropriate minister to come and give evidence. If we were talking about disability, it would be a certain minister; if we were talking about universal credit, it would perhaps be a different minister.

The ball is back in our court. We, as a committee, need to work out what we want to discuss with the UK Government. Would it be a general sweep-through of the issues or a discussion of specific matters? We can then go back and ask the secretary of state to identify an appropriate individual to give evidence.

It comes down to interpretation. My interpretation of the letter is that it does not say that only officials can give evidence. It says, "Tell us what you want to discuss, and we will work out who the appropriate individual is."

Rachael Hamilton: I come to the discussion without any baggage, so I am looking at the matter from a fresh perspective, based only on the letter that I have in front of me.

The third paragraph categorically states that Thérèse Coffey is more than happy to discuss "particular issues" that the committee identifies "on a bilateral basis", and she has also offered to send her officials along to the committee. I am not quite sure what everyone is getting their knickers in a twist about.

The Convener: Thank you, Rachael. I will reserve my comments until I hear the wider views of the committee.

Pauline McNeill: I agree with the idea that Shona Robison outlined: we would not want to retreat from our position that there are occasions on which we should hear from the minister, and we have been trying to bring about such a meeting.

Jeremy Balfour gave a slightly different interpretation of the letter, and Rachael Hamilton made the same point. Their interpretation is that the letter does not disbar a minister from appearing before us, and that Thérèse Coffey is offering to work with us "on a bilateral basis"—I am not sure what is meant by that—and suggesting that her officials would come to the committee.

If the committee is willing to accept that interpretation, we should nevertheless write back and say, "Thank you very much for your letter—just so we have got this right, you are saying that you would be happy to meet us on a bilateral basis. Given the importance of the responsibilities that are split between Westminster and the devolved Scottish Parliament, it would be appropriate to set that meeting up, but we would also welcome wider discussion with your officials." I think that it would be helpful to get the officials' view on the record as well.

If the interpretation that I described is correct, I would support the idea of writing to the secretary of state in those terms.

Keith Brown (Clackmannanshire and Dunblane) (SNP): I do not think that the letter is unclear at all. We have been asking for a meeting for two years. The idea that we have to try to interpret the third paragraph to find some hidden meaning is nonsense.

The question now is what we should do. It is quite clear that this secretary of state, like her predecessors, is determined not to talk directly to the Scottish Parliament. We have to try to grapple with that—we cannot deal with the issues alone. [*Inaudible*.]—other committees have had the same experience.

We often hear that there are two Governments in Scotland and that they must work together. We have issued an invitation to work together, which

has been repeated ad nauseam for two years, and we are still getting this kind of response. It is completely disrespectful.

I remember back in 2012—as other members who were here then might remember—the agenda of respect, and the regular meetings that were going to take place with this Parliament's committees. However, those meetings just dried up.

In this case, the two social security systems are closely linked, as the first part of the letter highlights. Universal credit in particular involves a close link. We should be able to have a discussion, and it is very concerning that the secretary of state is once again running away from that.

As I have said previously, I do not think that more letters will make any difference. There is no intention on the part of the Secretary of State for Work and Pensions—or most of the other UK ministers—to engage properly with this Parliament. We need to call that out. It is obvious that we are not going to get a different—[*Inaudible*.]

I am not entirely sure what we should do next; I know that the convener is wrestling with that problem. Nonetheless, I think that the new UK Government Cabinet Secretary—I forget the chap's name; he has taken over from Mark Sedwill—should be asked to come to the committee and explain the UK Government's position and whether it is going to disengage completely from the Scottish Parliament.

Whatever our party colours, we should all, as members of the Scottish Parliament, be concerned about this. If we cannot have direct dialogue on an area of policy that is as intermingled between the two Governments as social security is, where will we have it?

Let us not beat around the bush. We have been at this for two years now, and we are not going to get anything further from another exchange of letters. After two years of exchanging letters, we are having to come down to possible interpretations of the third paragraph of this letter. It is just nonsense.

We have to try, as best we can, to bring the matter to a head. We should also report our experience to the Scottish Parliament, perhaps at the Conveners Group, to see whether other committees have had the same experience. As I understand it, they have. We can then try to do something about the issue as a Parliament.

