The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

# WELFARE REFORM COMMITTEE

Tuesday 12 March 2013

Session 4

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## WELFARE REFORM COMMITTEE
**5th Meeting 2013, Session 4**

**CONVENER**

*Michael McMahon (Uddingston and Bellshill) (Lab)

**DEPUTY CONVENER**

*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)

**COMMITTEE MEMBERS**

*Annabelle Ewing (Mid Scotland and Fife) (SNP)
*Linda Fabiani (East Kilbride) (SNP)
*Iain Gray (East Lothian) (Lab)
*Alex Johnstone (North East Scotland) (Con)
*Kevin Stewart (Aberdeen Central) (SNP)

*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Richard Gass (Rights Advice Scotland)
Jan Savage (Enable Scotland)
Bill Scott (Inclusion Scotland)
Lynn Williams (Scottish Council for Voluntary Organisations)

**CLERK TO THE COMMITTEE**

Simon Watkins

**LOCATION**

Committee Room 5

# Scottish Parliament

## Welfare Reform Committee

*Tuesday 12 March 2013*

[The Deputy Convener *opened the meeting at 10:00*]

## Decision on Taking Business in Private

**The Deputy Convener (Jamie Hepburn):** Good morning. I welcome everyone to the fifth meeting in 2013 of the Welfare Reform Committee. Michael McMahon is running slightly late, which is why I am convening the meeting. I remind everyone to switch off their mobile phones, as they interfere with the electronic equipment.

Two members of staff from the National Assembly of Malawi are visiting the Parliament this week, and they are shadowing committee teams. Hanna Majamanda is shadowing the Welfare Reform Committee team and will join us this morning—she, too, is running a little late. Are members content for Hanna to be here throughout the meeting, including for items that we might take in private?

**Members** *indicated agreement.*

**The Deputy Convener:** Thank you. Item 1 is a decision on whether to take items 4 and 5 in private. Item 4 is a discussion about fact-finding visits that we might want to undertake, and item 5 is a discussion about a draft motion for a future committee debate in the Parliament. Do members agree to take those items in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### Welfare Reform (Consequential Amendments) (Scotland) Regulations 2013 (SSS 2013/65)

10:02

**The Deputy Convener:** Item 2 is oral evidence on the Scottish statutory instrument that has been laid to make provision for access to passported benefits in relation to the new personal independence payment. We have received written evidence, which members will have been able to consider in advance of the meeting. I propose to invite the witnesses to make brief opening remarks before we open up the meeting to questions. Are members content to proceed on that basis?

**Members** *indicated agreement.*

**The Deputy Convener:** I invite Bill Scott to go first. Bill, I picked you because you are sitting right opposite me.

**Bill Scott (Inclusion Scotland):** Thank you, convener—I think.

The first thing to emphasise is that we are quite happy with a lot of the suggestions about universal credit and passported benefits. However, we have particular concerns about the personal independence payment, simply because of the large number of disabled people who are currently entitled to benefits but who will lose out through the new assessment process. The majority of people in that category will be people who are currently claiming the mobility component of disability living allowance. About 80,000 people will lose entitlement to the higher-rate or lower-rate mobility component of DLA when the new enhanced personal independence payment is brought in.

For people who are currently on the higher-rate mobility component of DLA, the worry is not just the substantial loss of income but the fact that their means of accessing wider society will be in question. If they lose the higher rate, they will lose automatic entitlement to the blue badge, which assists people in parking in city centres and so on. They could also lose automatic entitlement to concessionary travel.

Higher-rate DLA is also the passport to Motability vehicles. We used Disability Rights UK and other associates to work out that about one in three claimants uses their higher-rate DLA to lease a Motability vehicle. Therefore, about 16,000 people could lose their vehicles. Scotland is a very rural country, so we are hugely concerned that if people lose their vehicles, they will not be able to access services, shops, employment and training opportunities. We think that that would be a very retrograde step.

We are therefore concerned that the new passporting arrangements should not disentitle a large number of people who are currently entitled to benefits.

**The Deputy Convener:** I will be awkward and go to the other end of the line of witnesses. I invite Jan Savage to make opening remarks.

**Jan Savage (Enable Scotland):** First, I thank the committee for inviting Enable Scotland. The committee does not have a written submission from us because we accepted its invitation fairly last minute. However, if there is anything further that we can submit after today, we are happy to do so.

Members will recall that Enable Scotland engaged with the committee last year, and we called on the Scottish Government to do what it could with its devolved powers and in the devolved context to make a really bad situation a little better. Broadly speaking, we are happy with what is proposed, as the proposed amendments to the regulations seek to do that.

We have some concerns about raising awareness, and ensuring that people who lose access to PIP can take up the transitional arrangements and that the regulations are communicated effectively to them. There is a degree of increased complexity being added to what is already an increasingly complex environment for claimants. We are mostly concerned about ensuring that there is support available for people who have communication support needs, to ensure that they understand those changes and can work well in that context.

