OFFICIAL REPORT
AITHISG OIFIGEIL

Social Justice and Social Security Committee

Thursday 9 November 2023

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 9 November 2023

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SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE
28th Meeting 2023, Session 6

CONVENER

*Collette Stevenson (East Kilbride) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)
*Katy Clark (West Scotland) (Lab)
*John Mason (Glasgow Shettleston) (SNP)
*Roz McCall (Mid Scotland and Fife) (Con)
*Marie McNair (Clydebank and Milngavie) (SNP)
*Paul O’Kane (West Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dawn Abell (Scottish Government)
Louisa Brown (Scottish Government)
Natalie Don (Minister for Children, Young People and Keeping the Promise)
Dr Lesley Rushton (Industrial Injuries Advisory Council)
Dr Mark Simpson (Scottish Commission on Social Security)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Justice and Social Security Committee

Thursday 9 November 2023

09:00

Interests

The Convener (Collette Stevenson): Good morning, and welcome to the 28th meeting of the Social Justice and Social Security Committee in 2023. We have received no apologies.

We have had a change in committee membership. Under agenda item 1, I welcome to the committee John Mason, who replaces James Dornan. I thank James for his valued contribution to the committee.

I invite John Mason to declare any relevant interests.

John Mason (Glasgow Shettleston) (SNP): I do not think I have anything relevant to declare.

Marie McNair (Clydebank and Milngavie) (SNP): I should declare that I was previously a councillor, from 2003 to 2022.

Paul O'Kane (West Scotland) (Lab): I was previously a councillor, from 2012 to 2022.

Roz McCall (Mid Scotland and Fife) (Con): I was also a councillor, from 2017 to the end of that term.

The Convener: I will declare an interest as well. I, too, was a local councillor, for South Lanarkshire, from 2017 to 2021.

Jeremy Balfour (Lothian) (Con): I will join in with everybody else. I was a councillor in City of Edinburgh Council, from 2005 to 2017.

The Convener: I do not see any other hands up, so we will move on.

Decision on Taking Business in Private

09:01

The Convener: Our next item is a decision on whether to take agenda items 6 and 7 in private. Are we agreed to do so?

Members *indicated agreement.*

Subordinate Legislation

Council Tax Reduction (Scotland) Amendment (No 3) Regulations 2023 (SSI 2023/268)

09:01

The Convener: Our next item is consideration of a Scottish statutory instrument, Council Tax Reduction (Scotland) Amendment (No 3) Regulations 2023. The instrument is subject to the negative procedure. The purpose of the instrument is to amend certain council tax regulations to make sure that some payments are not regarded as capital or income when calculating entitlements to council tax reduction. The payments concerned are the Grenfell tower payments, the post office compensation payments and the vaccine damage payments.

The instrument also clarifies that the capital of the person liable to pay council tax has no impact on the person's entitlement to second adult rebate and that Irish citizens who come to Scotland from Ukraine do not require leave to enter or remain in the United Kingdom.

As members have no comments on the instrument, does the committee agree that it does not wish to make any further recommendations in relation to the instrument?

Members *indicated agreement.*

Kinship Care

09:03

The Convener: Agenda item 4 is an evidence session on kinship care. It follows on from the committee's short inquiry into kinship care in 2022.

I welcome to the meeting Natalie Don, Minister for Children, Young People and Keeping the Promise. I also welcome her officials from the Scottish Government: Dawn Abell, unit head for caregivers, and Louisa Brown, family care team leader, improving lives for people with care experience. Thank you for joining us today.

There are a few points to mention about the format of the meeting before we start. Members who are online should please allow our broadcasting colleagues a few seconds to turn their microphones on before they start to speak. I ask everyone to keep questions and answers as concise as possible.

I invite the minister to make a short opening statement.

The Minister for Children, Young People and Keeping the Promise (Natalie Don): Good morning. I am very grateful to the committee for inviting me along to give evidence. I welcome the opportunity to discuss the new Scottish recommended allowance for foster and kinship carers and, of course, the wider work that the Scottish Government is undertaking to support kinship carers.

Kinship care has evolved over many decades. During that time, there has come an increased recognition of, and value for, the role that kinship carers play in providing secure, stable and loving homes for children and young people when they are no longer able to live with their birth parents.

At the outset, I put on record my sincere thanks to kinship carers for stepping in to provide children with a home, often at very short notice and within complicated family dynamics. I know that giving that care can be multifaceted, which is why the Scottish Government is committed to providing both financial and practical support for kinship carers, so that they are best equipped to love and nurture the children they look after.

On 30 March last year, we published our implementation plan, setting out the actions that we would take to keep the Promise by 2030. In the plan, we restated our intention to introduce a Scottish recommended allowance for kinship and foster carers in order to end the inequality and ensure consistency across Scotland.

As the committee knows, that has been a Scottish Government commitment since 2018, and

I know that the time that it has taken to deliver on that has been a source of frustration to both caregivers and stakeholders. That is why, in August this year, I was really delighted to announce that we had reached agreement with the Convention of Scottish Local Authorities about a new national weekly allowance that all local authorities must pay to their foster and kinship carers.

We estimate that the new Scottish recommended allowance will benefit more than 9,000 children. It is being funded by an additional £16 million from the Scottish Government. That funding enables the allowance to be backdated to 1 April this year. It is, of course, up to local authorities to decide how best to do that and to ensure that there are no unintended consequences for families.

We know, from some initial feedback, that some local authorities have already implemented the new allowance and have made the back payments; others are expecting to do so at the end of November or soon afterwards. We will use our existing forums, groups and networks as feedback loops to identify any obstacles to implementation and, importantly, to help local authorities to overcome any obstacles and to share good practice. Once the Scottish recommended allowance has bedded down, we will review it more formally and identify any areas where improvements could be made.

When I announced the new allowance, I committed to maintaining the 2023-24 levels of support for the allowances and to reviewing the funding implications for future years from 2024-25. Like all of you, I am acutely aware of the cost of living pressures on families and I am currently considering what we might do for future years, given our fixed budget and the significant financial challenges that we are facing. I will be able to say more on that after the Scottish budget has been set out in Parliament in December.

We recently had care experience week, which was an opportunity for everyone to celebrate the care experience community. I visited Siblings Reunited, known as STAR, and met staff and a small group of volunteer supporters. STAR provides a safe environment in which to bring together sibling groups who have been separated in care to form positive experiences and relationships. What that visit reiterated to me was that, although funding is important, it is only one part of how we can improve the experiences of those in care and of their carers. That is one of the reasons why, along with partners, we established the kinship care collaborative in 2020.

As you will know from your previous inquiry, the collaborative is working hard to deliver improvements in support for kinship carers, children and professionals working with kinship families across Scotland. Following recommendations in last year’s Social Justice and Social Security Committee report on kinship care, the collaborative established a rewrite group to refresh the existing kinship care guidance for practitioners. The rewrite group has been examining the guidance with a view to updating it so that it reflects updated legislation and growing knowledge and experience of what works in kinship care.

The refreshed guidance will also clarify many of the issues that the committee and stakeholders have told us are open to interpretation. Those include the meaning of “at risk of being looked after” and “placed with the involvement of the local authority”. Our aim is to publish the guidance by the end of the year. Alongside that, a group of practitioners are helping us to develop a new national kinship assessment framework, which will complement the refreshed guidance and help to improve the consistency of approach and practice.

We are also taking action to promote the work of the collaborative—which I know is an issue that the committee raised previously—and to ensure that it is open, transparent and accessible to all stakeholders, kinship care families and others with care experience.

More broadly, there is work across Government to support kinship carers. For example, we are working with partners and caregivers to develop a plan to deliver trauma training for kinship and foster carers as well as for adoptive parents. We have also made it easier for kinship carers to apply for the Scottish social security benefits that they are eligible for, working in consultation with those who have lived experience to expand the definition of kinship carer to make it as inclusive as possible.

I believe that the totality of the work happening across Government, specifically to target kinship carers but also to help families more generally, should help us to achieve our ambition to keep the Promise by 2030.

I welcome the committee’s continued interest in kinship care and the Scottish recommended allowance, and I am happy to answer any questions.

The Convener: Thank you, minister. We now move to questions, which will be directed to you. You are, of course, welcome to invite any of your officials to respond, should you wish to do so.

