OFFICIAL REPORT
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Social Justice and Social Security Committee

Thursday 12 March 2026

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SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE
9th Meeting 2026, Session 6

CONVENER

*Collette Stevenson (East Kilbride) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Claire Baker (Mid Scotland and Fife) (Lab)
*Jeremy Balfour (Lothian) (Ind)
*Marie McNair (Clydebank and Milngavie) (SNP)
*Carol Mochan (South Scotland) (Lab)
*Alexander Stewart (Mid Scotland and Fife) (Con)
*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Graeme Dey (Minister for Parliamentary Business and Veterans)
Frank McKillop (Enable)
Clare McKinlay (Scottish Government)
Keith Park (MS Society Scotland)
Craig Smith (Scottish Action for Mental Health)
Erica Young (Citizens Advice Scotland)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Justice and Social Security Committee

Thursday 12 March 2026

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Collette Stevenson): Good morning, and welcome to the ninth meeting in 2026 of the Social Justice and Social Security Committee. The first item of business is to decide whether to take items 4 and 5 in private. Are we agreed?

Members *indicated agreement*.

Armed Forces Bill

09:00

The Convener: The next item of business is an oral evidence session on legislative consent memorandum LCM-S6-73. The LCM has been lodged by the Scottish Government in relation to the United Kingdom's Armed Forces Bill. Members will wish to note that the Scottish Government is recommending consent to the provisions noted in the memorandum and that discussions are on-going in relation to other provisions in the bill, which I understand might be the subject of a legislative consent motion in the next parliamentary session.

I welcome to the meeting the Minister for Parliamentary Business and Veterans, Graeme Dey, and officials from the Scottish Government: Will Dunn from the veterans unit and Clare McKinlay who is a solicitor in the legal directorate. I invite the minister to make some brief opening remarks on the LCM.

The Minister for Parliamentary Business and Veterans (Graeme Dey): Good morning and thank you for inviting me along to discuss the UK Armed Forces Bill and the associated legislative consent memorandum.

As you will be aware, the Armed Forces Bill 2026 was introduced to the House of Commons on Thursday 15 January. The main purpose of the bill is to renew the Armed Forces Act 2006, which must be renewed every five years and was last renewed in 2021. There has been extensive engagement on the bill between officials and the UK Minister for the Armed Forces in particular, and I acknowledge and welcome that.

The majority of the bill's provisions have been assessed as relating to reserved matters, but it has been agreed that one substantive measure in the bill engages the LCM process, which is the extension of the

"duty to have due regard"

to the principles of the armed forces covenant to central Government, including the functions of Scottish ministers, and the expansion of the duty to cover a significantly increased number of policy areas. Those areas will include

"childcare; education and training; employment; health and social care; housing; social security benefits; personal taxation; criminal justice; transport; pensions; immigration and citizenship;"

along with

"armed forces compensation."

The expansion of the covenant duty accordingly has the potential to impact on a wide range of

Scottish Government policy areas. However, the Scottish Government has always been highly supportive of the aims of the armed forces covenant since its introduction in 2011. The principles of the covenant—that service personnel, veterans and their families should suffer no disadvantage in accessing support or services as a result of their military service—already underpin our veterans strategy and our support for the armed forces community more widely.

We welcome the extension of the covenant duty and the opportunity that it represents to ensure greater awareness of and consistency of support for our armed forces community. The Cabinet Secretary for Justice and Home Affairs has therefore recommended that we consent to the bill as introduced in full.

The Convener: Thank you, minister. I will kick off with the first question. What will change as a result of the new duty that the bill places on the Scottish ministers?

Graeme Dey: There is a wider aspect to the question, which is what will be improved in the experience of the armed forces community and their families as a result of the new duty.

I think that the new duty will focus minds among public bodies about the need to have regard to the covenant and will help some members of the armed forces and veterans community to understand what the covenant does and does not do, because there is a misunderstanding among some that it provides for advantage rather than no disadvantage.

In the context of the Scottish Government, the new duty will, in reality, make little difference. I am more than content with our approach to dealing with the armed forces community and veterans, but it is helpful that there is now something that reminds everyone of the need to engage in the process and ensure that that community is not disadvantaged as a result of their service.

The Convener: Thank you for that reassuring response.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Good morning, minister. I welcome what you have just said, but I have a couple of questions. I am happy for responses to be relatively brief and perhaps followed up in correspondence.

First, I am pleased that a committee will scrutinise these matters on an on-going basis. That has been slightly lacking in the Parliament, so if the successor committee can follow through on how Scotland is delivering for veterans, that would be a positive thing more generally. The minister has embraced the additional duties placed on the Government, and there is nothing to fear.

My substantive question is about education and training, which, to me, are a shared space. If an armed forces veteran has given 15 or 20 years of their life to the military, the Ministry of Defence and the UK Government have a duty and responsibility to manage their transition back into civilian life in a dignified, respectful and meaningful way. I have not looked in detail at how well they do or do not do that, but what about the UK Government and UK military saying that education and training are devolved to the Scottish Parliament and that it is for the Scottish Parliament to have due regard to that, because they have done their bit? I am sure that that is not the nature of the discussions, but what reassurance can you give that there will be dialogue to ensure that that shared space for veterans is suitably resourced, not just by the Scottish Government but, on an on-going basis, by the UK Government?

Graeme Dey: To deal with your first point, I, too, welcome the fact that that scrutiny will be in place. It has been a bugbear for some people in Parliament that there has not been that necessary interaction with veterans in the support that committees provide. That scrutiny will be helpful. I say that, but I am leaving Parliament in two weeks' time.

Mr Doris touches on an important point. If we are honest, the transition experience of a lot of our military has been quite poor, but it has been improving. The UK Government has got better at the support that it provides to people who are transitioning out of the military, but it could always be better; so, too, could our offering. When I was last in this role, we did a substantial piece of work on translating military qualifications into civilian qualifications. The military qualifications in the UK military are based on the English education system, so the read-across for employers was not always what it could have been. Extensive work has been done in that space. There are good examples of engagement by our colleges and universities, but I readily acknowledge that there is more work to be done.

If the refresh of the covenant assists that, all to the good, but, above and beyond that, we have ground to make up collectively here. It cannot just be about ensuring that, when someone leaves the military, they have a job to go to. That job should maximise and tap into the talents that they have acquired. Unfortunately, we have gone through a period in which, all too often, people who are leaving the Army have not entirely understood the skill set that they have developed. It is important that the MOD and the military ensure that that is done at their end, before people transition out. We need to do more to raise awareness of the opportunities that are being provided. Over the past few years, the Scottish Government, as an

employer, has become much more active in recruiting from the military. We do not do that out of altruism; we do it because we are recruiting a skilled and motivated workforce. I repeat that we could always do better, and I hope that my successor as veterans minister will continue that work.

Bob Doris: I find that encouraging. I just want to put on record—with brevity, I promise, convener—the fact that I have spoken in recent months to two veterans who have corresponded with the minister on this issue. It has been a long time since they served in the armed forces, but one of them made the point that, when they joined, Glasgow City Council still had council housing, and promises were made about housing and accommodation. Housing stock transfer then occurred, and those promises could not be fulfilled. Therefore, I think that this duty on public bodies in Scotland could have a real impact on proper quality service design and delivery for veterans.

Another veteran said to me the other day—and I am not making any case for or against this—that they felt as if there were something symbolic about how Scotland was supporting veterans. They said that, for example, some bus companies were rolling out free bus travel for veterans. Could that sort of thing not be extended across the country in some structured way by the Government?

I will just leave that sitting there, minister. You do not need to respond, but my constituents are saying these things to me and I had the opportunity this morning to put their comments on the record.

Graeme Dey: I just want to respond briefly, if I may. On housing, there are some very good examples across Scotland of local authorities having a relationship with the veterans community, and it would be recognised by them as such. However, I agree that it can be patchy, and I think that this will help focus minds. I should also say that some housing associations have a very good track record in this space.