**Richard Gass (Rights Advice Scotland):** In general, we are happy with the proposals, but we recognise that there are some people who will have an entitlement to DLA today who might not succeed with entitlement to PIP. As a result, the passporting arrangements may not offer them some protection. We have some suggestions about one or two things, which are broadly in agreement with the proposals from Inclusion Scotland, but we are pretty much happy with the proposals.

**Lynn Williams (Scottish Council for Voluntary Organisations):** I thank the committee for the opportunity to come and speak.

First, I want to pick up on the comments from colleagues and support their views on access to information. As Jan Savage says, we are almost developing another level of complexity in responding to some of the changes that Westminster is bringing in. Getting information to people about their entitlements and what they can access is important.

Secondly, it is important to review the mechanisms that are being put in place. Along with others, we welcome the Scottish Government’s response to mitigate what is a frankly horrific situation where it can, but policies and pieces of legislation sometimes have unintended consequences. We have to ensure, especially for people who are particularly vulnerable, that the regulations are reviewed and that the intentions behind them are achieved.

Thirdly, the timescale to create the regulations has been quite tight and the chance for the third sector to scrutinise them has been very limited. That concerns us to some extent. We would like to have been more involved in developing the regulations than we have been, to offer our support and assistance in their drafting.

Those are the three main points that we want to make. I will make one last point about unintended consequences. We must ensure that we are aware of the potential wider impact of some of the changes on other areas of policy such as community transport, hospital to home support, health and social care. If people lose some of these valuable passported benefits, the impact will be quite substantial.

**The Deputy Convener:** I will now open up the discussion to questions from members.

**Kevin Stewart (Aberdeen Central) (SNP):** Like Lynn Williams, we would have welcomed more time to scrutinise a number of the issues. Unfortunately, it seems that Westminster keeps us hanging until the last possible minute before telling us its intentions.

I am most interested in the figures that Bill Scott has provided in his submission, relating to the move from DLA to PIP. In section 2.2 of the submission, there is an estimate that

> “By 2018, over 80,000 working age disabled people in Scotland will lose either some or all of the mobility allowance that they would otherwise have been entitled to.”

Will Bill Scott expand on that a bit and also tell us where those figures have come from? I know that Inclusion Scotland is very good at researching impacts on people and I wonder where those numbers have come from.

**Bill Scott:** The Department for Work and Pensions has produced projections for the United Kingdom, and we examined the current claimant load, as the DWP calls it—the number of people who are claiming those benefits at present—to find out the number of Scottish claims as a percentage of overall UK claims.

Scotland has a higher proportion of claims as there are more disabled people here, which is partly a legacy of heavy industry and partly a result of genetic conditions such as multiple sclerosis, for which Scotland has the highest rate in the world. Scotland accounts for approximately 11 per cent of all current DLA claims for the mobility component and, using the DWP's UK figures, we have applied those percentages to come up with our figures.

We have had a wee bit of a discussion with analytical services in the Scottish Government. There are slight differences as they use 11 per cent for all figures, whereas we have broken the figures down a bit further, but overall we are talking about a couple of hundred claims in each direction. By and large, we are fairly sure that the figures are as accurate as they can be, given that they are based only on the DWP's projections. We cannot say that we are certain that that is what will happen when the assessments are carried out—the figures could be higher or lower—but we think that the estimates for the work capability assessment are conservative to say the least.

**Kevin Stewart:** We tend to get caught up in numbers, as so many folks do. What do the folks with whom you come into contact think about all the changes?

**Bill Scott:** There is real fear. One of my work colleagues is a wheelchair user and is currently on higher-rate mobility disability living allowance. She is worried that she may lose that allowance and that, if she does, she will lose her means of getting to work, accessing services and having a social life. Her fears are replicated by other disabled people when we go out and discuss the reforms with them.

We worked with the Poverty Alliance and the Scottish Government last October to bring disabled people into contact with the people who were drafting the regulations. One message that came through very strongly was that people who are currently entitled to the blue badge and concessionary travel should not lose those entitlements. A bureaucrat's pen and an assessment will not cure those people of the impairments that they have had, in some cases, for 30, 40 or even 50 years.

**Kevin Stewart:** So it would be fair to say that these regressive changes—the welfare reforms that are supposed to help people back into work—may, in situations such as that of Bill Scott's work colleague and many others, force people into a position in which they are unable to work, are more reliant on others and have a life that is not as fulfilling as it currently is.

**Bill Scott:** Our sister organisation at UK level, Disability Rights UK, carried out a survey of its members in which well over 1,000 disabled people took part. More than 50 per cent of those who are currently in employment said that they believed that they would be forced to give up work if they lost their mobility allowance. That is not just about fear but about what the changes could mean in practice. The mobility allowance allows people not just to buy or lease Motability vehicles or to access concessionary travel but to pay for a taxi because they have some extra money coming in. If they lose the ability to pay for those extra transport costs, their ability to get about is severely restricted.

**Kevin Stewart:** Would any of the other witnesses like to comment on how that loss could impact on folk who might no longer be able to work or socialise?