I will kick off. How well is work progressing on providing clear, accessible information for kinship carers about the legal arrangements around kinship care and about how they can access their rights and get support and advice?

Natalie Don: I touched on that in my opening statement because it is obviously really important. We must ensure that kinship carers can access their rights and the support and advice that they are entitled to.

The kinship care collaborative established a communications sub-group, which gave a clear steer that the first step towards that would be to ensure that local authority websites contained up-to-date information about their kinship care policies. The sub-group has written to the office of the chief social worker, requesting assistance in contacting all local authority chief social work officers to highlight the importance of ensuring that that relevant information is published, that it is regularly updated and that it is made available to carers and practitioners, which is a legal requirement under the Kinship Care Assistance (Scotland) Order 2016.

The letter to the office of the chief social worker also asks that local authority websites provide links to the website of the Kinship Care Advice Service for Scotland, which is funded by the Scottish Government. That website contains a wide range of information that will assist kinship carers, including information about financial support and welfare benefits and about legal orders. The advice service also runs a helpline, which offers a call-back service outside normal operating hours, and provides a range of free training packages.

Work is going on. As I said at the start, we understand that that is extremely important, and I am confident that the on-going work will help to improve matters.

Paul O’Kane: My question builds on that. As you have outlined, minister, information and advice are available. I am keen to understand how people are made aware of that. That applies particularly to kinship carers who are entering into a kinship arrangement for the first time and are navigating a new landscape. What action has been taken by the Government and its agencies to ensure that that information is getting out to people?

Natalie Don: Although it is the responsibility of local authorities to ensure that that information is available, we appreciate its importance, as I said at the beginning, and we want to ensure that people have the information and support that they need.

The launch of the refreshed guidance will provide a really good opportunity for everyone in the care sector to promote kinship care as an option for children and young people. We will ensure that the information on the Scottish Government website, as well as that from the Kinship Care Advice Service, is regularly updated.

There is a lot of work going on. As I said, that is down to local authorities, but the Scottish Government is providing support to ensure that the information is available and accessible, and we will continue monitoring that to look for ways in which we can improve.

Paul O’Kane: Can you also give us an update about the work of the guidance rewrite group? How will updated guidance be communicated to local authorities? You spoke about local authorities having a key role in disseminating information, so how do we ensure that implementation is smooth for local authorities?

09:15

Natalie Don: I appreciate that there has been a slight delay in the publication of the guidance, which was because we wanted to ensure that we engaged widely. As I believe I mentioned in my opening remarks, however, we are on schedule to publish that guidance by the end of the year. The rewrite group is currently refining the document and, once it is content with it, it will be reviewed by members of the reference group, which includes the Child Poverty Action Group, the Scottish Public Services Ombudsman and the Kinship Care Advice Service for Scotland. We intend to engage with kinship carers in the last week in November, and that will be included, too.

It is worth highlighting that the collaborative agreed to form a working group to develop a new national assessment framework for kinship care. That framework reflects the point that the kinship assessment is unique in that it assesses a carer for the needs of a specific child, unlike a foster care assessment. It also considers what extra support might be required within the family. The framework has been developed as a companion to the refreshed guidance, so it will be published at the same time. There are also plans to put in place a programme of awareness raising and training for practitioners, managers and local authorities to support the roll-out and implementation of the guidance and the assessment framework. That is all being done with the aim of improving practice in Scotland.

Paul O’Kane: To what extent has the social work profession been engaged in all that work, either through Social Work Scotland or through the representative bodies?

Natalie Don: There has been engagement with Social Work Scotland. I will bring in officials to give a bit more clarity on that.

Dawn Abell (Scottish Government): The kinship care collaborative is co-chaired by me and Ben Farrugia from Social Work Scotland, and it has been involved from the very beginning. The rewrite groups and the other sub-groups that operate as part of the collaborative include members from local authorities. The assessment framework group includes service managers, who advise on what an assessment framework for kinship care would look like. Members of the collaborative are fully involved from start to finish.

Paul O'Kane: To what extent have they raised concerns about capacity and resource in local authorities to deliver an updated and refreshed framework and to implement the changes that we are talking about on the front line?

Dawn Abell: Louisa Brown may wish to comment on that. My understanding from working with Social Work Scotland across the piece on a range of issues is that there is a general capacity issue, as you are aware. However, Social Work Scotland has not expressed any significant concerns about being able to implement the updated guidance or, indeed, the assessment framework. There is no national tool for the assessment framework at the moment, and local authorities are using different forms. They have told us that they would welcome something from the Government that they could use that would help them to improve practice and consistency, rather than scraping about for bits and bobs and adapting the frameworks that are in place at the moment.

Paul O'Kane: That is very helpful.

Marie McNair: Good morning, minister and officials. I am aware of the work on kinship care that has been carried out in both of the health and social care partnerships in my constituency, and I know that they have started to issue back payments. I am interested to know when local authorities will receive the £16 million that was announced by the Scottish Government. Are you confident that the money will be sufficient?

Natalie Don: Yes, absolutely. I am absolutely confident that there is sufficient funding there to support the roll-out of the recommended allowance. The £16 million figure for the funding was based on the difference between the cost of paying the Scottish recommended allowance or higher and the current local authority expenditure on foster and kinship care allowances, and it was worked out through negotiations with COSLA. It was modelled using current local authority expenditure on children in foster and kinship care, including informal kinship care, and the most up-to-date data from the children's social work statistics.

In relation to when they will receive that funding, on 18 October, the Scottish Government issued a letter to local authority directors of finance detailing how much funding they were receiving. The letter would enable local authorities to implement the allowance knowing the level of funding that they will receive. The actual money will be transferred from the Scottish Government at the end of the financial year through the local government settlement funding mechanism. As the committee will be aware, that is standard practice.

The £16 million of funding is being distributed on the same basis as the existing kinship care allocation. The distribution has recently been changed to—I have the figures here—35 per cent of children aged zero to 18 in low-income families, 35 per cent of children in receipt of Scottish child payments and 30 per cent of the zero-to-18 general population. That is for the full 2023-24 financial year.

Marie McNair: I thank the minister for that information.

What information do you have on how many local authorities are delivering the minimum rate so far?

Natalie Don: I touched on that a little in my opening statement. The Scottish Government does not hold information on which local authorities have already backdated the payments, because it is up to local authorities to decide how best to implement that according to their systems.

I am aware that, for some local authorities, implementing the allowance might require changes to their financial systems, as well as calculating those backdated amounts and contacting carers. The time that is needed to undertake that might therefore be different for each local authority. However, we have received the positive feedback that some local authorities have already implemented the new allowance and have made those back payments. Others are expecting to do so by the end of November or soon afterwards.

I want to be clear that there is a legal requirement, set out in the Kinship Care Assistance (Scotland) Order 2016, for local authorities to publish information about kinship care assistance. That includes the rate at which allowances are payable. As part of the grant letter that went out in October, the Scottish Government also asked local authorities to publish their kinship and fostering allowances and to take the necessary actions to ensure that all current kinship and foster carers are aware of the rates.

As I said, we are absolutely positive that it will be carried out in good time, based on how the local authority needs to carry it out. We will also monitor that.

Marie McNair: I have no further questions, convener.

The Convener: I will bring in Jeremy Balfour, who joins us online, for a quick supplementary. I will then invite Roz McCall in.

Jeremy Balfour: Good morning to you, minister, and to your civil servants. I will follow up on the last point that you made. As a committee, we are clearly keen for what you have outlined to happen across all 32 local authorities. My understanding is that COSLA does not keep that information either. Is it your intention to write to local authorities at the end of this financial year to make sure that they have done that? If you do so, would it be possible to share the information that you receive with the committee?

Natalie Don: Absolutely. Obviously, I hope that it does not get to that stage. As I said, we have already had positive feedback from local authorities that have already implemented the new system, and I hope that, by the end of the financial year, we will have positive feedback that shows that it has been implemented across the board. However, I am happy to share information with the committee if required.

Jeremy Balfour: Thank you.

Roz McCall: Good morning, minister. Thank you very much for your opening statement, which was very informative.

Stakeholder groups have called for the Scottish Government to clarify which kinship carers are eligible for the Scottish recommended allowance. Can you provide clarity on that, please?