On your latter point, I am less interested in symbolism and more interested in delivery. Although it might be symbolic to do certain things, this has to be about improving the lived experience of our veterans community across Scotland. Let me give you a brief example: the veterans railcard is a very good thing, but I have had conversations with the UK Government about the restrictions on it. In some regards, it is more effective for veterans living in Scotland who are over a certain age to access the senior railcard, because they will get more of a return on it. I hope that this piece of work will be developed with the UK Government to ensure that we maximise the provision in the veterans railcard.

Bob Doris: That was really helpful. I should say that the veterans who spoke to me about the bus pass made the point that they could use it to meet up with colleagues who were now dispersed across Scotland and beyond and keep up those connections from their armed forces days. However, I agree with everything that you have said.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, minister. Like many, I welcome the progress that is being made here, and I acknowledge that the bill will focus minds, something that will be vital in this process. Under the legislation, local authorities and health boards will have to have due regard to what happens with reference to the armed forces covenant in a wide range of their public functions, and I believe that it is a good thing for us to ensure that that happens. However, can you explain why legislative consent will not be required for that?

Graeme Dey: I will bring in Clare McKinlay to respond to that.

Clare McKinlay (Scottish Government): The armed forces covenant already applies to certain functions of local authorities and health bodies in Scotland, so the bill will not change that. This legislative consent motion relates only to the extension of the same duty to the functions of the Scottish ministers with regard to the wider range of policy areas that are now included within Government. It is just an expansion of the duty.

Graeme Dey: I think that what you are alluding to, Mr Stewart, is the patchy nature of what is offered.

Alexander Stewart: Yes.

Graeme Dey: We have local authority armed forces and veterans champions as well as national health service champions. There are some excellent local authority champions; indeed, I think that you will be aware of Chris Ahern from Perth and Kinross Council, which you served on. He is first class.

However, for local authority champions, what sometimes gets in the way is a lack of officer support, or perhaps a lack of training to allow them to understand their role as veterans champions. Along with the champions network, we have been trying to address some of that and to raise awareness, and the publicity around the refresh of the armed forces covenant will help in that regard, too. However, we are keen to work with those representatives at local authority level in order to enhance their status, and to encourage the Convention of Scottish Local Authorities and the local authorities themselves to put resource behind them so that they can champion, self-

evidently, the cause of our veterans community, our armed forces community and their families.

Alexander Stewart: Thank you.

09:15

Claire Baker (Mid Scotland and Fife) (Lab): I am pleased that the LCM is before the committee this morning and that there is a recommendation to approve it.

I have a question about clause 6 and schedule 3. I understand that there are still on-going discussions between the Scottish and UK Governments about whether legislative consent is required on clause 6. Clause 6 and schedule 3 would make changes to the service justice system in relation to prosecuting domestic abuse. We are coming to the end of the session. Can we expect the outcome of those discussions soon, or is there an update on how they are going?

Graeme Dey: I will bring Clare McKinlay in to speak to the detail of that.

Clare McKinlay: During the past few days, we have had further engagement at official level with the Ministry of Defence, and it has been agreed that the legislative consent process does not extend to clause 6 and that little part of schedule 3 simply because of the reserved nature of the provision.

Graeme Dey: That is symptomatic of the good working that has been going on at both official and ministerial level. There has been a very collaborative approach.

I meet monthly with Al Carns from the UK Government, who is my ministerial counterpart, and we are both committed not only to getting this right but to ironing out any problems. I know that committees and the Parliament get frustrated when supplementary LCMs are required, and sometimes that is unavoidable, but we are working very hard to get this right first time.

The Convener: That concludes our questions. Is the committee content to recommend to the Parliament that consent should be given for the relevant provisions covered by LCM-S6-73?

Members *indicated agreement*.

Bob Doris: Convener, before we move on, given that this may be the last time that the Minister for Parliamentary Business and Veterans will be in front of us—and considering the Herculean challenges that he has had during the past few weeks in trying to make Parliament deliver on all the legislation that is still to be disposed of—I put on record my thanks to the minister for all his efforts in the Parliament, not only in the short term but during the longer term.

The Convener: I echo that. On behalf of the committee, I wish the minister good luck in the future.

Are members content to delegate responsibility to me and the clerks to draft a report to the Parliament on the LCM?

Members *indicated agreement*.

The Convener: Thank you, minister, and your officials as well. We will have a short suspension to allow for a change of witnesses.

09:17

Meeting suspended.

09:19

On resuming—

Adult Disability Payment

The Convener: Welcome back. Our next item of business is our evidence session on the Scottish Government's response to Edel Harris's independent review of adult disability payment. I welcome to the meeting Craig Smith, who is public affairs and policy manager for Scottish Action for Mental Health; Keith Park, who is senior policy, public affairs and campaigns manager, Scotland, for the MS Society; Frank McKillop, who is director of governance and policy for Enable; and Erica Young, who is senior policy officer, social justice, for Citizens Advice Scotland. Thank you very much for joining us today.

I will go straight into the questions. The first question is about the theme of "A People's Service" in the review. I am happy to open it up to each of you. What are the witnesses' general reflections on the response from the Scottish Government to the review of the ADP? I will go to Craig Smith first.

Craig Smith (Scottish Action for Mental Health): First, thank you very much for inviting me to give evidence. Overall, although we welcome the fact that in response to the independent review the Government has accepted several recommendations, particularly around processes, we are pretty disappointed that the much more fundamental change to the actual structure of ADP—to move away from the framework that we have as a legacy of the personal independence payment—which the review rightly calls for, has been parked.

The Government chose the timing and the terms of reference of the independent review. At the time, we argued for wider terms of reference to include key issues such as adequacy of ADP. However, now that we have come to a place where safe and secure transfer is complete and everyone has moved over from PIP to ADP, the review rightly focused on that fundamental reform of the underlying structures of the benefit to see how we can improve people's rights and dignity. It is quite disappointing that key changes that Edel Harris recommended, such as abolishing the 50 per cent rule and having a look at the descriptors and activities, and eligibility more widely, have been parked until after the election.

First, we all knew that an election was coming up, and we think that the Government could perhaps have been a wee bit more generous in accepting the direction of travel of the recommendations. Secondly, although I absolutely recognise that finances are challenging at the moment—we obviously do not want to ignore that—a lot of the argument presented by the Government was around having to be very cautious in relation to the financial framework without really providing the evidence behind some of the figures that it came up with, which it thought would be the costs of implementing the recommendations in full.

Overall, although there are definitely things to welcome in the Government's response, such as its acceptance of process changes—really important things that will make a difference to people who are going through the ADP process—it is disappointing that the Government has largely parked that fundamental reform of ADP that we really need to move on to.

The Convener: Would anyone else like to come in on that point?

Erica Young (Citizens Advice Scotland): Following on from what Craig Smith has said, one of the first things that I want to point out is that Scotland has demonstrated the scope of its ambition for disabled people by carrying out such a wide-ranging and inclusive review process. Therefore, we must respect the hard work of disabled people across the country who contributed to the design of the recommendations, gave their time and explored really sensitive areas in order to sharpen policy making in that area. We must not lose sight of that and we must collectively endeavour to ensure that those recommendations play a leading role in the development of future social security reform in Scotland.

There is probably a broad consensus within Scotland now that, to realise social security as a genuine investment in disabled people, the eligibility criteria have to be better able to capture the social conditions in which health conditions are being experienced. We must ensure that the ADP criteria better reflect modern life and that the impact of the social and environmental context is properly captured. That is urgent and necessary, and it is important that the review has made real progress in understanding how we can achieve that at a practical level.

We need to look towards an approach that considers what the outcome would be for a person if appropriate support were put in place that widens rather than narrows horizons. Again, the review has taken a lot of steps to look at how we implement that on a practical basis.