10:15

**Lynn Williams:** I am here with my Scottish Council for Voluntary Organisations hat on, but I can speak from my personal life as a campaigner as well. I echo Bill Scott's comment that this is another change on top of other changes to people's lives. The impact on unpaid carers, for example, is that they may have to give up their jobs to ferry people to and from their hospital appointments. Like Bill Scott, I am picking up concerns about the wider, cumulative impacts of some of the welfare reform changes on unpaid carers, which will be substantial. The written submission from Carers Scotland highlights them.

It is fair to say not only that the impact will be substantial but that a range of impacts together will push families who are already struggling pretty much to breaking point. I am working with one family for whom that is the case, who wonder what else is coming at them.

**Kevin Stewart:** We will meet Iain Duncan Smith informally in a couple of weeks' time. Unfortunately, the Westminster ministers continue to refuse to give formal evidence to the committee. What would you ask Iain Duncan Smith or say to him about this aspect of welfare reform?

**Lynn Williams:** It is hard to put into words the impact that welfare reform is having on families. Bill Scott and Jan Savage may pick up some of these points. People with disabilities contribute to society and have a lot to offer—I married someone who has a disability—but the reforms take away their ability to do that. They take away their ability to live in an equal way to others and to have the same chances and opportunities that we have. We sometimes take those opportunities for granted. When someone loses their blue badge or Motability car, they lose the ability to get out and about and do things that we do automatically without thinking.

As Bill Scott pointed out, we live in a very rural country and people may become completely isolated because they cannot get out of their house without support or family support. Both the Scottish Government and Westminster are on record as saying that they absolutely support the contribution of unpaid carers. However, the reforms just whip that away. My plea to Iain Duncan Smith would be to look at the cumulative impact on families, because the changes will pretty much push them to breaking point.

**Jan Savage:** I reiterate that last point. There is often a misconception that the DLA and PIP are almost work-related benefits. In fact, there are swathes of people with learning disabilities who want to work and make a valuable contribution to Scottish society. The unintended consequences of welfare reform around passported benefits could have the cumulative impact of putting up far more barriers to people with learning disabilities who want to make a valuable contribution to society. They want to work but, in removing their access to work and their ability to get to work safely, we are putting one more huge barrier in their way.

**Richard Gass:** Outside work, we see the demise of our high streets and retail parks where the shops are. Folk rely on mobility allowance to run a car, which is often necessary for them to get to where the shops are because the high streets are in decline.

**The Deputy Convener:** The eagle eyed among you will have noticed that the convener has manfully battled his way through his traffic problems. I hand over to him.

**The Convener (Michael McMahon):** I apologise to colleagues and witnesses. I had a 15-minute stationary wait on the M8 because of a smash.

**Alex Johnstone (North East Scotland) (Con):** In their opening statements, a number of witnesses—although not all—mentioned a lack of information. I want to explore information in a couple of different ways. First, I will ask a couple of simplistic questions. From whom are you not getting the information? I will ask that question again. I would like to explore the information that you are getting from the DWP, for example. How useful is that, and what else do you need from the DWP that you are not getting at the moment?

**Lynn Williams:** Colleagues can probably answer from a disability perspective. People will be getting letters from the DWP and some information will be being shared at a Scottish level about the changes that are coming. We will get sight of some of the letters that are going out to claimants.

The issue of information is more complex than it seems. From what I have been picking up from others, and from some of the work that Inclusion Scotland has done in West Lothian, it seems that people put their heads in the sand because they are too scared to contemplate the implications. I can give you a personal example. My husband claims DLA. About two weeks ago we got a letter about our DLA award that explained what we were entitled to this year together with information on the transfer to PIP, that was nine pages long. That is a hell of a lot of information to take in, especially if you have a communication issue or a learning disability or if English is not your first language. There are a lot of issues around access to information.

Across the sector, we are picking up that people are not getting access to the information that is available or they are not taking it in. The issues around its impact are so complex that they are coming to charities and saying, “What does this mean for me? I don’t understand how this is going to impact on me. What will the changes to this passported benefit mean for me?” We are seeing an increase in demand for our services.

**Alex Johnstone:** That highlights the area that I am trying to get to. I assume that each of your organisations speaks for people who are responsible for giving advice when advice is sought. Where do you get the information on which you base that advice? Is there a significant shortage of information on which to base that advice?

**Richard Gass:** I think that there is a shortage of information. Part of the reason for that is that there is an overambitious will to change the current system, and the timetable for doing so is perhaps too tight. The bedroom tax will come in next month, and Westminster is still unclear about the rights of disabled households in relation to it—I know that the tax has a Sunday name, but I hope that you will forgive me for calling it the bedroom tax, because that is the term that we all use.

**Alex Johnstone:** It is not the one that I use.

**Richard Gass:** There has been a recognition that disabled children who cannot share a room could be forced to share a room, and there was an indication that the Government might think again about that issue. However, even though the bedroom tax is less than a month away, we have not been told what that thinking might be. It looked like case law would be the ally of the disabled household in the Gorry case, but we know that the DWP has lodged an appeal against the decision.

I know that we are not here to talk about the bedroom tax today, but it highlights the fact that we do not have all the answers to enable us to give advice to households who come to us. Part of the reason for that is that the Government itself does not have all the answers. That is perhaps because the timetable for change has been too rapid.