Natalie Don: Absolutely. I appreciate that clarity is required. To be clear, there has been no change in legislation. The eligibility of kinship carers for the allowance remains the same, as outlined in the kinship care guidance for practitioners. In essence, kinship carers who hold a kinship care order and receive an allowance under the Kinship Care Assistance (Scotland) Order 2016 remain eligible for the allowance. However, as I mentioned, we are refreshing the guidance on kinship care to make that clearer, and my expectation is that that guidance will be published by the end of the year, because I know that stakeholders and carers are calling for that.

Kinship carers who are looking after children under sections 7 or 25 of the Children (Scotland) Act 1995 or under section 83 of the Children's Hearings (Scotland) Act 2011 are also eligible for the allowance. I know that the landscape is a bit muddled, so I hope that the refreshed guidance will provide a bit of clarity.

Roz McCall: It would be very good to read that guidance.

I do not think that there is anyone who cannot identify the difference between the needs of a five-year-old and those of a 15-year-old, but the allowance for five to 11-year-olds is exactly the same as that for 11 to 15-year-olds. The Kinship Care Advice Service for Scotland has said that that is "challenging to understand". Will you tell us the reasoning behind that?

Natalie Don: Absolutely. I have heard some of the commentary about that. The group that undertook the 2018 national review of care allowances, which was informed by consultation with stakeholders, caregivers and children and young people, decided that the allowance payment rate should be broken into three age groups: 0 to 4, 5 to 15 and 16-plus. Those age bands are comparable with those used in Wales for its allowance.

It is fair to say that the evidence is limited and rather mixed. Some people think that young children—babies and toddlers—are more costly to look after, while others think that older children are more costly to look after. The most recent research that we have seen, which was conducted by Moneyfarm, suggests that, in 2023, it is more costly to support a six to 11-year-old than it is to support a 12 to 14-year-old, and it attributes that to the cost of age-appropriate toys for younger children and the rate at which clothes—including school uniforms—and other such things need to be replaced.

The allowance has only just been introduced. It is a hugely positive move, but we are open to feedback from kinship carers and stakeholders. We will continue to gather that feedback and will consider the issue when we formally review the system's implementation in the future, as I said.

Katy Clark (West Scotland) (Lab): How will uplifts be calculated to take into account increases in the cost of living? Will increases be in line with inflation, or will another formula be used?

Natalie Don: We are very switched on to cost of living pressures, and work is on-going to consider the funding implications for 2024-25 and future years in the context of inflation, our fixed budget and the significant financial challenges that the Scottish Government currently faces, as I am sure all members are aware.

I will probably be able to say more about that after the Scottish budget has been set out in December. Discussions with COSLA on uprating will be picked up in due course, but, as I said in my opening statement, the Scottish Government made a commitment to maintaining the 2023-24 levels of support and to reviewing the funding implications in the future.

As I said, I will probably be able to say more after the budget process.

Katy Clark: That is fine. It would be very helpful if the minister could keep the committee updated on that.

Natalie Don: Of course.

Katy Clark: Have you given thought to what more can be done for kinship carers who will not be eligible for the support?

Natalie Don: Absolutely. As I mentioned in my opening statement, although financial support is extremely valuable and required, kinship carers might also need other forms of support. Support can be practical and emotional as well as financial. For example, a kinship carer could seek advice and support from their local authority at any point.

The Scottish Government provides funding to Adoption UK in Scotland and to the Association of Fostering, Kinship and Adoption Scotland for the Kinship Care Advice Service for Scotland, with the aim of delivering a wide range of support, advice and information to help kinship care families.

We have also awarded, over the past three years, £989,000 of whole-family wellbeing funding to Adoption UK in Scotland to pilot a new approach to ensure that kinship care families can get the range of holistic support that they need. That focuses on education and community support, including peer support.

Katy Clark: Will you give us an update on the recommendations of the English independent review of children's social care and whether progress can be made towards the introduction of paid leave for new kinship carers?

09:30

Natalie Don: Absolutely. My officials are in regular contact with their counterparts in the UK Government. As I understand it, although paid leave has been introduced by some organisations, such as Tesco, the matter is still being considered by the UK Government. I am very happy to write to my counterpart, the Secretary of State for Education, to request an update on that.

Katy Clark: That would be great. It would be helpful if you could share the response with the committee.

Natalie Don: Of course.

John Mason: Kinship carers might need other support as well as financial support. The committee has received evidence that some kinship carers are nervous that barriers might be raised by their local authority and that they might not be able to keep the children. Housing is an obvious issue—for example, an elderly couple who do not have a large house could suddenly have their grandchildren living with them. Can you say anything about how we deal with that?

Natalie Don: On our overall values and aims, good practice and the Promise tell us that the best place for a child to live when they are not able to live with their birth parents is with their wider family. That is absolutely in the best interests of the child, including in relation to safety. No kinship carer should ever feel isolated and unable to approach their local authority for support should they require it, but I have touched on some forms of support that they could access if they felt that way.

On the specific concerns about kinship carers not being able to keep children, the decision to remove a child from their kinship family would be taken only after a full assessment of the situation. Any decision to do so would not be taken lightly. It would be done only if there was evidence to suggest that it would be detrimental to the wellbeing of the child or young person to stay with that family, and efforts would be made to ensure that the family could stay together.

The roll-out of the guidance and the assessment framework that I alluded to will provide a further opportunity to underline the support that might be required for kinship families who have those thoughts or feel that way.

John Mason: I will press you a bit further. Could a council take the children away because the grandparents' home was overcrowded and did not have enough bedrooms?

Natalie Don: Based on what I have said, I do not believe so, because, if it was simply down to a housing situation, removing the child would not be in line with ensuring what was best for the child. Obviously, it is for local authorities to deal with their housing stock, but I imagine that best efforts would be made to ensure that that family could stay together. I do not think that that would be an acceptable reason for a child to be removed.

John Mason: But Glasgow City Council does not have any housing stock.

Natalie Don: As I said, it would be down to the local authority, but I am sure that efforts would be made to ensure that children could stay with their family.

John Mason: I accept that a lot of it is down to the local authority, and I hope that a reasonable approach would be taken, but some local authority officials take a very legalistic approach—for example, if a house was technically overcrowded, they would not move on that. I hope that your words are reassuring and will encourage people, but there is still genuine fear.

I will broaden things out a bit. What other support is there? Children preferably not moving schools is important, but kinship carers might be further away. Can you say anything about that?

Natalie Don: Absolutely. Best efforts would be made to ensure that the child faced as little disruption as possible. I will bring in my officials to elaborate on that.

Dawn Abell: I will say a little more about the assessment framework and then say something about how we support children in schools. The assessment framework that I mentioned earlier would consider the appropriateness of carers and what support was needed for the whole family so that the child could stay with that kinship carer. That might involve education, housing and so on.

On education, the Scottish Government introduced in 2018-19 care-experienced children and young people funding, which forms part of the wider Scottish attainment challenge funding. That funding goes to local authorities so that they can put in place initiatives to support care-experienced children, including those in kinship care, to get the best educational outcomes that they can. Additional money was also given to CELCIS—which you will be aware of—to facilitate a virtual network of headteachers so that they can swap good practice on support for care-experienced children and young people.

John Mason: It was some time ago, but I had a case in which, I think, the grandparents lived some distance away from the parents. The preference was for the kids to go to the local school of the grandparents, because that would make things a lot easier, but that local school was full. In such cases, is it entirely up to local authorities how they prioritise places for kids? Does the Government have any thoughts on how such situations can be addressed?

Dawn Abell: I do not have any further detail on that. As I mentioned earlier, the assessment framework sets out the types of things that local authorities will want to consider when thinking about how they can best support kinship care families and their children.

Natalie Don: In our journey towards keeping the Promise and in everything that the Scottish Government is working on—its aims and priorities—it is useful to learn from and understand such things and to assess how we can ensure that such situations do not happen or that, as I said in my previous answer, disruption to the child is kept at a minimal level. That involves on-going processes, which we will consider as we go forward.

The Convener: I invite Roz McCall to ask a supplementary question, then I will bring in Bob Doris.

Roz McCall: Those last answers were very interesting. I will add a question on blending of informal and formal care. Everything that we have been talking about is formal kinship care, which comes through the process, but what about the support needs of people who might be nervous about coming forward for additional support, because they have an informal arrangement and would not want to move into what would be considered a very formal arrangement? Is there any blending? Where do you envisage the crossover line that always exists at the outside of any policy being?