In finishing, I would like to say that we must have absolutely no limits on our ambitions for what we can achieve for disabled people in Scotland and the families and communities in which they live. Social security that has a genuinely laser-sharp focus on breaking down barriers for disabled people can empower them to flourish and

participate fully in social and economic life, and that enriches all of us.

Frank McKillop (Enable): I echo much of what Craig Smith and Erika Young have said. The review came in the context of the 2024 report of the United Nations Committee on the Rights of Persons with Disabilities, which noted deep concern that the adult disability payment was not based on human rights and was not sufficient for people with disabilities in Scotland.

The independent review, which was a comprehensive process, gave us an opportunity to make some of those changes and Edel Harris made many recommendations that would implement some of them. Although we welcome the recommendations that have been taken on board by the Scottish Government, and they will certainly help, especially around some elements of accessibility, training and decision making, the whole review and the response to it have ultimately been overshadowed by financial constraints. That is perhaps the eternal dilemma with social security policy. It might have the best of intentions, but when things are always being looked at through a financial lens rather than the outcomes for individuals, such as those who require adult disability payment, we will always come back to the same issues.

The challenge and the best of intentions are that social security is an investment in the people of Scotland. Perhaps appropriately in the pre-election period, there is certainly a challenge for the next Parliament to truly make that investment that goes beyond just social security and that narrow focus that can sometimes bring it back to a financial calculation. That investment should include social care, employability and community-based support for disabled people and their families. If we make that much broader investment, we will start to see the returns reflected in less expenditure in NHS and acute services and other parts of public spending.

There is therefore an opportunity to be ambitious, and the immediate response from Government to the report has fallen a bit short of that. We hope that that can be rectified.

Keith Park (MS Society Scotland): I agree with everything that my colleagues on the panel have said. The MS Society Scotland is disappointed with the response of the Scottish Government for many of the reasons that have been outlined. Yes, we have positive changes to processes, guidance and training for staff at Social Security Scotland, and that will improve the experience of people applying for ADP, but fundamentally we are still using the same eligibility criteria that were introduced when we transferred from the disability living allowance to PIP. Those eligibility criteria were introduced to reduce the UK Government's benefit spend, and the UK Government has acknowledged that over time. That is especially relevant to the mobility component of ADP and PIP, where the UK Government is trying to reduce the benefits bill by £220 billion over a period of time.

There is evidence from work by pro bono economists that £1 of benefit spend in disability areas will result in £1.48 of economic activity, so it enhances economic activity rather than taking away from it. Also, if we get awards wrong for people living with disabilities and MS, the cost to society will be much higher. The MS Society did a report in 2021 that highlighted the fact that, over the three-year period on which the spending review was focused, there would be a knock-on cost of £96 million in additional funding for people living with MS, which is 2 per cent of the people who were applying for PIP at that stage. That highlights the additional costs that are incurred, but which might not necessarily have been incorporated into some of the calculations.

Moreover, I do not know whether the calculations have taken into account the figure of £770 million rising over time to more than £1 billion, which the Scottish Government indicated in its response would have been the additional cost if we had adopted some of the changes. Edel Harris has said in her written evidence that she would like to see some of those calculations to be able to understand that better; it would definitely add weight to the Scottish Government's argument for pushing things down the line, but the additional costs definitely have to be considered.

09:30

Moving to a different policy area within the Scottish Government, we are looking at how we move towards primary and secondary prevention with regard to long-term conditions and how we better manage those who are living with such conditions. Without any additional funding to help meet the additional costs of living with a disability, people living with MS and other conditions are finding things much more challenging. Again, because of the cost of living, people with MS are having to decide whether to pay for food or for treatment, and, indeed, how they live their lives, and that has a big impact on how they manage their condition. Any reduction in independence will have an on-going impact on their condition and increase the requirement on them to apply for benefits in other areas to try to meet those costs.

The Convener: That has definitely given us food for thought—the figures are quite stark. Thanks for that, Keith.

Looking at the Scottish Government's response to the theme of "A People's Service", do you think that that will create new work for Social Security Scotland? If so, how would that look? Does anyone want to come in on that question?

Erica Young: The overall view from the Citizens Advice Scotland network is that the people's service recommendations that are being taken forward are already highly aligned with current operational practice at Social Security Scotland, which demonstrates a real commitment to continuous improvement in learning. We have witnessed that in action, and we look forward to continuing to build on the strength of that relationship. The planned expansion of an escalation route for advisers, for example, will support an increase in communication channels and learning opportunities. In that spirit, we urge the opening up of referral pathways from advice agencies to local delivery teams.

We are also very interested in being involved in collaborative work to embed a trauma-informed approach, which I think is vital, and which will improve the experience of victims/survivors. The Citizens Advice Scotland network looks forward to working with Social Security Scotland on realising plans for, say, an advanced safeguarding team on the back of that.

We think that more detail is required on some of the recommendations that are being taken forward. For instance, the vision for the future role of client experience panels is a bit vague. They were set up in 2020, and we know that they support Social Security Scotland research, but we are not sure how they compare with the lived experience panels that were closed in 2024 and which were actually involved in the co-design of ADP. Implementing that could require more work on the part of Social Security Scotland, but we do not know what exactly that will look like.

Moving on to the issue of consultations, we feel that prompting people to access their right to choice and control over a consultation from the outset, or at the earliest possible juncture, could actually improve Social Security Scotland's workload. For a start, it would help case managers make person-centred decisions, because they would have to hand more information directly from the individual involved. More important, it would also provide people with the opportunity to discuss their circumstances in full with specialist staff and to have their voices properly heard.

My final point is that we cannot lower our expectations. Training and guidance must be continuously reviewed to ensure that no undue weight is being given to how a person is managing pain or whether they are accessing treatment. We have also identified lots of problems with how the reliability criteria are being applied; they need to be applied more rigorously, and case law needs to be reflected in training.

In summary, I suppose that what I am saying is that this is work that we might expect Social Security Scotland to have to take on anyway as part of its business-as-usual workload.

The Convener: That was really helpful. Does anyone else want to come in?

Craig Smith: Very briefly. I just want to echo what Erica Young has said. We welcome the fact that the Government has accepted most of the recommendations in this part of the review.

The workload question is quite hard, for the reasons that Erica set out. Many of the recommendations are already being implemented. The trauma-informed practice, for example, which we strongly welcome, was on-going. I do not think that the recommendations will have a workload impact on the agency; indeed, implementing them and improving the processes will potentially reduce workload and, in particular, challenges for clients. In that respect, we very much welcome recommendation 7, on improving promotion of the independent advocacy service. What we fed into the review, not just from my position in the advisory group but organisationally, was that people found great benefit in accessing the independent advocacy service and local delivery teams. However, there was not huge awareness among individuals, and among some partners and organisations, about the right to advocacy and how to access it. If we get that right, it will probably save time for the agency and, importantly, for the people who engage with the system.

The Convener: We have discussed the recommendations that have been implemented or are in the process of being implemented. There are also bigger asks, such as in relation to the 50 per cent rule, and the witnesses have touched on fluctuating conditions. In relation to structural reform, which recommendations should be prioritised?

Erica Young: Do you mean the better future recommendations that have been put on hold?

The Convener: Yes.

Erica Young: The key thing here is that those recommendations reflect the evidence that reorientation of the ADP criteria better to reflect modern life and capture the social conditions in which disability has been experienced is vital if the payment is to achieve its purpose. How health conditions impact on quality of life and wellbeing is deeply shaped by factors ranging from the design of social infrastructure—workplaces and transport—to the access that an individual has to social networks and community resources that

enable them to manage their health and pursue personal goals. The recommendations are designed to try to move us to a point where we develop more of an understanding of that in the social security system. As I said, there must be no limits to our ambitions—this should be the beginning and not the end of the conversation.