**Alex Johnstone:** Kevin Stewart has a conspiracy theory about what is at work here, but I am not confident that that is the case.

**Kevin Stewart:** Do I? That is news to me.

**Alex Johnstone:** I am keen to explore the area of information. The instrument that we are discussing is a Scottish Government instrument and it will have to supply the relevant information to advisory bodies. Of course, it is under the same pressure that you have just described. How is your relationship with the Scottish Government and how likely are you to be able to source information in order to give advice on the current instrument?

**Bill Scott:** I must emphasise that Inclusion Scotland is not an advice provider. We do not take on individual cases. We signpost to organisations that have that level of expertise. I was an advice worker previously, and I know enough to know what I do not know. I would not want to advise someone at present.

I have noted a few things down, and I suspect that Richard Gass can add to the list. Coming up in the next month, we have the underoccupation—or bedroom—tax; the beginning of the change from DLA to PIP; news about the council tax replacement; and the new Scottish welfare fund, which will replace the old social fund. Further, direct payments to housing benefit from universal credit will start. At the moment, the issue is not that no information is being put out but that people are being overwhelmed by the amount of information—nine pages on DLA and PIP; another half dozen on the bedroom tax and so on.

We are talking about disabled people having to absorb all the information about all the changes. About 30 per cent of claimants of disability living allowance have mental health issues, learning difficulties or cognitive impairments such as autism. Someone with autism might understand every word but have difficulty in applying the information. People’s ability to grasp all the information and apply it to their lives relates to the fear factor. One problem is that people will tend to put the change to one side until it occurs.

The DWP is not responsible for deciding whether somebody gets passported benefits such as a blue badge or concessionary travel. The DWP’s letter could say, “You should contact so-and-so,” but it will not be a definitive guide to what is happening. There will also be differences between Scotland and England that will have to be taken into account.

For anybody who puts information out there, making it accessible to some individuals would be a tough task. It would have to be provided in a simple form—probably in easy-read format and so on. I would not go overboard in criticising the information that we are getting from the DWP. In the past few weeks, I have got good information, which is helpful to us in signposting people. However, the issue is the amount of changes. Believe me—as a professional worker and an ex-advice worker, I would not want to work in this environment, when many changes are taking place. I do not know how an ordinary person keeps track of that.

**Jan Savage:** Enable Scotland would not class itself as an advice provider, but we signpost people with learning disabilities and their families to the appropriate places. On the flow of information, the information that is accessible on the internet from the DWP and which we have seen in letters to our members is complex but fairly thorough.

Our main information route is more from advice providers such as Citizens Advice and the Child Poverty Action Group, and we seek to work in partnership with them. The Scottish Government recently gave us funding to take forward a consortium approach to developing training for front-line service staff, not so that they can provide advice or take on casework but so that they do not present a blank face when our service users ask them about the changes—as our service users will, because they are bombarded with a lot of changes.

That approach is welcome—it will provide an initial training session for staff who are skilled but overwhelmed by the information. However, the timeframe for implementing different elements of welfare reform means that such training will have to be provided on an on-going and regular basis, to ensure that we fulfil our responsibility to give accurate and good-quality signposting.

By its nature, the information from the DWP is and should be complex. However, the wider sector has a lot of work to do to translate and process that and to ensure that we provide the appropriate advice and support. That work is quite resource intensive.

**Lynn Williams:** Alex Johnstone asked about the relationship with the Scottish Government on the agenda. I understand that the papers last week contained a letter from the Deputy First Minister that made a commitment to working with key partners, such as the sector, on the agenda and on ensuring that we get out information on passported benefits. I know that, across the wider sector, we would very much welcome that.

A good example in which we had the ability to work with the Scottish Government comes from the Scottish welfare fund. From the fund’s inception, the sector has been heavily involved in creating, developing and putting in place the fund. We would welcome the opportunity to take the same approach to implementing passported benefits.

I will pick up on a point that Jan Savage made. As many members will know from previous evidence sessions, the impact on charities and organisations that are giving advice and support at the front line is pretty substantial. That is because of the complexity of the cases, the fact that changes are constant, as Bill Scott said—there is a whole phase of changes—and how the changes interact with each other to affect families, which we need to understand. The Scottish Government's initial investment to look at capacity building for the sector is welcome, but it will touch only the tip of the iceberg—the process will be on-going.

The capacity building in the sector has to be phased and looked at at different levels. Organisations that give in-depth advice have different needs to organisations that signpost people to others. There has to be a wider understanding of the networks that are out there. Given the complexity of the information, we have to be able to keep up with the changes to make sure that we are giving the appropriate advice, particularly if someone needs support to understand what the changes mean for them.

10:30

**Alex Johnstone:** On the issue of capacity, we are aware that resource is being made available from a number of sources to support advice services. I will ask about the adequacy of that in a moment, but are the necessary people out there? Can we recruit the necessary volunteers and professional staff to administer and provide the scale of information that is required? Can the organisations that you represent achieve the necessary level of capacity, regardless of funding?