Natalie Don: I would not want any kinship carer to feel that they are stuck in a situation and cannot come forward to seek the advice, guidance or support that they require. I will hand over to officials to go into a little more detail on that.

Louisa Brown (Scottish Government): It should not really matter whether someone is formally looked after or in some sort of informal kinship care. Families should be able to approach their local authority, seek help and get an assessment of need and support without going through the formal route of the child becoming looked after. They should get all the support that children who are looked after receive. As the minister said, families should not feel reticent about doing that, and it should not feel as if they are formalising their arrangements. As with getting it right for any child, the family of any child should be able to approach the local authority for the support that they need. That is the intention. We hope that the guidance clarifies that further for families and practitioners, who should know about the support that is available.

Roz McCall: I just want to follow up on that. The guidance will do that, but we are talking about families who are not getting support. There needs to be a little bit of promotion, so that people who are not currently in the social work process or the council process can understand that assistance exists. Will such promotion be done?

Louisa Brown: Yes. When we launch the guidance we will want to get the message further out there, through our virtual headteacher networks, in education settings and in other places. We would like to highlight kinship care and the support that is available to all families.

Roz McCall: Thank you for that.

The Convener: I will quickly come in with a question that relates to the informal setting in kinship care, particularly for children and families who are in temporary arrangements, perhaps because the parent or carer is going through the criminal justice system or addiction services. How much is awareness being raised about, and financial support being given for, informal arrangements?

Louisa Brown: Awareness of kinship care more generally is being raised as we deliver on the

Promise. Perhaps there is more to be done in specific settings, such as the justice system.

Children who are in a wholly private kinship care arrangement are still recognised as being in kinship placements and should be able to dip into the support if and when they need it. A family's having stepped in to support and look after children and that arrangement being private and not involving statutory services does not mean that there is a difference. Circumstances can change so that they no longer need that support.

I would certainly welcome people coming forward if they need support. Perhaps, as we launch the guidance, we can do more to get that message out to all settings where families might come into contact with services and to raise awareness of kinship care. Certainly, we can look at that further.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I could not get involved in an evidence session on kinship care without putting on record my thanks to campaigners whom I first met in 2006, ahead of the 2007 election, at a hustings in the constituency that I now serve, and to Adam Ingram for his challenging work on kinship care payments as Minister for Children and Early Years. I also record my thanks to Glasgow City Council, which I met back in those early days and which, after meeting me, agreed to a £50-a-week kinship care allowance. That seems tiny now, but at the time it was groundbreaking. That shows how far we have come, although we obviously need to go further.

I am sorry, convener, for putting that on the record. Institutional memory is sometimes important in sessions such as this.

I have a supplementary to Mr Mason's question, which I will ask before my substantive question. Mr Mason asked about the wider support that kinship carers receive. The wider support that they want is often for the young people whom they are looking after. Many of those young people have emotional and mental health and wellbeing issues, have experienced significant trauma and have to wait for child and adolescent mental health services and other services, which are often delivered by the national health service rather than by local authorities.

In my constituency, there is the Notre Dame Centre, which is a centre of excellence for dealing with such situations. It takes specific referrals on kinship care. It has a very delicate funding framework to ensure that it can continue to do that. To what extent, minister, do you assure yourself that the wider support for the emotional wellbeing of young people in kinship care and for the trauma that they have experienced is adequate and consistent across Scotland?

Natalie Don: That is a work in progress that spans much further than the matter that we are discussing. We continue to listen to the voices of people with care experience to find out what they require. We are seeing improvements in CAMHS and other services and we are putting a lot of work into improving those for young people.

You mentioned trauma. I appreciate what you say about the support for young people, but carers also need support to be able to deal with that appropriately. As I said in answer to Ms McCall, we are working to develop a plan to provide trauma training for kinship, foster and adoptive parents.

I am positive about the work that is going on to support care-experienced young people, but there is still more to do: that will continue to be led by the voices of those with care experience.

Bob Doris: I am sure that the Notre Dame Centre would love to see you if your busy diary ever permits you to go along, minister. I would love to take you to show you what excellent work it does.

I will move on to my substantive question, which was going to be about the progress that the collaborative has made in recent months. However, I have a specific question on the progress that still needs to be made.

I had written down that there is a guidance rewrite group and that a national kinship assessment framework is being developed to get national consistency. I do not have an active case at the moment, but over the years, one of the issues with consistency has related to kinship care and bereavement.

I explain that as what happens when there is a gran or an auntie at hospital when a loved one passes away and the kids are in very vulnerable circumstances. Often, gran steps in and says, "I'll take those kids home." If gran does not do that, social work services will say to gran, "Would you please look after these young people? They are very vulnerable." The outcome is the same; it was always going to happen. However, one situation would be deemed to be an informal volunteer-led relationship between the children and the local authority, and the other would be the local authority placing the child with the kinship relative.

09:45

I understand that some local authorities show good flexibility in acknowledging that the formal placement would have happened anyway, but others do not. The approach is inconsistent. That matter has been raised with me over many years.

In relation to the work of the collaborative, the guidance rewrite group, the national kinship assessment framework and, indeed, access to the Scottish recommended allowance, can the minister give me an assurance that such situations are being taken into account and that guidance and best practice will be rolled out, putting the onus on local authorities to do the right thing by kinship carers in bereavement situations?

Natalie Don: Absolutely. I would already expect local authorities to do the right thing in circumstances such as those to which Mr Doris referred. However, as I have said, I expect that the refreshed guidance and the on-going work will make the situation much clearer for local authorities. We hope that the guidance will be published by the end of the year. I am very understanding of and switched on to that issue. I have dealt with my own such cases. As I said, we are trying to improve that and to provide more clarity for local authorities.

Bob Doris: Will we get a case study within the guidance? Guidance can be dry and dusty, so I think that social work professionals would like to see a case study of a situation such as the one that I outlined to you that shows them—perhaps more eloquently than I did—what they should be doing rather than what they perhaps are doing. When finances underpin what is done and there is a budgetary impact on a local authority, we have to ensure that there is best practice and not budgetary practice, if I can put it—delicately—like that.

Natalie Don: Absolutely. Making decisions based on budgetary practice would go against everything that we are aiming for with the Promise. The answer to Bob Doris' question is, therefore, yes—absolutely.

Bob Doris: That is really helpful. Thank you.

The Convener: I will now, finally, bring in Jeremy Balfour, who joins us online.

Jeremy Balfour: Good morning again, minister. As you look forward, what are the next steps for the collaborative?

Natalie Don: First of all, I give my thanks to the members of the collaborative for their very hard work and their commitment to delivering change.

As committee members will be aware, the collaborative was formed in late 2020. Many people volunteered to give up what has been a considerable amount of their time to attend meetings. Throughout that time, participants have shared expertise and understanding of the issues in kinship care, many of which we have discussed this morning. That has helped to inform and drive the work of the collaborative.

The publication of the refreshed guidance and the new assessment framework that we have been discussing this morning will be key milestones. We should then perhaps sit back for a second to take stock, in collaboration with the collaborative—that is quite a tongue-twister—about what the future might look like. I am very happy to keep the committee informed of decisions on that.

Jeremy Balfour: Some stakeholders have suggested that the kinship care collaborative could have a role in gathering information about roll-out of the Scottish recommended allowance, as we discussed previously. What consideration have you given to that? As you reflect on that, is there still a role that the collaborative could play?

Natalie Don: Yes, absolutely. I agree that the kinship care collaborative, alongside others—including stakeholders that we have touched on this morning, such as the kinship carers advisory group, the Fostering Network and Social Work Scotland—could have a key role to play in feeding back about the allowance. As I have mentioned, its engagement to date has been extremely valuable and has helped to inform the development of the recommended allowance information page, which was published on the Scottish Government website this week.

The next meeting of the collaborative is on 27 November, and I have asked officials to discuss with its members how they might inform work on the allowance going forward, and how that might feed into the next steps for the collaborative. That will be vital. As I have said, we are committed to formally reviewing the allowance, so taking organisations and stakeholders with us will be vital.

The Convener: I thank the minister and her officials. I have found the session to be very informative. At its heart, this is about our children and young people and their carers. My heart goes out to all the kinship carers in Scotland.