The Convener: Are there any other comments? I have a feeling that most members will want to put their thoughts on the record. We will go to Alison Johnstone, followed by Tom Arthur.

Alison Johnstone: It is fair to say that the committee has had similar discussions on several occasions. Paragraph 2 points out that the secretary of state has

"been happy for"

her

"officials to appear before the Committee where a DWP perspective is helpful".

Paragraph 3 notes that she remains

"happy to identify the best suited person to attend Committees",

which may be an official or a minister.

I would like a firmer commitment to have a UK Government minister attend Scottish Parliament committees. When the buck stops with the minister, as the person in charge of a department, we can have a more robust and helpful discussion with them.

Tom Arthur: I echo the points that colleagues have made. Given the complex interrelationship between reserved and devolved areas of social security, it is perfectly legitimate for us to ask a secretary of state to attend committee. I note that secretaries of state have attended other committees during the current session of Parliament, without issue, to discuss matters that are nominally reserved, so I do not accept the reasoning that is given in the letter.

The committee should not be reduced to having to engage in an exegesis of the third paragraph to determine what is meant by "bilateral" meetings. The letter is disrespectful, it smacks of contempt and it is completely and utterly unacceptable.

The Convener: Before I, somehow, try to draw the discussion together—with consensus if possible, but perhaps not—are there any other comments?

As there are no other comments, I will continue. I hope that members will agree that when I first got the letter and gave my reflections to Parliament, I tried to be as factual and dispassionate as possible—I thought that it was appropriate that this committee should have the chance to discuss the matter first in public.

I think that it is clear that, at the very least, a majority of committee members, if not every member, have significant concerns in relation to the matter. The concerns may differ slightly, but they exist—I would hope—across all parties, which is why our original letter was drafted as it was.

The first paragraph of the secretary of state's letter totally ignores the "shared space" and interconnectivity between the Scottish and UK social security systems. The letter refers to that

only towards the end of the first paragraph, where it talks about the UK Government and the Scottish Government working well together.

This committee is not an arm of Government—it is there to scrutinise all aspects of social security in Scotland without fear or favour, whether that involves Scottish Government officials, UK Government officials, Scottish Government ministers or UK Government ministers. It is for the committee to decide how best to do that. We would not accept the Scottish Government telling us what it thought was appropriate, and we should not accept the UK Government doing so. It is our job to scrutinise.

It is also not for a secretary of state to tell us who they are happy or not happy to have appearing at the committee. Again, it is for this committee to decide how best to scrutinise without fear or favour. That aspect of the letter is disappointing.

Much has been made of the last paragraph. I will try to give a generous interpretation of it to try to bring the committee together, as that is my job as convener. Nonetheless, I find it difficult and challenging to view the letter, and its tone and message, in anything other than the wider political context in which we are all operating, in which there are significant concerns—across all parties, in fact—about the undermining of the devolution settlement.

I refer to some of my earlier comments about the very positive and constructive meeting that I had by telephone with the secretary of state last year. It is my job, as committee convener, to build and develop those relationships and find a collegiate way forward.

10:45

I think that the committee has already agreed that we would wish UK Government officials and a UK Government minister to attend this committee as part of our forthcoming inquiry on how the Scottish social security system can act quickly to support our communities in a Covid-19 environment. Within that inquiry, we want to know specifically what the constraints and barriers may be on the system's ability to do that. I cannot see any other way to address that question fully without getting both UK officials and a UK political representative—a minister or secretary of state—to attend the committee.

I therefore suggest, based on the last paragraph of the letter, that we go back to the secretary of state. I see that Keith Brown is sighing. Yes, Mr Brown—I am sighing inside, too. You may say that it will be just another letter, on which we may be rebuffed, but I think that we should go back to the secretary of state and say, "You have indicated that you will appear at our committee on a bilateral basis." We can argue another time about how often we get the secretary of state to committee.

We can say in the letter, "The secretary of state has agreed to come to committee, and we urge her to attend an evidence session—we insist on it, with all great courtesy—with our committee as part of the inquiry that we are about to conduct."