**Lynn Williams:** That is a toughie. There is almost certainly a willingness to do that. Our conference last November and our general engagement with the sector have picked up a willingness to ask what we can do and where we can add value. There will always be a challenge in recruiting volunteers.

Some mapping work that we are carrying out shows that there is an issue with how we ensure that we have volunteers in place and support them to deal with complex inquiries. There is a willingness on the part of the voluntary sector to do what it can. We have shown that already by working with the Government on the Scottish welfare fund and other areas. There will always be capacity issues, but we do what we can. Citizens Advice Scotland and others are saying the same things. We want to do what we can to help and to offer practical support and assistance. We have to do what we can to support and encourage that capacity.

The issue of volunteers is interesting. You might be aware that there are groups that work in a voluntary capacity. Autism in Scotland, for example, is purely voluntary and works through social networking to provide support to families with autism who are affected by these changes. From an SCVO perspective, the issue is how we capitalise on such community-based support, whereby people see a need and pop in with their expertise and offer advice and support to other families voluntarily. The impact of that kind of community response is important and we have to build on it.

**Alex Johnstone:** The final simple question is, is the level of funding that has been made available so far adequate to support the structure that you have just described?

**Lynn Williams:** Obviously the initial investment that was announced a few weeks back has not been allocated yet. We are looking to work with the Scottish Legal Aid Board and the Government to ensure that we get it to where it needs to go to help the most. Part of the work that we are doing with the Scottish Government is a mapping exercise of the third sector and the impact of welfare reform on it, which we hope will help to shape some of the priorities.

Of course, the funding is never enough. In the current climate we are always going to say that. The third sector representatives would say that there is a willingness on our part to shape a response in Scotland and we would make a plea to be allowed to do that through proper scrutiny of the regulations and to be involved in shaping the responses. That offer of help is there.

**Jan Savage:** The level of investment that has been made available is very welcome as an initial injection, if you like, into the skill set of the sector. Given the rate of change and the different time frames for implementation, it cannot just be seen as a one-off. We would urge the Scottish Government to work with us to look at how we continue to upskill the sector and maintain the skill set.

**Alex Johnstone:** The one thing that I would say is that the bulk of the money that has been made available so far is the Barnett consequentials—a decision by the Westminster Government. We would not like the Scottish Government to carry the whole can.

**Bill Scott:** We very much welcome the extra investment in the provision of both welfare rights advice and money advice. A lot of front-line services that are not advice providers are also being affected. A lot of volunteers at least need to be aware of what the changes are and aware enough to say to somebody, “Oh, that’s what that change is and that’s who you need to go and see about it.” That could save a lot of work in the advice sector. That kind of triage, whereby people are directed to local authorities, the DWP or whatever, could save the advice sector and organisations such as Citizens Advice a lot of work.

We are not an advice provider but in the past eight or nine months we have had 30-odd talks with professionals, volunteers and other agencies outside our organisation to begin to make them aware of the coming changes and to get them motivated to understand them so that they are able to work with their client groups. We have made a large investment in ensuring that disabled people who look for advice and assistance from other agencies receive good information. A lot of that activity is going on and, as Lynn Williams has said, the sector is very willing to work collaboratively and in partnership because we realise the scale of the issues that we are confronting.

**Iain Gray (East Lothian) (Lab):** The committee broadly agrees with the witnesses that the changes will have a pretty iniquitous impact. However, the Scottish Government’s very clear purpose in introducing the regulations that we are discussing is to give some protection to those who currently automatically qualify for passported benefits and to ensure that the maximum possible number of those who automatically qualify at the moment continue to do so after the changes. From my understanding of the written submissions, the witnesses and some of their colleagues who are not represented this morning seem to be saying that although that has largely been achieved in respect of benefits that will be passported through universal credit, the regulations as they stand fail to do the same for other benefits under, for example, the blue badge and the national concessionary travel schemes that will be passported under PIP. Is that a fair summary?

**Richard Gass:** I think that the regulations protect those who will go on to establish an entitlement to PIP, but the concern must be for folk who in the past would have qualified for DLA but who lose their entitlement to PIP.

The blue badge scheme contains a provision for a local assessment to be made on the grounds that the individual in question is “virtually unable to walk”. However, it would appear that that provision, which is pretty much identical to the test for the DLA higher-rate mobility component, is not universally applied in the same way and that people will be more or less successful depending on where they live. I am also not entirely sure what the rights of appeal are.

An increase in local medical assessments will mean a greater administrative burden on local authorities; moreover, applicants who have already applied for DLA are finding that they are having to go through the second assessment. That assessment might act as a safety net, but we would certainly welcome some way of making greater use of the award letter—or, indeed, lack of it—for PIP.

**Iain Gray:** I am keen to find out whether the various specific suggestions that have been made in the submissions are helpful. Carers Scotland, which is not represented at today’s meeting, has suggested that setting eligibility at four rather than eight points for moving around would protect far more of those who currently qualify for a blue badge. Inclusion Scotland, which is represented today by Bill Scott, has suggested that if the regulations made it automatic for anyone who was entitled to a blue badge—which I presume means through whichever route—to receive the national concessionary travel scheme card, that would protect a significant number of people who might lose that concession.