I briefly suspend the meeting to allow a panel change before we move on to the next item.

09:50

Meeting suspended.

09:55

On resuming—

Scottish Employment Injuries Advisory Council Bill: Stage 1

The Convener: Welcome back. Our next item is the first evidence session on the Scottish Employment Injuries Advisory Council Bill—the SEIAC bill, for short. This member's bill was introduced by Mark Griffin on 8 June 2023 and is currently at stage 1. The bill seeks to establish a new body—the Scottish employment injuries advisory council, or SEIAC—to provide expertise about support for people who can no longer work because of workplace injury or disease.

SEIAC would have three functions. It would replace the Scottish Commission on Social Security's role in reporting on draft regulations for employment injuries assistance; report to the Parliament and ministers on any matter relevant to employment injuries assistance; and carry out, commission or support research into any matter relevant to employment injuries assistance.

I welcome our panel for the first evidence session on the bill, who join us remotely: Dr Lesley Rushton, chair of the Industrial Injuries Advisory Council, and Dr Mark Simpson, interim co-chair of the Scottish Commission on Social Security. Thank you for accepting our invitation.

I have a few points to mention about the format of the meeting before we start. When answering questions, please wait until I or members have said your name before speaking. Do not feel that you have to answer every question; it is okay if you have nothing new to add to what others have said. Please allow our broadcasting colleagues a few seconds to turn your microphones on before you start to speak. You can indicate with an R in the chat box in Zoom if you wish to come in on a question. I ask everyone to keep questions and answers as concise as possible.

I invite members to ask questions in turn, and I remind everybody that the questions for this panel should be purely on the context and setting of the bill. I invite John Mason to ask the first few questions.

John Mason: I am new to the committee, so this is a completely new subject to me. My questions might be a little simplistic, but I hope that that will help others who are also less familiar with the subject.

As I understand it, we currently have several bodies. We have the Industrial Injuries Advisory Council, the Scottish Commission on Social Security and the disability and carer benefit expert advisory group, and we are now talking about establishing the Scottish employment injuries advisory council.

I will start with Dr Rushton. Can you give a brief summary of how all those bodies relate to each other and how that would change if we had this new body?

10:00

Dr Lesley Rushton (Industrial Injuries Advisory Council): I can tell you about IIAC. According to my understanding, we do not have any direct discussions with some of the other bodies that you have mentioned.

I will briefly tell you what we do. We are responsible for giving advice to ministers on industrial injuries disablement benefit—IIDB—which, as you know, is part of our social security system. There has been some kind of worker compensation since the 1920s, and more officially since the 1940s, following the war. The relevant act of Parliament was passed in 1946, but IIAC has been going since 1948, so we have been doing our work a long time.

We do reviews and we collate and write various reports on different issues concerning IIDB. Most of our work concerns diseases and occupations, but there is a very important accident provision under IIDB, too. We consider all sorts of different occupation-related ill health. That ranges over everything from musculoskeletal conditions to infectious diseases, viruses and so on. We get our work, if I can put it that way, from constantly monitoring the literature on what is coming up. We might, for example, examine the reports of the International Agency for Research on Cancer. We get a lot of requests from individuals and from MPs. We might get requests from parliamentary groups, such as the House of Commons Environmental Audit Committee.

That is what we do. We write various different types of reports. We issue information notes after we have had a quick look at something. We produce position papers, which are a very detailed review of a piece of disease and occupational data, but without making recommendations. Then there is a command paper, in which we undertake a detailed review of the evidence and make recommendations to ministers. Both of those last two types of paper are published. Everything is published on our website, in fact, including all our detailed minutes of every single meeting. We have eight meetings a year, including four of the main council. We also have more of a research working group, which meets between those four times.

After we make recommendations, if the minister is willing and approves, those are laid before Parliament as command papers, as they potentially have a direct impact on the legislation, which is built into the Social Security Administration Act 1992. When a command paper has been published, the Department for Work and Pensions does a lot of work to give information to ministers on the impact that a particular recommendation would have. That would concern the financial impact of a recommendation, the numbers of people it would affect and so on. That is all done within the DWP.

IIAC does not have direct influence on that at all—we are not a lobby group. We have a lot of observers at our meetings, however, including from the policy side and from the decision makers group in Barnsley. We have medical assessors, we have people from Northern Ireland, and we have an observer from the Health and Safety Executive. The committee is made up of about 11 people. It varies, but we are in the middle of starting another recruitment round. It consists of between 10 and 12 independent experts who are scientists of various kinds, such as respiratory people, musculoskeletal experts and epidemiologists, like me—I am a statistician epidemiologist. We have equal representation from members who represent employer organisations and members who represent unions and worker organisations.

That was a bit of a long answer, but it sums up exactly what we do, I hope. Please do ask more questions.

John Mason: My colleagues will probably have more questions, but that was helpful. It certainly helped me to understand a bit better what is going on.

I turn to Dr Simpson. It seems to be a complicated landscape, and we have just heard that one of the bodies has a pretty wide remit anyway. Do we need all these bodies? Are all their remits clear? You can obviously speak for your own organisation.

Dr Mark Simpson (Scottish Commission on Social Security): It is a complicated landscape, as you say, but that is partly because of the nature of social security devolution. I will come on to the role of SCOSS within that in a minute, but first I will give a wee bit of context.

At least part of the reason why SCOSS exists in the first place—and, I presume, the reason why Mark Griffin sees a need for the additional body—is that, as part of the process by which parts of social security were devolved to the Scottish Parliament following the Smith commission, the UK Government took the decision that the Social Security Advisory Committee and the Industrial Injuries Advisory Council would not be authorised to advise the Scottish Government or Parliament on devolved benefits. SCOSS was created, therefore, with a view to filling the gap with regard to the scrutiny function that SSAC provided at a UK level.

I will outline what that means in practice for our role as SCOSS. As some members will be aware, we have three—or, depending on how you look at it, four—central functions. The one on which we spend most of our time is pre-legislative scrutiny. The Social Security (Scotland) Act 2018 requires the Scottish Government to refer most major sets of social security regulations to us for scrutiny before they are laid before the Parliament. We report on them and make recommendations; somewhere in the region of 80 per cent to 90 per cent of those recommendations have, up to this point, been accepted by the Government. Some of those recommendations have resulted in changes to the regulations before they are laid, whereas others are more about administrative practice, guidance, communication or things to consider in future reviews.

We also report on, essentially, any matter connected with social security when the Parliament or the Scottish Government asks us to do so. The final piece of the jigsaw is our role in monitoring the devolved system as a whole for compliance with the commitments in the social security charter.

If there is a major difference between our role and the role that is envisaged for the new body, it is that the majority of our functions are very much reactive. We report on regulations when they are referred to us, and we write a report on something that is connected with social security when we are asked to do so by the Parliament or the Government. The only proactive part of our role is that we get to decide, to some extent, which aspects of the charter we want to look at. However, there is a reactive element even in that regard, because we are required to do a report if there is evidence brought to our attention of systemic non-compliance with part of the charter. Our role is largely reactive, whereas the role that is envisaged for the new body in the draft bill has more proactive elements to it.

You also asked about the disability and carer benefits expert advisory group, which has had a different role in the system and has now completed its role. That was a much more forward-looking role that involved making policy recommendations for the developing devolved system, so it was quite different from ours, and—I think that I am right in saying—reasonably different from the role of SSAC at UK level. I hope that that is a useful overview.

John Mason: Yes, thank you. That is useful. I am learning as we go along.

You said that, in one sense, you are reactive, but, on the other hand, you could look at almost anything that you are asked to. What would have to happen in order for your role to be changed? Would it require legislation at the Scottish level or at the Westminster level, or would legislation not be needed?

Dr Simpson: That is something that could be in the pipeline to some extent, because a review of SCOSS has just been carried out, which could potentially result in a few changes to functions, depending on what the Government and the Parliament decide. The main functions that I have described are set out in the 2018 act, so any changes to those would need to be made in primary legislation through the Scottish Parliament. The UK Government does not play a role in determining what SCOSS does.

John Mason: That is great. Thank you.

I will leave it at that, convener.

The Convener: I invite Roz McCall in.

Roz McCall: My questions are for Dr Rushton.

Thank you for the overview that you have given. I am also reasonably new, although not totally new, to my role, and this is the first time that I am getting an understanding of what it is that both bodies actually do. Having said that, I am aware that IIAC can commission literature reviews. Can you give me a rough idea of what IIAC spends on those reviews?