If the secretary of state also feels that it is important for officials to attend, that would be very welcome also. Conservative members of the committee are saying that the secretary of state has agreed to come to the committee. We should say that we believe that that should happen as soon as possible, and it should be during our forthcoming inquiry. We have already put in a request—I would say in the letter that a request has already been made—and the reply does not confirm that the secretary of state is willing to come to the inquiry.

We should go back—on a unanimous basis, I would hope—and say, "Thank you for the letter. Please refer to the *Official Report*, where you will see the frustrations and very strongly held views of our committee in relation to the non-attendance of the UK Government at this committee for some two years."

I hope that we can unanimously agree that the next appropriate time for the secretary of state to attend this committee is during our forthcoming inquiry, and we can write back on that basis. That is my suggestion.

I have a second point in relation to the committee writing—or my writing on the committee's behalf—to the Conveners Group to ask about the experiences of other committees in trying to get UK Government ministers to attend committees in order to allow them to get on with the scrutiny that they have to conduct.

Those are the two requests that I make of committee members, on a cross-party—and, I hope, unanimous—basis. I will put that to the committee. Does the committee agree—unanimously, rather than by majority, because it is important that we do that—to go back to Thérèse Coffey and refer her to the *Official Report* of this meeting?

We can refer her to our clear frustrations and disappointment—and, in some cases, anger—and say that we want to build that relationship. We can say that the next time that we would wish the secretary of state to come to committee—which would be the first time, in fact—would be during our forthcoming inquiry, and that she should therefore agree a date as speedily as possible.

Do I have the committee's agreement to proceed on that basis?

Rachael Hamilton: I would not agree to our writing a letter that expressed anger. There is no anger in the slightest expressed in the letter from the secretary of state, which has been written in a way that suggests that there is a willingness there. It would be churlish to respond in a way that was inappropriate. Nonetheless, I agree that we should write a letter.

The Convener: I thank you for agreeing that we should write a letter. I note, reflecting on the proposition that I made, that some members may have articulated their frustrations in a way that could be construed as being quite angry, but we do not have to use the word "anger" in any letter; we can just refer the secretary of state to the *Official Report*. That would be the obvious thing to do. We would not be putting opinions or interpretations in our letter.

I think that we have unanimous agreement that we should write a letter along the lines that I have suggested, with the helpful caveat that Rachael Hamilton has added.

Jeremy Balfour: The letter should invite the secretary of state, and, if she is not available, one of her ministers, to come to the committee. That is how things work. We should ask for her, and we should make it clear that we are asking her to come because we are doing an inquiry, and we would like her to give evidence on the specific topic of social security. That would make absolutely clear the framework for what she would be coming to give evidence on.

She might feel—it would be her choice—that one of her ministers, rather than her, would be a more appropriate person to give evidence in this particular inquiry. We have to give her that option. We can say that we do not want only officials—we want a Government minister. However, it should be for her to decide which Government minister should give evidence to the inquiry.

The Convener: That is a reasonable request, as long as, when we go back to the secretary of state, we say that we wish to get the bilateral meeting with her that has been suggested arranged as speedily as possible, outwith the committee's inquiry. That might mean a minister coming to the committee's inquiry, and the secretary of state coming a few weeks later to engage with the committee more generally.

I am happy with Mr Balfour's caveat. I am genuinely trying to build a consensus across all parties, and to build a relationship with the UK Government where we can do so.

I see that Mr Brown wants to come in. He may want to respond to Mr Balfour's suggestion. Do you want to add anything, Mr Balfour, before I go to Mr Brown?

Jeremy Balfour: There are two separate issues, and we have to take care that we do not muddy the waters. We are asking for two different things. First, we are asking for a general meeting with the secretary of state purely to talk about anything and everything. Secondly, we are asking for a meeting specifically as part of our inquiry. Those are two different issues, and we have to ensure that that is clearly articulated.

The Convener: I agree with you; our clerking team is taking notes, and I do not doubt that that will be reflected in any letter. Mr Balfour, you are in effect calling potentially not for one appearance by a UK minister, but two.

Jeremy Balfour: Yes.

The Convener: Appearances by two UK Government ministers would certainly be welcome after two years without any appearances. Does Mr Brown want to come in?