At this juncture, I will explain the importance of some of Edel Harris's suggestions for detailed changes to the criteria. I will talk you through the case of a lady who one of our citizens advice bureau advisers supported in a hospital setting. Nicole has anorexia. Her weight is still too low for her to be discharged from hospital. Dressing has a significant relationship with her health, because the fit of clothes is very much a proxy for weight gain. Bathing can have a similar impact, because of the absolute focus that it places on the body. Social engagement is very difficult because of the predominance of food in social situations; interactions in general can quite often revolve around food. Nicole experiences brain fog. She over-exercises, and her concentration and focus are affected by her condition. However, under the current eligibility criteria, she does not fit neatly into the boxes, as it were, of the narrow functional base criteria.

What we discussed at great length as part of the review process was how to get the balance between an objective and a subjective process. We feel that the recommendations have achieved that balance by, essentially, widening the scope of the criteria at one level and, at another level, narrowing it, in the sense that we are sharpening the focus: first, to what outcomes could be achieved by putting support in place, and secondly, what the wider impacts of the condition are. Instead of simply a narrow functional approach, we are narrowing how we view what a person needs and what we could achieve for that person if we put the right support in place. That is the single most important angle from which to consider the issue.

The Convener: Thanks very much.

Carol Mochan (South Scotland) (Lab): The review suggested various additions to client communications, but the Government's response emphasised the importance of clarity and simplicity. Do the witnesses think that Social Security Scotland currently strikes the right balance between clarity and the amount of information that is provided? Is there anything else that we could encourage it to do on information for clients?

Frank McKillop: We very much support the focus on simplicity, clarity and conciseness of information. Many of the people whom Enable has supported have said that they have been bombarded with information, which is, on occasion, in complex language. We ask for easy-read versions of that information to be made available. Social Security Scotland provides some support in that regard, but we noted in the Government's response to the review the point that a lot of charities and organisations produce their own easy-read materials. We are happy to do that, but in many cases we do it when there is a gap. If there is a gap in the information that a Government agency provides, we have to step in and produce easy-read material for the benefit of people who require it. The focus on simplicity, clarity and conciseness of information is positive.

I also noted recommendation 17 in the report, which is that information should be collated in a single source, so that people do not have to effectively run a small business by filing all the letters that they have received from Social Security Scotland and cross-referencing with letters that they got six months ago to check what they said. The Government has put that on the back burner, but we would encourage it to take it forward because people are not necessarily experienced in managing that amount of contact with Government agencies. It is important to have clarity and that all the relevant information is available in a single place.

I do not think that that is in conflict with the focus on simplicity. Having all the information in one place keeps the system simple. Simplicity does not necessarily mean providing shorter letters or less information; it means ensuring that all the information is gathered in a single source, so that someone can review everything relating to their case without needing to cross-reference information from various places.

Another element—I do not know whether a question will be asked about this—is the recommendation to establish an online portal. If there were an opportunity for people who are comfortable using technology and mobile apps to access the portal in that way, that would reduce Social Security Scotland's workload, because people would be less inclined to follow up or chase up what is going on with their case.

Advances in communication could definitely be made. I know that the Government did not rule out progressing that recommendation; it is not something that it is doing immediately, but we would encourage it to take forward action on both counts.

Carol Mochan: Having an easier flow of information might help many clients.

You brought up a really important point about easy-to-read or easy-to-use guidance. Is there anywhere that staff are trained in how to approach that? Have you seen anything on that?

Frank McKillop: I am not sure exactly where they get training. There are organisations that provide training. I would have to check whether Social Security Scotland is using any of those to train its staff, but it is definitely something that we would encourage.

Carol Mochan: It is something that we could look at as well.

I do not know whether anyone else wants to come in.

Erica Young: I will come in briefly.

Our focus tends to be on telephony. Social Security Scotland delivers 15 payments but has one switchboard line. Getting text messages rolled out was brilliant progress.

However, as far as the online service goes, one of the difficulties that our clients experience is that they must first establish a mygov.scot account. That can be quite difficult for people if they have limited digital access or literacy, or if they have set up an email address in the past but cannot remember their password and everything must be re-established. Some people are not necessarily comfortable going through a central Government portal. I think a lot of people would find it easier to upload things on a stand-alone digital portal.

Social Security Scotland is very good at being proactive and has an evolving strategy that is able to respond to developments around inclusive communication and other things that would make the service better.

Finally, I direct members to the application form, which we always think could be improved. We have been really impressed with the recent improvements that Social Security Scotland has proposed to the redetermination notice. In a similar spirit, a real focus on framing the application form in a way that facilitates free and full responses and encourages people to use the free text spaces would work best. We know from Social Security Scotland's research that decision makers find that more open questions generate answers that are easier to base person-centred decisions on.

We always must bear in mind that the process can be extremely overwhelming for people. We are asking people to consider the most difficult and sensitive parts of their lives and to confront things that they do not normally have to confront in everyday life. We must make it as easy as possible for people to open up about those things. People will take so many things for granted, and the form should be able to gently, not intrusively, prompt them to speak about them as openly and freely as possible.

09:45

Carol Mochan: To be clear, are you saying that it is helpful for people to have free text boxes so that they can write in their own words about how they present?

Erica Young: Absolutely. So many people who are applying for the adult disability payment will have communication barriers or find it really difficult to articulate their circumstances in writing. When they step through the door of an advice agency such as ours, it is a humanising and non-judgmental experience; they can speak quite freely about the impact on their self-worth and self-respect, which makes it easier for an adviser to capture—they come at it from all angles. Being able to put free-flowing answers in would not only make it easier for the individual; it would enable advice agencies and support workers to help the person to get the most out of the form.

Claire Baker: I will move on to theme 2, on processes that work. The Government accepted several recommendations but rejected others. The first of those rejected recommendations relates to the redetermination of the whole award. The Government disagreed that only the area that is being challenged should be investigated, and the explanation that was given for that is that

"the commitment to robust, accurate decision-making is best achieved by maintaining the current process."

Does anyone want to respond to that and flesh out why the Government has decided to stick with the current process rather than accept the recommendation?

Erica Young: I am happy to come in on that. The CAS network understands the Scottish Government's position on that point, because there is a genuine risk that people might not get everything that they are entitled to if there is a narrow focus on one particular activity or even, in some cases, one particular descriptor. However, we see the opposite argument too, which is that the redetermination of an entire award can lead to unexpected and surprising outcomes that can cause people a lot of distress and confusion.

The Government's response means that we must be even more focused on improving decision making, because we have seen significant levels of inconsistency in decision making at points in the redetermination stage. I reiterate that we need to ensure that training and guidance are reviewed regularly and that the reliability criteria in particular are robustly applied, because there is a link between how the reliability criteria are being used and inconsistencies in decision making. We also need to ensure that case law is reflected in guidance. It should make a significant difference when really significant pieces of case law on PIP

and ADP are fully implemented in guidance and training.

We recognise that there is a balance between subjectivity and objectivity in all decision making on ADP, so there will always be a degree of volatility. We also recognise that, at the redetermination stage, there is a brand-new decision maker and process, so differences will exist with the outcomes that have already been decided in favour of the individual at initial application.

To a certain extent, that will be part of the system. It is important that everyone understands how it operates and knows that they will get a fair decision based on guidance that everyone can refer to in order to understand how a decision is likely to be made and the process and the thinking that enable a case manager to make it.

Claire Baker: You recognise that there is a problem, but there is a solution that will lead to better decisions.

There is a recommendation that there should be an opt-out, rather than an opt-in, for the award of short-term assistance. I would like to hear your views on that. Do you know how many people claim that payment? Is it underused? The fact that there is an opt-in system suggests that it may be underutilised or that there might be a lack of awareness of the payment.