Dr Rushton: Traditionally, the work of reading all the papers, putting everything together and writing the reports has, for years—decades—been done by the members themselves. I have been chair of IIAC since 2018, and I have been going on about how we need funding for research, so I was interested to see what figure had been put on research for the proposed committee.

To answer your question directly, IIAC currently has one commissioned review, which is on selected respiratory diseases—both malignant and non-malignant—and cancer. We are looking, in particular, at lung cancers and silica, at cleaners and lung cancer, and at pesticides and chronic obstructive pulmonary disease. That work has been carried out by the Institute of Occupational Medicine, which is in Edinburgh, and the budget for it is just over £50,000 for an 18-month gradual project.

We are just about to accept a proposal with a six-month timescale—it is probably about a month's work—for a scoping review on women and occupational health. Women have not had the opportunity to apply for IIDB, partly because of its traditional heavy industry background, and one of our recent campaigns has been about that.

From a regular annual budget for research that is for getting people to help with the work, including writing reports, we got a regular sum of £25,000 a couple of years ago. I do not think that it is wrong for me to tell you that they have now managed to up that to £100,000 a year. If you talk to those at the UK Health Security Agency or the Food Standards Agency about the committees for which they are secretariats, such as the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment, you will find that the amount is roughly the same as it would be for one of those committees, so it is considerably more than it was. I do not think that the Department for Work and Pensions calls that strictly a research budget, but it is—that is what it is for.

10:15

Roz McCall: Thank you. That is very helpful.

In what other ways does IIAC get the information that it needs to advise ministers? Obviously, ministers do a lot of work themselves, but in what other ways does IIAC get information?

Dr Rushton: We commission and we do our own research. Our scientific secretary does research on the literature to give us lists of papers and so on—he helps with that and with the editing.

We also often take advice from experts who are not on the council when we need that. For example, one of our command papers was on cutaneous malignant melanoma in pilots and air crew. That paper recommends that IIDB should apply to that. We had a lot of help from the Civil Aviation Authority and the British Airline Pilots Association. We had a lot of help on cosmic and ultraviolet radiation from radiation experts at what was Public Health England and is now the UK Health Security Agency. We also had toxicological help from a member of the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment on the mechanisms by which the excess risk occurs. We use experts where we can if we have not got them.

Roz McCall: That is very helpful. Thank you very much.

Bob Doris: Dr Rushton, you said that you commissioned a review, which I think you said cost £50,000. Can you co-commission research and reviews? Mr Griffin is talking about setting up a new body for Scotland with a very modest research budget. There is also SCOSS, which, as we have heard, is not necessarily proactive in the area, because of its other commitments. Can IIAC co-commission research jointly, whether that be with SCOSS or another Scottish body, even though you are making recommendations not at the Scotland level but at the UK level?

Dr Rushton: I am afraid that I do not know the answer to that question, but it is a very interesting one. The commissioning is actually done by the DWP, so I imagine that that would need discussion. From a scientific point of view, there is absolutely no reason why there should not be joint commissioning, and it makes economic sense. If more than one body is interested in an issue, it is worth working together. However, I am afraid that I cannot answer that from the monetary point of view or talk about the way that one would draw up contracts and so on.

Bob Doris: That is very helpful.

We have focused on eligibility for industrial injuries disablement benefit. You may have said some of this other stuff already, but will you say a little more about the work of IIAC on wider issues around workplace health and safety that you are involved in, separately from making recommendations or presenting evidence to the UK Government about whether we should extend eligibility for industrial injuries disablement benefit?

Dr Rushton: That is a pertinent question. As I said, we have an observer from the Health and Safety Executive at every meeting, and the HSE actually helps us quite a bit. For example, we always have a small prevention section at the end of our command papers, and we always check with the HSE what its advice is. It sometimes has relevant data and can help us with that. There is a bit of to and fro between us and the HSE.

On the wider community, many of our members are nationally and internationally known experts in their fields and more generally. We have discussed the fact that IIDB and IIAC's role are very much not known about by the people who really need it, by which I mean employees and employers. Therefore, this year, we are thinking about how, individually, we might write articles in journals and so on and present.

I should also mention that we always have a public meeting every year or every two years. This year, we had one in Cardiff. Since Covid, we have gone hybrid. We had our first hybrid meeting in the summer and it was good. Quite a few people from across Wales and elsewhere attended it.

We do our best to spread our work and to draw attention to particular issues. For example, one of the reasons why we have been looking at the pneumoconioses is silicosis, which is often underdiagnosed. We hope that industries such as the construction industry will be more aware of the issue as a result of some of the work that we do.

Bob Doris: Thank you. I think that you must have read the question paper, because you are pre-empting my questions superbly. That answer was extremely helpful, because I was going to ask you about any on-going work programmes with the Health and Safety Executive. That goes back to Mr Mason's question about whether there is duplication or overlap in what you do, work that is complementary, or a combination of all three.

I am conscious of the fact that, earlier this year, the Health and Safety Executive produced some research on Covid, although not long Covid. It also looked at cancer in the construction industry, although not among firefighters—cancer among firefighters is very topical at the moment. The Health and Safety Executive is already doing a lot of work in the area, and you have helpfully put on record that you observe some of that and work in partnership with it, which is important, but do you want to say any more about your on-going work or partnership work?

I am particularly interested in long Covid, neurodegenerative disease in footballers and cancers in firefighters, but please do not restrict yourself to that list simply because I have asked about those issues. I am trying to understand the dynamic between what you research, what you commission, what the Health and Safety Executive does and how that all fits together.

Dr Rushton: You are right. There is duplication—or rather, in some cases what we do duplicates and in others it complements what others do. That is the case not just nationally, but internationally. Therefore, one of the things that we do is keep an eye on what the Health and Safety Executive is doing, what other people in the UK are doing, and what is being done internationally, because a lot of the information that is being collated internationally is also very useful.

I want to mention Covid. Covid has taken up a lot of our time. We started monitoring the data from April 2020, and we missed only one meeting. We have produced two reports, one of which is a command paper. That has been laid before Parliament, and work is being done in the DWP. We are continuing to look at that. Our command paper focused on health and social care workers. We are now thinking about whether we can add education workers and some transport workers—not the van drivers, but the bus and coach drivers and so on.

Long Covid is a really difficult issue because, at the moment, there is no clear diagnosis. IIDB really needs there to be a way of diagnosing long Covid; self-reporting is not an easy thing for IIDB, so we are looking at that. As I have said, we also have the commissioned review.

We are looking at neurodegenerative diseases in footballers. I did not mention the fact that we get a lot of letters and people pushing their own papers, which is fair enough, as they draw attention to issues. We are also widening our consideration of neurodegenerative diseases in footballers, because we think that it is important to include other sports—more generally, athletics, for example.

We have looked at the diseases and have decided that the best way forward is to look at some of the serious diseases one by one. We started with amyotrophic lateral sclerosis, which is a form of motor neurone disease. A review of the literature is under way. On the magnitude of the literature, around 50 papers have been identified as relevant. There seems to be some evidence that extreme physical exercise might increase the risk of developing motor neurone disease.

Do you want me to mention firefighters? They are a tricky issue.

Bob Doris: I am keen to say yes, but I know that time is probably against us, so we would really appreciate it if you could follow that up in writing. I say to any Fire Brigades Union colleagues who are watching that that is due to time constraints. We are keen to hear what Dr Rushton has to say about firefighters, but we would appreciate it if she could provide that in writing. I suspect that the convener will have my guts for garters if we do not move on.

The Convener: That is correct.

I have a few questions for both witnesses in relation to membership and expertise, which we have touched on already. What knowledge and expertise are necessary to advise on social security for industrial disease and injury?

Dr Simpson: Members will not be surprised to hear me say that expertise in social security and expertise in industrial injuries are two quite distinct things.

A number of areas are relevant to any social security payment, including employment injuries payments. The SCOSS remit includes scrutiny of regulations that are relevant to conditions of entitlement and level of benefits. However, it is hard to package that up neatly and separate it from other aspects of benefits, so we end up offering comment on things such as application processes, supporting evidence and durations of award—things that would be common to a range of different social security benefits.