My question, therefore, to the panel is whether you believe that your suggested changes to the regulations will help the Scottish Government to better achieve what it is trying to do in the regulations.

**Bill Scott:** By and large, yes. I also liked the suggestion by the Convention of Scottish Local Authorities, which did not occur to us—so good for COSLA. It suggests that those who are appealing their decision with regard to the new personal independence payment should retain their entitlement to the blue badge and concessionary travel until their appeal has been heard and decided. Given that appeals are taking more than 12 months from beginning to end, that form of transitional protection would last for quite a lengthy period. Moreover, given the fact that about 40 per cent of those who appeal their work capability assessments are getting their benefits reinstated, such a move would mean that those who might otherwise lose out in the interim would, as they should, retain their entitlement in the interim. It seems quite a sensible suggestion.

**Iain Gray:** Do the other panel members support the proposed changes to the regulations?

**Lynn Williams:** The whole point of consulting us was to come up with practical suggestions for dealing with this issue. Because you are changing from one system to another and because the systems are not quite the same, you will, with the best will in the world, miss someone and we are willing to discuss the suggestions further and offer whatever help and support we can to ensure that the regulations are as tight as possible. A review mechanism must be built on top of that to ensure that through our own intelligence we pick up on things that might have gone awry or on people who have might unintentionally have lost out.

**Richard Gass:** Some folk might have been awarded a higher-rate mobility component on an indefinite basis a number of years ago. The law talks about people being "virtually unable to walk", and that phrase has been interpreted and reinterpreted by the commissioners and now the upper tribunal. At one point, it was recognised that someone who was "virtually unable to walk" could not walk more than 100 yards, which means that some people will have received a mobility award on the basis that they could walk no more than that distance. Given that the new system does not have the 100 yards criterion, some people who had received the higher-rate mobility component might find on revision to PIP that they do not get even a lower rate. If there were scope to catch such people, that would be welcome.

**Iain Gray:** My understanding of the written submissions is that to get four points a person would be able to stand and then move more than 50m but no more than 200m. As a result, if the bar were set at four points, we would get somewhere close to the position that Richard Gass described. Is that correct?

**Richard Gass:** That would be one way of doing it; however, that might also be seen as extending entitlement and I understand the pressures on the budget. Perhaps guidance should be given to local authorities that when they determine the catch-all "virtually unable to walk" criterion in the local assessments, they state that the 100 yards limit be considered.

**Annabelle Ewing (Mid Scotland and Fife) (SNP):** I thank the witnesses for coming this morning.

On this particular subject, I was struck by the reference in this morning's committee papers to the reduction—if you like—in eligibility for the enhanced mobility element of PIP from 50m to 20m. I had also been struck by an exchange at House of Lords question time on 24 January involving the Lord Freud, the UK Government minister who, along with the UK secretary of state, is in charge of welfare issues.

The Inclusion Scotland submission says:

> "The change has contributed to a substantial increase in the numbers expected not to qualify for the Enhanced Mobility element of PIP".

10:45

The Lord Freud said, in response to Baroness Grey-Thompson following a starred question in the House of Lords:

> "I admit that I would have preferred there to have been more consultation on the 20 metres, but there is no effective change in the number of people receiving higher-rate mobility allowance because of this change. I hope that noble Lords will accept my assurances on this. That change has made it clearer and simpler to operate this measure; it has not changed the numbers affected."—[*Official Report, House of Lords*, 24 January 2013; Vol 742, c 1181.]

There seems to be a slight difference between those views. I ask Bill Scott to comment first, given that I picked up on a point that was made in his submission on behalf of Inclusion Scotland. The other witnesses might wish to comment, too—the issue is very important and could be a significant element in determining who will be entitled to receive that rate of PIP.

**Bill Scott:** First, it is common sense. If a change is made from 50m to 20m, more people will be affected, because there are more people who will be able to walk the interim distance. Our figures are the DWP's projections. The original projection was that, at the end of the PIP assessment process, 250,000 people who were on or would become entitled to higher-rate mobility allowance would lose it but that, by 2018, 428,000 people would have lost it. That is a 70 per cent increase.

Not all of that increase is due to the decrease in the distance that someone is able to walk. Part of it is because of the longer period for which the assessments will go on. More people who would have qualified for higher-rate mobility allowance under the old rules will come on stream—they will reach the age of 16 or 17, they will have a stroke, they will be involved in a car accident or whatever. They would have moved on to the higher-rate mobility DLA, but they will not now. That is partly the reason.

It is common sense: there must be more people. If the change will make no difference whatever, why change the distance? Why not leave it at 50m? When the DWP had its original consultations with stakeholders, it put a distance of 20m on the table and was told to take it off. It did that. We heard no more about it for more than 12 months. Then, all of a sudden, just before Christmas, it came back. The idea that 20m was the correct distance that people should be able to walk was not in line with the views of disabled people's organisations, the main disability charities and so on. We had an unchanging view that it should be 50m.

**Annabelle Ewing:** In your experience of working in the sector, what would be a 20m walk and what would be a 25m walk, say? What would be the practical application for an individual suffering from a disability issue?