Erica Young: We have seen a significant, three-fold, increase in the past year in the number of people seeking our advice about short-term assistance, but awareness and understanding are still low.

Both we and the Child Poverty Action Group have begun seeing the need for more communication about short-term assistance. That assistance is not a qualifying payment for carer support payment or for the carers element of universal credit. We are concerned that, if there was an opt-out rather than an opt-in, there might be less opportunity to communicate with people about exactly what short-term assistance means. I stress the importance of communication and of raising awareness. People must be able to exercise choice and control, and having an opt-in can achieve that, if we focus on ensuring that that choice is meaningful by communicating effectively with people.

Craig Smith: I absolutely agree with what Erica Young said. We believe that short-term assistance has been one of the really big positives of the development of the Scottish social security system, along with moving to a system of redeterminations rather than reconsiderations. Having a new case manager look at the case in the round is positive.

Our position is that we would favour an opt-out system for short-term assistance. I am a wee bit confused by the rationale in the Government's response, which says that that would reduce flexibility. People would have the choice to opt out and would still have flexibility, but that would need to go along with clear and proper communication about the impact of short-term assistance on other benefits and the interaction with the reserved system.

We are very much in favour of the recommendation from the review, but a tad confused about the Government's position that an opt-out would reduce flexibility.

Claire Baker: You are saying that short-term assistance could have an impact on the other benefits that a person receives.

Craig Smith: I echo Erica Young's point that, because it is not a gateway to other payments, that must be clearly communicated to clients. Our position is that short-term assistance has been hugely positive and that it provides people with financial stability and reassurance while they are going through the mandatory redetermination process or when they are challenging awards. Overall, it has been a big positive and we are strongly in favour of it.

Claire Baker: For how long would someone get short-term assistance? How long does the process typically take?

Craig Smith: The process lasts until the redetermination is complete and decided.

Claire Baker: Do we know how roughly how long that takes? Is there an average length of time for an appeal or a redetermination?

Craig Smith: The statutory limit for a redetermination is 56 days and I think that that is broadly being met. There have been some changes over time regarding how many redeterminations meet that timeframe, and some people do wait longer. I do not have the timescales for appeals to hand, but 56 days is the legal statutory maximum for a redetermination.

Claire Baker: The committee has been taking evidence from Social Security Scotland on its communication strategy and how it can improve the uptake of certain benefits, so it is helpful to know that.

The Convener: I invite Marie McNair to ask some questions.

Marie McNair (Clydebank and Milngavie) (SNP): Good morning, and thank you for your time. The Scottish Government is unable to commit to having an online portal to track the progress of applications. Is an online portal a priority for the people you support?

Craig Smith: An online portal would be helpful, although we understand the Government's position on why it cannot commit to that at the moment. The only caveat that I would give is that choice is hugely important, and digital exclusion is an issue, particularly for some people who are living with mental health problems. We would not want a move to a digital-by-default model for people to access and manage their interaction with Social Security Scotland. There would be benefit in an online portal—it would give simplicity for a large number of people—but it should be one option among many for how people can engage with the system.

Keith Park: I mirror what Craig Smith said. It is important that, as Frank McKillop touched on earlier, there is a repository available where people can access all their information quickly and easily, because it simplifies what people have to go through. The process can be stressful; a lot of people with MS experience fatigue, so they have to drop in and out of the process and do it whenever they are feeling at their best. They have cognitive issues, so being able to track the information and have everything in one place would be positive. Like Craig Smith, I can understand why a portal has not been implemented at this stage, but it is an option that should be explored.

On a similar note, it is important to link up the local delivery network telephone link and the referral process. That is a positive step; everybody that we have spoken to who has MS and who has gone through that process has found it hugely beneficial. Rather than people having to go through Social Security Scotland to make an application, we should simplify the process. There is a period of continuous improvement, which is what Social Security Scotland and the Scottish Government seem to want. However, there is a huge step that we have to try to take, and we have to implement that as soon as we possibly can.

Marie McNair: It is important that people should be able to keep track of their application. Whoever gets elected as the next Government needs to push that.

The Scottish Government has agreed to review the ADP application form. The Government's response points out that the current form has been the result of years of engagement with stakeholders. What lessons from previous work can we use to inform the next review?

Frank McKillop: From my perspective, and as you and the Government have noted, there has been a great level of stakeholder input. It is the quality of engagement that is critical; sometimes there is a risk of engagement for the sake of engagement and of not necessarily focusing on having the skills and experience in the room for some of those discussions. There are people with a lot of broad experience of working on such forms and seeing the outcomes—perhaps they have previously worked in a social security agency and they understand what happens when those forms come through—and sometimes there is a risk that the right experience is not consulted. We need to make sure that that engagement is broader and brings in that expertise and experience from all angles.

We encourage the focus on lived experience. There is also an element of caution that people with lived experience of applying for benefits do not necessarily have the same experience of what happens when the form arrives with an assessor. We need to make sure that those broader experiences are brought into the process, in order to get it right first time. I detected an element of frustration in the Government's response to that—it thought that a lot of work had already been done on that.

That is my view on how the process could be improved this time.

Keith Park: It is disappointing that the Scottish Government is not willing to take forward the portal. One big piece of feedback that we got during the consultation period for the independent review was that some people saw the application form as a barrier—because of its length, the way in which it was set out and the complexity of filling it in. People said that the length of the form made it look complicated and put them off applying. Anything that is put in place as a barrier has to be a negative, and we have to look at how to improve that.

People said that there was not enough space to explain as effectively as possible how their condition impacts them day to day and how their symptoms impact on the eligibility criteria. If they do not manage to express the impact that their condition has on their ability to perform tasks, the assessor will not be able to consider that when they are deciding what award the person should be getting. We have to look at that again and make sure that we get the application form as good as it possibly can be.

I go back to my original point that, if we change the eligibility criteria to allow people to reflect the holistic, person-centred approach that we want to take, that should improve things. In the meantime, we have to review the application form to give people the opportunity to express fully how their conditions impact on their life day to day.

10:00

Marie McNair: Do you feel that the application process is deterring people from claiming benefits?

Frank McKillop: Yes.

Marie McNair: Earlier, we were speaking about benefits take-up. Last week, we dealt with the job start payment and reflected on the stigma that was attached to making a claim. Can you comment on the impact that the associated stigma is having on benefits take-up across the board?

Keith Park: To be honest, I cannot overly comment, because we do not give benefits advice as such. We tend to ask for advice and consult our membership and people who are living with MS about specific issues. I cannot comment on take-up as effectively as others on the panel who provide support.

In general, there is definitely a stigma that is associated with living with a long-term condition. A big part of that is about how people are perceived when they have invisible symptoms. Those with invisible symptoms, which are a huge part of MS, feel considerably judged, especially if they engage with someone who makes it clear that they are on benefits. I will give an example that has popped into my head. A gentleman visited a dentist, who highlighted the fact that he was in receipt of benefits. He felt that everyone in the waiting room was turning around to look at him, because he did not look as though anything was physically wrong with him. However, he has been living with MS for a long time. Those situations should not happen, but the stigma persists.

Marie McNair: I raised the point about stigma, benefits take-up and promotion at East Dunbartonshire Citizens Advice Bureau annual general meeting the other week. Do other witnesses want to add any thoughts on that?

Erica Young: It is a significant issue that is sometimes not spoken about enough, particularly with the media narrative about welfare reform, when it was as though people were being talked above, as it were. Sometimes, rather than benefits being framed as an investment in people that can provide them with the tools that they need to fully participate in social and economic life, some of the narrative suggests that benefits are a burden on the public purse. We really need to redirect that. The cost of inaction and of not providing such support is far higher than the cost of providing it.

In small rural communities, where people tend to know one another's business, we tend to find that stigma can be a real deterrent to people applying for social security. Those with invisible or fluctuating conditions may feel that they have to justify themselves to a greater extent and prove that they need help. That is an unacceptable situation for a compassionate society that is seeking to treat people who are experiencing ill health and disability with dignity and respect.