Then there are distinct areas—some of which you have just heard about—that are particularly relevant to social security for industrial disease and injuries, which include medical and scientific considerations and engagement with the employer and employee perspectives. The expertise that is needed to bring those together to give good advice on social security for industrial disease and injury will depend on what aspects of social security and industrial disease will be advised on.

Based on our experience of the devolved system to date, as functions are transferred from the DWP to Social Security Scotland, I would imagine that it is likely that we will see a devolved employment injuries benefit introduced, on the basis of a safe and secure transition, with relatively minimal changes to the diseases and injuries that confer entitlement.

However, in the future we could see new diseases and injuries added—or at least considered for addition—and scrutiny of the appropriateness of those decisions or the proactive provision of advice on which conditions ought to be included would require a different kind of expertise than the SCOSS board, as it stands, is set up to provide.

Although we look at disability benefits, for example, the various forms of disability assistance are concerned with the impact of an impairment on a person’s daily living, mobility and care needs, and scrutinising that kind of thing does not necessarily require specific expertise on specific conditions, but scrutinising employment injuries presumably would.

10:30

The Convener: Thank you, Dr Simpson.

Dr Rushton, how do IIAC’s membership and expertise differ from those of the Social Security Advisory Committee? Can you comment on that?

Dr Rushton: I would imagine that they are quite different. Occupational health and medicine is rather a specialist field. We have people like me—I am a statistician epidemiologist—whose field of experience is wider than just occupation; for example, it might be environment and, within that, lifestyle.

At present, we have three really good practising occupational respiratory physicians, one of whom runs long Covid clinics. We also have musculoskeletal experts. In addition, one of the most important requirements for a committee such as ours is to have an expert in the exposure side of things. We do not currently have a toxicologist, although I was on IIAC previously, until around 2004, and we did then. However, I am encouraging collaboration with our sister committees—we do not need expertise in everything. We have a couple of people who are experts on mental health in occupation, including one from King’s College London. We also have an observer from the military scheme, which is very useful in enabling us to see the parallels there.

There is a mixture of science expertise. The make-up of IIAC is, I think, very different from the make-up of the current Social Security Advisory Committee, apart from the medical side of things—some members are medically qualified, as I am, and some are not.

The Convener: Thank you. That is really interesting.

Katy Clark: My question is for Dr Rushton. It has been incredibly useful to hear about IIAC's work and the skill sets of those who are involved. Could you give an indication of the time commitment that is required of your board members and of the secretariat? It sounds as though you are involved in a great deal of hands-on work—is it fair to say that?

Dr Rushton: Absolutely. It is all done by the members at present, apart from the commissioned review. However, because we now have some—substantial, we hope—funding, I am hoping that we will be able to release members from some of that work.

A lot of time is required. Officially, we have four council meetings where everybody comes together, and there are four meetings of the research working group, which is a sub-group of about six or seven of the scientists. In between, the sub-groups that are working on particular issues get together a lot online. Outside that, however, there is an enormous amount of work. That does put people off—when we recruit, the time commitment is one of the first questions that is asked about.

Getting something into legislation is also very time consuming. It is not done by the committee itself, although we help with that if we are asked, and we scrutinise the legislation if it ever comes into being. This does not directly answer your question, but I was hoping to be able to comment on it. Once we have made a recommendation in a command paper, it goes to the rest of the DWP and to all their colleagues and to the ministers, who take it through the legislative process. That can take a long time—I just wanted to say that. I do not know what this committee has planned—it is nothing to do with me—but I ask you to bear in mind that, once the advice has been received, it can potentially take a long time to turn it into legislation. That is one of the other things that is quite difficult for members.

Katy Clark: Yes—I am sure that the way that the system works can be very frustrating.

In these situations, there are often different perspectives. I was previously a personal injury lawyer, so I am aware that the employer can have a very different perspective from that of the employee and their representatives. How do you deal with the fact that there are those different perspectives, and how is that represented in your work?

Dr Rushton: That is a good question. We have a person with legal expertise on the council—we keep an eye on the court cases, and the courts keep an eye on IIAC.

I should have mentioned at the start that we answer to the legislation, which says that we have to be reasonably certain that the connection between work and the disease is real—that there is that link—because it is a no-fault compensation system. In comparison with a lot of international systems, that is an advantage—very much so—for the claimant, so that is something to bear in mind with regard to the current system.

However, we are often hidebound in the decisions that we make because of the need for reasonable certainty. The example of firefighters is a very good one. Where we have good human data—and increasingly, we do not have the studies—we look for a high relative risk, such as a doubling of the risk. That is the easiest approach. However, we often do not have that data, or the risk does not quite reach that level.

Up to now, IIAC has been very strict in what it does. We are starting to think about ways of getting round the problem when we do not have the data or when we have good data but we are faced with the fact that, while there is a link, it is not sufficient under the legislation. That is quite hard for people such as unions and employees and employers to take on board. It is quite hard for us, too, but we are set up to do one job, which is to advise on that legislation.

Katy Clark: I will ask this question of both witnesses, but I will turn to Dr Rushton first. How do the bodies consider the views of those who have relevant lived experience? Is that part of your consideration? How do you capture that in the work that you do?

Dr Rushton: We get a lot of letters from individuals, and we certainly respond to them. They are very useful and important to us—they draw attention to particular issues or particular aspects of a situation that we may not have considered. What we do not do is deal with individual claims; we are an advisory council. We always write back to people and, with some of the issues, people will want to come and talk to us. However, when it comes to helping them, we, as a council, cannot do that. We can take on board what they say, but we cannot directly have an impact on them. Does that help?

Katy Clark: Yes—you have answered that question. Thank you.

I put the same question to Dr Simpson. How do you take into account the views of, and what is said by, those who have relevant lived experience?

Dr Simpson: When we carry out our scrutiny work, which has made up the vast majority of our work up to this point, we try to take account of the views and the expertise of a range of stakeholders and people with experience of the area of social security that we are examining at that time. We are always trying to up our game on how we work with that group.

I will give a short example from one of our recent pieces of scrutiny work on the Carer's Assistance (Carer Support Payment) (Scotland) Regulations. As part of that, we held a round-table session with carers, working alongside a carers organisation to convene the event. We also spoke to a range of stakeholder organisations that work with carers. As part of that, we asked the organisations to speak on behalf of themselves to give a corporate view, but also to try to give us a flavour of what their clients, users and members had to say about the subject. We contacted 12 different organisations as part of that process.

In addition, our secretariat did some desk-based research to find out what information had already been published on carers' experiences of social security. Finally, we held a round-table discussion with a number of academic researchers. Some of those researchers, although not necessarily all of them, would have been involved in working with people who had lived experience of caregiving, carer benefits, or both.

The information that we draw from such encounters does not determine what goes into our reports or what recommendations we make, but we certainly draw on those insights both to inform the content of our reports and to provide examples to illustrate some of the points that we make. Sometimes we draw recommendations fairly directly from the process. At other times, we gain insights that, while we think that they may not be so relevant to the current report, may raise an issue that we can come back to in the future when we are thinking about which aspects of the charter we want to look at. That engagement can be fruitful in all sorts of ways.

The Convener: I invite Marie McNair in.

Marie McNair: Good morning. I support the points that Mark Griffin raises. However, is his bill proposal not putting the cart before the horse, given that the Scottish Government has not yet consulted on the plans for a new employment injuries assistance scheme? Is there not a reasonable argument that the principles and rationale should be considered as part of a wider, full-scale consultation with regard to the Scottish Government's intentions? I simply put that out there for your views.

The Convener: I remind members that the question is purely about their views; it is more for context setting.

Marie McNair: I am asking about the timing of the bill, as I think that that is relevant.

Dr Simpson: I do not know that I can give a particularly clear answer on that. I am not clear, at the minute, on what the likely timeline will be for employment injuries assistance.

I know that set-up can take a bit of time. For example, I can talk a little about the establishment of SCOSS. The Social Security (Scotland) Act was passed in mid-2018, and work on recruitment for setting up SCOSS commenced pretty quickly after that. We held our first board meeting in February 2019, and we published our first pre-legislative scrutiny report in May 2019, which was on the draft Carer's Assistance (Young Carer Grants) (Scotland) Regulations 2019. We were able to go from a standing start to producing a report fairly quickly, but we were also trying to juggle some of the business of setting up a new body alongside that, which brought its own challenges. There had also been some legislative activity in social security before we were established.