**Bill Scott:** If the distance is 20m, somebody might get down their garden path; if the distance is 50m, they will probably not be able to reach their Motability vehicle. That is the practical difference. When someone parks to go to the shops, the difference between 20m and 50m can be significant when it comes to reaching the shop door. The same applies for going to hospital. Blue badge parking is situated as near to the hospital doors as possible; usually, it is within the 50m range. If the distance is suddenly moved down to 20m, a lot of people will not be able to make the distance and they will be able to mobilise only by using a wheelchair. That has consequences, in that they will have to be accompanied everywhere they go if they are to get in and out of their wheelchair.

**Richard Gass:** Undoubtedly, the move from 50m to 20m is a cut and a cost-saving exercise. Where does it stop? Will we then take it down to 10m? Most folk can probably take one step and many can take two. At some point, that becomes a meaningless assessment of the ability to walk.

**Lynn Williams:** Another practical point is that somebody might be able to walk that distance at home, but not outside the house without support. To be cynical, in effect, somebody could be stuck inside their house for the rest of their life. The change could make the difference between somebody having a life outside their house and being at home all the time.

**Jan Savage:** I absolutely endorse that. We are talking not just about people with mobility and physical disabilities, because there will also be an impact on people with learning disabilities who struggle to get out and about without assistance. The change is putting up a barrier not only to people accessing the world of work, but to their accessing their rights as individuals to live full and happy lives.

**Annabelle Ewing:** That might be another one of the many issues to raise with Mr Iain Duncan Smith at what, sadly, will not be a long enough meeting. Having listened to the evidence that has just been provided, I for one feel it unlikely that I would rely on the assurances from the noble Lord Freud on the issue.

**The Convener:** I seek clarification on an issue, although I hope that this is not going over something that I missed earlier in the responses to Kevin Stewart. Section 3 of the SCVO submission refers to the "temporary" nature of

> "the protection being offered in relation to Concessionary Travel",

and states that it will lead to

> "isolation, increased living costs, additional pressures on family carers and potentially, a breach of the ECHR and Human Rights Act."

Just so that we are clear that I am not misreading that, is that referring to the Welfare Reform Act 2012 or the regulations?

**Lynn Williams:** Part of the SCVO's role is to represent the views of the third sector, so we picked up on concerns in other responses. As we have said, some people might lose out as a result of the passporting arrangements, whether or not that is intentional. To pick up on what Bill Scott and others have said, the concern is that if people lose out as a result of the passporting arrangements, whether or not that is intentional, the risk is that they will become more isolated. There will be the unintended consequences of people being stuck at home and unable to get out and about and travel. As Carers Scotland outlined, that puts additional pressures on family carers. That is why we have called for a review of the regulations to be put in place.

It is important to point out that how we got to the current situation does not matter. We in this room and others have a responsibility to get the regulations right, because the impact on people's lives will be pretty profound and substantial. Whatever the reason for our being here, we have a chance to get the regulations right. We have picked up on concerns from our members and other organisations. As we have discussed, we must look at the regulations and consider whether they are right. We need to consider whether we are missing an opportunity to ensure that people are covered and have the support that they need to get out and about and to live the sort of lives that we take for granted.

**The Convener:** Inclusion Scotland is one of the organisations that picked up on the issue. Does Mr Scott have any additional comments?

**Bill Scott:** Under the European convention on human rights, everyone has a right to a home and to family life. That has been construed widely by the European Court of Human Rights to mean participation in society and the ability to visit friends and family. If people lose not only their monetary entitlement of about £50 through the higher-rate mobility allowance, but concessionary travel and so have added costs on top of a loss of income, their ability to participate in family life might be constrained, which might threaten their human rights. That is why we made that point.

The Parliament is charged with trying to ensure that human rights are taken into account in any piece of legislation that is before it. That is why we referred to the issue. The United Nations Convention on the Rights of Persons with

Disabilities goes further and says that disabled people have a right to move about in society and that, wherever possible, the European convention should be interpreted in line with the UN convention. We are simply pointing out to the committee and the Government that we are talking not just about passported benefits, but about people's right to participate in society, which is under threat.

As Lynn Williams says, the Scottish Government did not start the process, but it is the Scottish Government's responsibility to mitigate the effects as far as possible within the resources that are available to it. Along with other people, we have suggested ways in which the transitional protection could go a wee bit further.

By and large, we welcome many of the proposals. We think that a degree of transitional protection is in place for people who lose out. However, ultimately, there will be people who, whether a week after their PIP assessment or a year or two years after it, will lose the right to participate. We need to think about what that would mean for us as individuals and what it means for the individuals who are affected and their families. A section of society is being told that they cannot get about and that we will not help them. That just seems wrong. As I said, the people we are talking about currently have entitlements. Nobody should be able to take away somebody's right to participate in wider society just with a stroke of a pen.