Marie McNair: In the west of Scotland, there is a culture of thinking, "I do need it, but somebody else needs it more than me." It is about trying to break through that.

Craig Smith: I will come in briefly on stigma. I do not have data with me but, anecdotally, we have heard over many years from the people who we support about the dual impact of stigma around accessing social security in the first place, which is a real barrier. That is compounded by the stigma around living with mental illness. Keith Park and Erica Young were speaking about the invisible nature of that, which results in people feeling that they have to justify themselves and prove that they are unwell.

The review has come at a timely point. We have been disappointed in some of the media and political discourse over the past couple of years about social security, in that it has been framed as a cost, rather than an investment, as Erica Young said. That particularly applies to the way in which mental health and young people have been spoken about. Some of the discourse has almost singled that group out as undeserving or not being disabled enough, meaning that they are not worthy of social security. We know that living with a mental health condition can be entirely profound and life changing and it can have a huge impact on people's daily life, mobility and ability to live an independent and full life. Social security and ADP are essential for many people who are living with mental health problems.

From the ADP case load, we know that a mental health condition is the primary condition of roughly 40 per cent of people who are in receipt of ADP. That can be slightly misleading, because most people who apply for ADP will have multiple conditions, but it would not be right for me not to put on record our real disappointment at the way in which some of the debate on social security and social security reform—both at Westminster and in Scotland—has been handled when it comes to the way in which people who live with mental health problems have been disbelieved and spoken about. There has been a huge discourse on overmedicalisation and overdiagnosis, with very little evidence base. We are talking about people's real lives and how essential it is to them that they access social security, not just to live independent lives but—for many—to access employment.

The conflation of ADP, which is unrelated to income, with income-related benefits is also incredibly frustrating. ADP has a role in supporting people who have mental health problems to stay

in work, as well as helping people to live dignified, independent lives as part of the community—as it should do.

Marie McNair: I share your concerns. I am constantly calling that out. As MSPs, we need to be mindful of the language that we use—about human beings, at the end of the day—given that we are only one payslip away from needing social security ourselves.

Alexander Stewart: Good morning. It is apparent that organisations and charities such as yours are very disappointed that the Scottish Government has not addressed many of the substantive system changes and recommendations that the review proposed. It would be good to get a view from you on that lack of response. The Scottish Government has not provided a response to most of the recommendations on the changing of eligibility. What is your view on that? Are you just disappointed, or do you have more to say?

Craig Smith: As I have said, fundamentally, without a change to the underlying structures of ADP, we will not move to a system that lives out the Scottish social security principles in being an investment in the people of Scotland, a human right in itself, and a help to people's realisation of their human rights, including independent living.

We are disappointed. For us, the key recommendations in the review were on abolishing the 50 per cent rule in terms of eligibility. In particular, for people living with mental health problems or other fluctuating conditions, being able to quantify the impact on their daily living or mobility as a figure of 50 per cent of the time is really challenging. We should be moving towards a more holistic view, looking at the impact of people's disability—in particular, from my perspective, their mental health problems—on their whole life. We recognise that there are challenges, in that we need to balance that subjectivity with objective decision making, but the 50 per cent rule is a huge barrier for people who have fluctuating conditions.

Recommendation 41 was about reviewing eligibility and decision making. Other recommendations looked at some of the daily living activities. Those are important when it comes to better incorporating psychological distress and the impact of people's mental health on daily living activities. People tell us that it is very challenging from a mental health perspective to quantify that in how the benefit is structured. Fundamentally, we have long called for a move away from a system that is based on testing discrete functionality to one that looks at the broader impact of disability on people's lives and their outcomes in being able to undertake activities.

For us, there were hugely positive recommendations in the review, such as shifting to a model of looking at someone more in the round, looking at the impact of activities rather than just the ability to do an individual activity on a one-off basis, and a much greater focus on the reliability criteria instead of the 50 per cent rule. We are hugely disappointed that those have not been taken forward. If we are to impact the experience of people's day-to-day lives through their engagement with ADP and how ADP can support them, we need to change the underlying structures of eligibility and decision making.

Although, as I said, process changes will be welcome and will make some impact, we will not, fundamentally, have real, positive change unless we look at the benefits structures.

Alexander Stewart: Does Enable take the same position? Do you believe that service users are not going to progress to the level of being seen to have what is required?

Frank McKillop: Yes, we would agree with that. We need the review of how assessments are conducted and of eligibility, as Edel Harris recommended. We are frustrated that that has not been taken on, and I think that the reason for that relates fairly straightforwardly to cost.

As I referenced, the UN Committee on the Rights of Persons with Disabilities highlighted that the system that we use in Scotland is not human-rights based. An ambitious move to a human rights-based model would start to address that. Edel Harris's recommendations would move us towards that, if they were taken on board.

We cannot ignore the cost issue; we cannot be unrealistic about that. The Scottish Fiscal Commission referenced the existing gap, which is growing. I think that social security now takes up about 14 per cent of the Scottish resource budget. We are cognisant of that issue, and obviously the Government has to think about that, but we have to have a much broader and perhaps braver approach to investing in society.

As I alluded to earlier, precisely the same issues around eligibility criteria are being experienced by people in the area of social care. We are seeing local authorities and health and social care partnerships narrowing their criteria and cutting people's awards. That is having a very real impact on people's lives and their ability to be out and about and engaged in their community, which again has negative knock-ons for their health and increases the burden for the NHS and other services in the community, along with social work and other acute services.

We seem to be getting things a little bit back to front. We are afraid to spend and invest in what we

know is the right thing to do when it comes to social security or social care. Perhaps it is about having that braver, longer-term objective. Heading into a new session of Parliament is a good time to be a bit braver and more long term about some of these decisions, because we need to change our approach.

We recognise that there are costs involved and that Parliament and Government must have those considerations uppermost in their minds, but we will make savings in the longer term if we have the bravery to make that investment now. That not happening was perhaps our biggest disappointment, but there is an opportunity in the next parliamentary session to have a much more holistic approach to investing in society.

Alexander Stewart: Would Erica Young like to add anything?

Erica Young: I reiterate that the cost of inaction and poverty of vision is grave. The cost will be felt in our health services, our crisis support systems and our advice services; it will be felt in levels of public debt in our communities; and, of course, it will be felt in inadequately realised human potential, which is really what we are talking about.

The direction of travel that the review would take us in would help us to unpick the societal, structural and personal influences on someone's health, which could improve our collective understanding and ability to break down barriers. That is the missed opportunity, and it is widely recognised that a focus on that broader context and on the outcomes of providing that type of support and how we capture that in the assessment process is the way forward.

There were also a lot of tidying-up exercises in the review, which could have been done now. I recognise the cost point, and I will go on to talk about devolution in a second. However, some of the things could be done now. For example, if we look at the descriptors, support with treatment has only one point allocated to it, even though it involves exactly the same functional restrictions as in all the other activities. There were other tidying-up exercises like that throughout.

On the criteria, Keith Park will speak more eloquently than I can about the 20m rule, but our advisers just do not understand it. It does not seem to be in line with other public policy matters. For example, "The Scottish Building Standards Technical Handbook" for non-domestic buildings states that accessible car parking should be within 45m of the entrance to a building. That does not fit with the suggestion that, in order to get an enhanced rate to get a mobility vehicle, you have to be unable to walk more than 20m.

There are other things such as that, so we have to take a more joined-up approach to some of the recommendations. Indeed, that very handbook acknowledges that gradients, weather conditions, handrails and other factors affect a person's ability to walk and the distance that they can walk.