Keith Brown: I have a question for the clerks. Is it possible for them to give a wee account of the various requests that have been made over the past couple of years? I am thinking of a list of secretaries of—[*Inaudible*.]—and what the purpose was. That would be useful.

If we are to go through what I believe to be the futile exercise of writing to the secretary of state again, so be it. It is worth remembering that, on the same day that the convener received the response—or non-response—from the secretary of state, she had actually appeared in Glasgow, talking to groups there. Our invitation has not been to say that she must attend in person—it would be possible to conduct the session remotely, which makes the unco-operative responses even more inexplicable.

As the convener said, the background to all this is pretty clear. We are now in the grip of a pandemic—and possibly a second wave—and there is unprecedented pressure on the social security systems both at Westminster and here, and yet we cannot have a direct discussion. I do not think that our letter will make any difference—the die has been cast.

Graham Simpson often calls me Keith "Compromise" Brown—so, if the committee wants to have a further go at sending a letter, I will, despite my misgivings, go along with that.

The Convener: Before I draw this item to a close, are there any other comments?

Rachael Hamilton: Yes—I am sorry, convener. Could I have a list of the subjects that you have asked the secretary of state to speak with you about? If the clerks could provide that, it would be helpful.

The Convener: Absolutely—I think that Mr Brown was making the same request. I think that the information was circulated previously—obviously, as a new member, you will not have had access to that, Rachael—but it would be good to get all that documented.

I am not hearing anything that goes against my suggestion that we write to the secretary of state along the lines that I have suggested.

I see that Mr Brown wants to come in again. As he may suspect, I agree with the comments that he has made, but it is my job, as committee convener, to protect the committee's position and to contact the UK Government constantly, professionally and with dignity, to continue to try to build those relations. People will read what they will into the reply that we get from the UK Government, but let us seek to build relationships, even if—as Mr Brown says—things do not look particularly hopeful.

I am hopeful. I spoke to Thérèse Coffey last year, and things looked as though they were going to improve. Unfortunately, that has not happened, but there is now an opportunity to take relations forward.

I should also check that members are content that I write to the Conveners Group to ask whether other committees have had similar issues. We know anecdotally of such experiences, but it would be good to do a mapping exercise of where that has happened across the Parliament, to see whether there is a wider issue for the conveners of the Parliament to consider. Are members content with that?

I think that they are.

I see that Monica Lennon wants to come in. I am sorry, Monica—I had stopped looking at the chat box on the online platform.

Monica Lennon: Thank you, convener. I have been sitting quietly today, because I am a substitute member of the committee, and I am not aware of the background to this issue.

I have to say that, when I saw the letter in my committee papers last night, without knowing any of the background, it seemed to me to be polite, and the tone of it seemed fine. However, now that I have listened carefully to the comments from all members of the committee, I appreciate that you have been trying for two years to get the secretary of state to appear at committee, so I can understand members' frustrations. I think that it is right that we proceed with a letter that captures the factual points that have been made, and which expresses members' frustrations.

Given that we can now have virtual meetings, that makes attendance at committee easier in terms of diary commitments, as it does for our own ministers and cabinet secretaries. I hope that we can proceed with a positive tone—or rather, by capturing what I think is a unanimous feeling among committee members today.

On the point that Keith Brown and other members made about the experiences of other committees, it would strengthen our hand if we could capture some information on that.

In the interests of transparency, it is important that we send a further letter to the secretary of state. I am sad that so much time has been taken up in discussing that point today. We should be working across parties and across Parliaments to do what is best for the people of this country. I hope that we can get some resolution on the matter quite quickly.

The Convener: I think that we have agreement on how we will take the matter forward. On that basis, that is us finished with all our agenda items today. I thank members for their forbearance in relation to the extensive discussion of item 3, and for their efforts at item 2.

Before I close the meeting, I will read out a note that the clerk has just handed me—never read out a note that you have not first read yourself. It is to let members know that next week—I did know this, actually—the meeting will be entirely virtual rather than a hybrid meeting. The purpose of the meeting is to hold a stakeholder session on the Scottish child payment as part of our on-going scrutiny.

I thank the clerk for passing me the note to allow me to update members. With that, I thank members for their efforts this morning, and I close the meeting.

Meeting closed at 10:59.

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