I am not going to give you a straight answer on when the right time would be to set up the kind of body that you describe, other than to say that setting up a body can be a challenge in itself.

10:45

Marie McNair: Dr Rushton, do you want to express a view?

Dr Rushton: In terms of IIAC?

Marie McNair: In terms of the bill that has been proposed by Mark Griffin. Do you not think that that should wait until the Government has set out its intentions?

Dr Rushton: IIAC is an independent advisory committee, so we would continue our work. If a Scottish body was set up, I think that we would certainly want to ensure that we did not duplicate anything—I can see that there might be duplication.

I think that it would depend very much on how you set up your legislation. At the moment, we are working to the Social Security Act 1998, and the "reasonably certain" issue. That makes us very different from other countries, and that is why our so-called lists are different from those of other countries.

Covid is a good example. As a country, we did not include Covid as part of the industrial injuries disablement benefit list until we had the evidence. It took a long time for that to happen. Other countries have different systems. I think that we would want to work together—partly, anyway—and perhaps have representatives on both bodies. We might end up with the same scientists on each of the committees—IIAC and the proposed committee—because there is a very small group of people in the UK with the necessary expertise. I do not know whether that helps.

Marie McNair: No, that is fine. You have raised concerns already about the timing of legislation and getting it passed.

To go back to the timescale, industrial injuries disablement benefit has been largely unreformed since its creation many years ago. You mentioned the situation in the 1920s and up to 1948, and how complex that benefit is. Do you feel that that is due to the lack of research or the lack of political interest in bringing the benefit into a new, real-world setting? You said yourself that women have been excluded from applying. Can I get your views on that too?

Dr Rushton: The reason for the exclusion of women is largely historical. The benefit goes right back to the 1920s and before, in relation to miners and so on, so many of the current prescriptions on the list no longer exist, but they have not been taken off. They are certainly a reaction to the very heavy industry that we used to have, and hence they were not applicable to women. We are well aware that women are not covered. They apply for the benefit, of course, especially on the musculoskeletal side of things, which is why we are making that issue a priority.

As far as the proposed legislation is concerned, I do not think that I or IIAC would be qualified to give direct evidence on that, because we have not formally considered it. You are absolutely right that we have to follow the legislation’s meaning, and that restricts us. There are one or two good articles that compare different schemes around the world—there are huge differences and it is a political matter, really, how a country feels about industrial injuries and accidents.

Marie McNair: Thank you. I really appreciate your comments.

Dr Simpson, do you want to share anything before I hand back to the convener?

Dr Simpson: Yes, please. I want to pick up on some of the points that Lesley Rushton made about recruitment. I do not know how big a pool a future SEIAC would be fishing in, with regard to finding people with the expertise that it would need. That has been an issue for SCOSS at times, when we have had vacancies, and it could be an issue for the proposed new body.

I should also add that the DWP does not allow dual membership of the Social Security Advisory Committee and SCOSS, and it may well take the same position on IIAC and SEIAC.

Marie McNair: Thank you for that.

I thank you for your indulgence, convener.

The Convener: I am conscious of time, so I remind everyone to keep their questions and answers as concise as possible.

Jeremy Balfour, who joins us online, will ask the next questions.

Jeremy Balfour: Good morning. I will be brief, because a lot of my questions have been dealt with.

I will put a question to you, Dr Simpson. In the absence of the proposed bill, what additional resources or expertise would SCOSS need in order to consider regulations to create employment injuries assistance? We know that that is coming, probably in 2025, and it will require regulations to be made. What would you need in order to be able to scrutinise such regulations properly?

Dr Simpson: The starting point is that, in a sense, scrutinising the draft regulations for setting up employment injuries assistance would be in line with the remit that SCOSS currently has. The expertise of the current membership reflects the role that SCOSS was set up to undertake. If that role were to be widened to incorporate additional areas of responsibility in the future, the membership would have to be widened accordingly, or we would need to make more use of sub-committees than we have done up to now, in order to ensure that we could do what was required.

I mentioned earlier that we can probably assume that the priority will be—as it normally has been with the introduction of a new devolved benefit—safe and secure transfer. In that context, if changes were being made in the future to the set of conditions that confer entitlement, that might be more of an issue, although it might not be a huge challenge.

In general terms, the expertise that SCOSS needs to fulfil its responsibilities may, in any case, change over time, depending on what we are scrutinising. Our membership changes too. I have mentioned the stakeholder engagement work that we do—we have the ability to set up committees and sub-committees to bring in additional expertise if we need it, so I guess that we would make use of some of those opportunities if we needed to do so.

Jeremy Balfour: That is helpful. Having read all your reports since SCOSS was set up, I know that one of the issues has been the timing, in the sense of how much time you have had to scrutinise regulations, and the resources. It is difficult to put a figure on it, but how much more resource would you require in order to take on yet another piece of work?

Dr Simpson: It is really hard for me to say—I am probably not sufficiently on top of that side of our operation to be able to give you a useful answer. It would also depend very much on what was being asked of us.

If we were scrutinising a set of draft regulations, we would follow our normal practice, but we might need a bit of time or money to appoint people to sub-committees or to commission external research if it was a very complex set. That could be difficult in the context of the legislative timetable, which can—as you know—be very demanding.

Speaking hypothetically, at the minute, the more proactive functions that are envisaged for SEIAC in the bill are not functions that SCOSS currently has. Nonetheless, I can imagine, given some of the figures that Lesley Rushton talked about earlier, that, if we were being asked to give more forward-looking advice on what conditions to include, any cost would be significantly higher than the amount of money that we have budgeted for external research in the current year. You can probably draw your own conclusions on that aspect.

Jeremy Balfour: Thank you. Dr Rushton, regardless of whether the bill passes, you will continue to publish your reports, which contain advice to UK ministers. To what extent do you consider a wider audience when publishing your reports? They are perhaps not for the average person on the street, but how widely are they read? Do you monitor who reads them?

Dr Rushton: That is a really interesting question. Everything that we produce, including our reports, is on our website. Many people read our minutes, which are quite full, because they can then see exactly where we are going with our thoughts. All our reports and, as I mentioned, the position papers and command papers are in the House of Lords and House of Commons libraries.

At the moment, we do not write papers aimed at laypeople, and we do not do regular updates in the general scientific press. However, we are well aware of that gap in our approach. At our next meeting we will discuss how we might improve our reach in both the scientific and employee communities, beyond the public. We are considering finding an employee journal and a scientific journal where we could have regular little slots for giving such updates. We are very well aware that many people do not know about such matters. The difficulty with all worker groups is in getting to the small and medium-sized groups who probably do not even read the HSE's website. However, we are starting to do something about that.

You have picked out a point where, to be honest, given all the work that we have been doing, we have not had the time to consider what we do about that gap. However, we publish everything that we produce.

Jeremy Balfour: Thank you. I will leave it there, convener.

The Convener: I invite Paul O'Kane to close our question session.

Paul O'Kane: I will follow on from where Jeremy Balfour left off. I am not sure whether I am pronouncing the acronym correctly, but DACBEAG—the disability and carer benefit expert advisory group—has essentially already advised ministers on EIA. I am keen to understand Dr Simpson's view. If another non-statutory group were to be created, would it be able to provide the required advice on any detailed policy development for EIA, or would that have to sit somewhere else?

Dr Simpson: That is a wee bit of a challenging question. Policy advice can come in many forms, both solicited and unsolicited, and I would expect that to continue.

The notes accompanying the bill set out a number of possible avenues for obtaining such guidance. If Mark Griffin's preferred option of setting up the SEIAC were not adopted, undoubtedly more than one model could be made to work. If the right expertise were there, the advice would be useful. The policy memorandum itself notes that, if a body were to be set up on a statutory footing, with a formal requirement for it to be consulted, it would be harder for such expertise to be ignored.

I do not really want to go beyond that, because I am not here to offer a position on the correct model, but I point out that various options are available.

Paul O'Kane: Thank you. I appreciate that today's evidence is for context, convener, so I will leave my questioning there.

The Convener: I thank Dr Rushton and Dr Simpson for taking part in our meeting and sharing their valuable expertise. We will continue to take evidence on the bill in the coming weeks.

That concludes our business in public.

11:01

Meeting continued in private until 11:29.

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