My final comment on that issue—I will come back to the devolution point—is that we must ensure that ADP continues to contribute to financial stability for disabled people in Scotland and works in harmony with the reserved social security system. That is a big part of what has held the Scottish Government back on some of the bigger changes that we are looking to make. However, that does not mean that we can compromise on a commitment to empowering disabled people in Scotland through a social security system that is rooted in dignity, fairness and respect. We must consider those two things at the same time.

My final point is that, although it is not yet clear how reform of the reserved social security system will unfold, the work that is being undertaken to develop the proposals at Westminster level affords an opportunity to advance the review's recommendations. The review has explored in detail a lot of the ground that is being explored at Westminster level, so there is a real opportunity to seize the moment and encourage a broader UK direction along the lines of what the review has recommended.

10:15

Alexander Stewart: My next question is on—

The Convener: I am sorry, Alexander—I think that there might be a bit of confusion about the allocation of themes. I believe that Jeremy Balfour was keen to come in on theme 4.

Jeremy Balfour (Lothian) (Ind): I am happy for Alexander Stewart to carry on; I will mop up at the end.

Alexander Stewart: I am sorry—that was my fault; I did not realise that.

The 50 per cent rule, which has been mentioned, has caused everyone who is involved in the process some disquiet. Frank McKillop, what do you think of the process in that regard? The Government has not tackled or examined the impact of that for some time. Has the debate moved forward? Have things improved, or is it a case of issues on which decisions have been deferred being discussed many times without any real progress?

I am sorry, convener, for jumping in there.

Frank McKillop: We are disappointed about that. The flaws in the 50 per cent rule and the 20m

rule are well established, but the measures remain in place because of the savings that they make. If those rules are in place, it is easier to set a bar that controls costs and spending.

We would certainly have preferred, as other witnesses have outlined, that there be a stronger human rights focus in the assessments. For people with a learning disability in particular, a number of the points-based elements do not necessarily allow them to demonstrate where their need lies. The example referenced in the report concerns reading—where someone may be able to read but is not necessarily comprehending. We do not have the best way to assess that at the present time.

The recommendations were strong on a number of things, and there is a bit of frustration that we have stalled. Again, that reflects the theme that the Government recognises that this is not okay and that it needs to change but does not seem willing to take the bigger steps that are required to make those changes. We would like to see that taken forward in the next session of Parliament.

Keith Park: To pick up on what Frank McKillop said, as an organisation that represents people who are living with a fluctuating condition, we, too, are disappointed by that. The example that I will give is probably overly simplistic, but the 50 per cent rule is overly simplistic. Someone with MS might be able to walk 20m for 60 per cent of a day, but what happens in the other 40 per cent? Are they using a wheelchair? Are they staying in the house, sitting in a chair, or just going to and from their bed during that time?

The rule does not necessarily reflect true life and does not take into consideration the impact that all the other activities have on whether someone can walk 20m. If you were to ask someone with MS whether they can walk 20m 50 per cent of the time, the vast majority of them would say yes, because they can do it. However, that is not considered in the round to take account of the holistic impact of doing that on their day-to-day life.

ADP is a disability assistance benefit to meet the additional costs of living with a disability. In quite a lot of cases, people are incurring those costs regardless of whether they are experiencing those symptoms one day or seven days a week—they are still having to meet those additional costs. Therefore, having in place a policy that punishes people who are not experiencing the symptoms as much but who are still meeting those costs is not fair. I think that the 50 per cent rule is still overly simplistic.

Erica Young: I will quickly add to that. We can see those issues in the data. For example, on the mobility point, across Scotland, only 6 per cent of awards granted were mobility-only awards, whereas 43 per cent were daily living awards only. That perhaps reflects the fact that people often better understand how a mobility need impacts daily living capacity than how the conditions that impact daily living impact mobility.

On the data on fluctuating conditions, although mental health and behavioural disorders make up around 40 per cent of the total case load, 44 per cent of recipients in that category score less than four points in all 10 activities. The second most common category in the case load is diseases of the musculoskeletal system and connective tissue. Those are only 20 per cent of the case load, but they have the highest proportion of people scoring less than four points in all activities. Those people are more likely to score less than four points in all activities, regardless of whether they are receiving the standard or enhanced rate.

That data tells us that people with invisible fluctuating conditions are less likely to score more points and less likely to have higher awards. We can see that in the award refusal rate as well, if we look in a bit of depth at the data. I just wanted to highlight that quickly.

Alexander Stewart: Thank you.

Sorry about that earlier, convener.

The Convener: That is perfectly fine.

I now invite Jeremy Balfour to ask questions.

Jeremy Balfour: Good morning. I put on record that I am in receipt of the higher rate of ADP.

I thank the four witnesses for coming. That is not only for today—you represent the third sector, and we have had people from that sector giving evidence to the committee for the past five years. As a committee, we appreciate the time and effort that has been put in over those years.

I have two questions. First, Erica Young mentioned the PIP review that is happening at UK level. We do not know how that will work out in the autumn or what the UK Government will do. I have a philosophical question. Can we have a system in which there are different criteria north and south of the border? Obviously, that would impact on other benefits and on how people do things. Can you envisage a system in which the 50 per cent rule remains in England but we get rid of it in Scotland? Can that work philosophically?

Craig Smith: Philosophically, I think that Scotland should be an exemplar of good practice and should move to a truly rights-based approach to social security. The issue is more practical than philosophical. We have devolution and devolved social security for a reason, and we should be able to make full use of the powers to ensure that we have a system that fully works for disabled people in Scotland and helps them to realise their human

rights. My concern for many years has been about the barriers to more fundamental reform that relate to the impact on the reserved system, which is a point that is reflected in the Scottish Government's response to the report.

On the equivalency aspect, which is about whether ADP will remain equivalent to PIP and how that would impact access to reserved benefits, we absolutely would not want to lose automatic access to the universal credit health element for people who are in receipt of ADP. There is also the impact on passported benefits—benefits in the reserved system that people can receive because they are in receipt of ADP. My plea to both Governments is that they need to reach a clear position on that. Understandably, when the social security system was first being developed in Scotland, because powers were being devolved and ADP was being set up, we all agreed about the need for safe and secure transfer and to have close legal alignment between PIP and ADP in terms of legal foundations.

However, that was always based on the premise and promise that we would be able to have more fundamental reform in future, because otherwise that would defeat the purpose of devolving social security in the first place. That is not to say that those issues of passporting and equivalency are not tricky, but they cannot forever be a permanent barrier to reform in Scotland. As we have said many times today, we have been calling for a long time for fundamental reform of the overall structures of ADP so that it works better for disabled people and people living with mental health problems.

We need to be brave and start testing the limits of equivalency between ADP and PIP, and to find workable solutions where we can move apart without losing those important links to the reserved system. It is tricky and frustrating that that has been spoken about a lot for years but there has been no progress towards bottoming it out and coming to a position on the true limits of reform in the Scottish system.

Erica Young: I echo absolutely everything that Craig Smith just said. This is a moment to be bold and brave and to be leading in the field. We have already proven the concept and value of building a social security system on a set of principles, rooting it in those principles and introducing a charter that helps people to understand what to expect, based on those principles. That has been tremendously valuable and it has made a material and tangible difference to how the system operates and the impact that it has on the disabled people who interact with it. However, the practical barriers are undeniable, and that is why, as Craig said, we have to find and test the limits. At the same time, we also have to try to lead and influence the direction taken by the Scottish Government.

The overlap between the reserved and devolved systems is so intense. For example, about 44 per cent of the people we see who are getting advice about ADP and other things are also getting advice about universal credit. The overlap is so significant that it cannot be ignored, but that is why we have to be bold, brave and leading.

Keith Park: I reiterate everything that Erica Young and Craig Smith have said. The delay in publishing the response to the Harris review was frustrating, because it feels like it was a missed opportunity to set the agenda. The UK Government was setting up the Timms review to look at PIP, and it just feels that, within that time, the Scottish Government could have made a better response to the review and set out its plans for what it would like to do. It could have looked at what it was planning to do with the eligibility criteria in more detail, grasped the bull by the horns and taken its plans forward while the UK system was in a state of flux. Then, as Craig Smith said, it would have been much more of a practical issue than a philosophical issue of having conversations and discussions between the two Governments about how to make it work, rather than saying that it should just be left as it is because it is going to be challenging and difficult.

We need to make this work as a true investment in society for people living with MS and disabled people who are claiming the benefits. By delaying so much, we have missed the opportunity to set the agenda.

Jeremy Balfour: Let me finish with a positive question. It is 8 May, and we have a new Government in place. The new cabinet secretary for social security comes to you and says, "Here is my magic wand. You can have one of the things that is in the report, and I will grant it to you today."

I know what Keith Park is going to say, but for the rest of you, what is the one thing that you would choose that would make the biggest difference to the people you are trying to help? I will go to Keith first, because it will be easy for him to answer.

Keith Park: I would change the eligibility criteria of the mobility component and review the 20m rule first.

Jeremy Balfour: What would you go to? A bit like you, Keith, I am old enough—sorry to be rude—to remember the 100m rule. I remember that the test used to be whether someone could walk the length of a football pitch. Would you go back to that, or would you not put a figure on it?

Keith Park: I would not put an arbitrary distance on it, because it is such a complex skill that involves sensory and motor issues. Being able to

walk a certain distance does not fully explain a need for mobility support.

I do not have the answer, Jeremy—my brain is not big enough to comprehend that—but I would look at how we assess how people move around holistically, whether in a crowded space, on uneven ground, carrying shopping bags and so on. We should look at that in the round and take a person-centred approach rather than setting an arbitrary distance, because the arbitrary distance does not tell the full story.

Jeremy Balfour: Craig Smith, the magic wand goes over to you.

10:30

Craig Smith: The biggest change would be fully implementing the review's recommendations 41 and 42, so that we get rid of the 50 per cent rule, but, as Keith Park said, I would also look at fundamentally reforming the eligibility criteria. Maybe my wish would be to get rid of a points-based system. We would have liked to have gone further than the review.

However, if we are going to stick with a points-based system, we need to root those descriptors in everyday life and consider the impact of undertaking those activities and not just whether someone can do them there and then. We need to ensure that the descriptors reflect the impact on people's mental health and the psychological distress of undertaking daily living activities. We need to move away from a deficit-based model of examining functionality to one that is rooted in people's individual experience and how they interact in society on a day-to-day basis. The eligibility criteria are the main issue, but you cannot move away from those without getting rid of the 50 per cent rule.

Erica Young: I am going to cheat slightly—

Jeremy Balfour: It is okay—so has Craig.

Erica Young: I will cheat slightly by echoing Craig's emphasis on eradicating the 50 per cent rule. One of the knock-on effects of that would be that it would force a robust application of the reliability criteria, because you would not have the 50 per cent rule to fall back on, so it would automatically improve decision making by making it person centred.

Linked to that—this is why I said that I would cheat slightly—is that I would advocate for the substantial risk provision, which is recommendation 45. The CAS network has particularly good evidence that that would make a real difference. It would introduce something that would work in harmony with proposals at the UK Government level on a future without the work capability assessment, for instance.

The substantial risk provision would look at the substantial risk criteria in the universal credit work capability assessment. It would ensure that decision makers, when looking at the circumstances of a person in a particularly vulnerable situation, make a decision based on the fact that there would be a real and substantial risk if financial support were not put in place, even if the individual does not fit neatly into the functional criteria boxes and sufficient points cannot be awarded. I am referring to risks such as extreme social isolation and self-harm.

Having that channel for decision makers to transcend the functional criteria in a way that is narrow and limited enough to be subjective could make a transformative difference in spite of the fact that the numbers would probably be low. That would be the key ask on my wish list.

Jeremy Balfour: Last but not least, I put that question to Frank McKillop.

Frank McKillop: I agree that the top priority would be the eligibility criteria, but so as not to repeat what has been said on that, the other one that I would focus on is redeterminations and appeals.

One of the long-standing criticisms of the Department of Work and Pensions model over the past 15 years is a feeling that people have been almost discouraged from applying and from challenging decisions that they disagreed with. Under the mandatory reconsideration process—excuse me; we changed the name of it in Scotland and I forgot what it used to be called—for PIP, very few reconsiderations would result in an improved award. There was a suspicion that decisions were not really being reconsidered at that stage and that people had to go to appeal, and when they did, more than two thirds were successful.

That was a major thing that we wanted to change with Social Security Scotland. On redeterminations, we are still in the situation where around half result in an improved award. That is better, and means that it is at least happening, but there is a concern that the full award might be reconsidered at that stage, which is off-putting to people. People see that their award might go down as well as up, and many people who perhaps should be requesting a redetermination are put off doing so.

Similarly, more than half of appeals are still successful, so there is the issue that something is going wrong in the initial decisions, which we need to improve. If the reforms that are proposed around the form and decision making can be brought forward, that would definitely be positive.

As well as the eligibility criteria, we need to make sure that we are removing any barriers and any perception that people cannot challenge decisions that they disagree with.

The Convener: I will ask the final question. We have looked at the Scottish Government's responses to the recommendations.

Given what we have discussed today in relation to the text, would it be useful for the committee to request a clearer mapping of the Government's response to the review recommendations? I see lots of nodding heads. Would anyone like to comment further?

Craig Smith: Yes—absolutely. Beyond its content and lack of ambition with regard to longer-term change, one of our frustrations with the response is its format. As Keith Park alluded to, the timing was very late, right at the end of the period in which the Government could have published it, and the format is very unclear.

It has been hugely helpful for me in preparing for today's meeting to read the briefing that the Scottish Parliament information centre produced, because, in most cases, the Scottish Government's response does not name the individual recommendations and it is not very clear what it is referring to and which recommendations it is strictly ruling out or in. A much more detailed breakdown of the Scottish Government's plans, recommendation by recommendation, would be hugely helpful for the Parliament, the committee, us in the sector and the public, because the document is simply not very clear at the moment and reading it is a bit of a challenge.

The Convener: That is really helpful. Are there any further comments?

Erica Young: I echo what Craig Smith said. I spent a lot of time creating tables and charts from the recommendations to try to work out how things overlapped and what the timescales might be, so I think that a detailed breakdown would be hugely helpful, including with regard to influencing the UK Government, which I was speaking about. If the Scottish Government set out the map of what it wants to achieve, that would help negotiations and planning.

The Convener: That is a really good point, Erica. We will take that on board and feed it back to the Scottish Government, and it will also form part of our legacy report for the next committee, which we will discuss in private.

Thank you all for joining us today; it is very much appreciated. That concludes our public business but, before we close, I would like to place on record my sincere thanks to all the members of the committee. Over the course of this parliamentary session, we have worked through a huge, significant programme of scrutiny, and I believe that we have done so really constructively and respectfully. Although we have not always agreed on every issue, from my perspective, given some of the topics that we have discussed, members have consistently engaged in a thoughtful and serious way. That has strengthened the committee's work, and it will be reflected in our legacy report. This will be our last public meeting, so I want to put that on the record.

I would also like to say a huge thank you to the clerks, SPICe and the wider parliamentary staff who support the committee. Their professionalism, advice and organisation are what really make our work possible. I am eternally grateful for some of the support that they have provided, which is hugely appreciated. I think that I speak on behalf of all committee members on that point. I will go further and say that I think that we should be voted the best committee ever. [*Laughter*.]

Again, I thank everyone for the great collaborative spirit that has been shown throughout the session. It has been a genuine privilege to work with each one of youse. At the heart of all the parties are the people of Scotland and what is really important for them. I will leave it at that before I start crying. Thank you, and thanks again to our witnesses. That concludes our business.

10:39

Meeting continued in private until 11:15.

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