**Jan Savage:** The amendments to the regulations are welcome and will have a positive impact on those who go on to be assessed as eligible for PIP. They will provide transitional protection for those who do not. Our concern is about what happens thereafter to those who, unfortunately, are not eligible for PIP. In time, once their travel card expires, they will lose that, too, and with that they will lose their lifeline to the wider community. The solution to that probably does not lie in regulations, but the issue merits further discussion with our partners in local authorities and national health service boards about how we collectively can make the situation better for those who undoubtedly will be affected.

**The Convener:** Several of the witnesses have referred to being in discussions with Scottish Government officials. The SCVO has said that it wants a review, which I assume has been raised with the officials. What feedback has there been on that request? An equally, if not more, important issue is that of an equality impact assessment, which I am sure has been discussed. Has any EqIA been undertaken or has there been a commitment to have one?

**Lynn Williams:** From looking at the papers last night, I know that there has been discussion with officials, who made the point that in some cases EqIAs are difficult to carry out. I am not aware of the current situation on that.

Recently, the Scottish campaign on welfare reform emailed officials and asked for early sight of the regulations. I am pretty sure that any response would have been shared with us, so I can say that we have not had a response to that request. Obviously, we have had as much notice as committee members have had.

I repeat that, if we can, we will help to shape the regulations and tighten them up as best we can. We will also consider how to get information out to people so that they understand what is coming. We make that offer of help to do what we can to provide support.

**The Convener:** As there is no clarity on those issues, it would be useful if the committee agreed to write to the Scottish Government to ask what its plans are to have a review and about the commitment to have an EqIA.

**Lynn Williams:** I do not know whether it is possible to build an EqIA into the regulations. Others have suggested that it is automatically there. As colleagues have said, we are talking not just about passported benefits, but about people's lives. Given that, we have to get it right.

**The Convener:** The record on equality impact assessments is pretty patchy. There are requirements to have them in a host of areas, but they are not always completed or completed effectively. We need to ensure that the equality impact of the regulations is measured as effectively as possible. Therefore, it would be useful for us to check that out.

**Jamie Hepburn (Cumbernauld and Kilsyth) (SNP):** On the issue of reviewing matters, do the witnesses accept that the arrangements are transitional and that there is a commitment to legislate next year to put the arrangements on an on-going basis? I absolutely accept the points about the serious impact on people's lives, but do the witnesses accept that part of the purpose of transitional arrangements is to learn the lessons and finesse the arrangements? In essence, the whole process is a review.

**Bill Scott:** There are plans to bring forward further regulations and that will obviously provide an opportunity to review how things are working in practice. However, the problem is that some of this will pan out over the next four to five years. A review in a year's time will not necessarily give us information on the long-term impacts, because the majority of disability living allowance claimants will not have had their claims reassessed by next year. Only a small number will have had them reassessed. The Parliament and local authorities will have to keep the matter under review over a longer period.

11:00

**Jamie Hepburn:** Is this something that we will need to consider when we come to that legislation?

**Bill Scott:** Yes. All of us, by and large, welcome the efforts that have been made, but we are still wondering how things will pan out in practice, because the PIP figures are all projections. Will 47,000 people lose out, or 60,000, or 70,000? What will we have to do then? That will be the question. I agree that we will need to return to the matter.

**Jan Savage:** I endorse that. This is a generational shift and it will take a long time for us to truly understand its impact on Scottish society. In a year’s time, when more legislation is brought forward, it will be useful to take a breath and review what has happened, but I do not think that that will be enough. It will be incumbent on the Scottish Government at that time to ensure that a review mechanism is built in to the new legislation.

**Jamie Hepburn:** I am sure that the committee will have the task of scrutinising that legislation, so we will reflect on that at the time. Thank you.

**The Convener:** As I said, we can seek clarity on the longer-term thinking on that. Obviously, these things are being discussed and it would be good to get clarity on where the Government sees things moving forward in that regard.

**Linda Fabiani (East Kilbride) (SNP):** The question that I was going to ask was very much on the topics that the convener and deputy convener raised. It was about the long-term impacts and the constant reviewing that will be required. I think that that has been covered.

I will move on to a different issue. Individual local authorities will need to decide about things such as the blue badge. COSLA mentioned the impact of that in its submission to us. Is there dialogue between the SCVO and COSLA about how some of those things will be implemented? There can be a degree of discretion in how regulations and guidelines are applied across the country. That already happens with blue badge applications, even outwith those on disability living allowance. Has anything been put in place at the local government level to monitor what happens and identify the unintended consequences that are bound to arise in relation to things such as blue badges?

**Lynn Williams:** There are probably opportunities to discuss that through the welfare reform scrutiny group, which brings COSLA, third sector representatives and others together round the table. That group has not been used as well as we would like or along the lines that you suggest, and I and others would welcome that greater scrutiny role. I mean that in a positive rather than a negative way. The mechanisms are in place, but we perhaps need to beef them up and use the expertise round the table. Given that we have COSLA, health boards and others sitting round the one table, the group should review that issue.

To pick up on other colleagues’ comments about the review, there are the formal ways of reviewing the impact of the regulations, but the other element is the on-the-ground intelligence that the sector is picking up. It might pick up individual cases in which people have lost out completely. We need to keep a handle on what people are feeding back to us from communities and local authorities and begin to build up a bigger picture of where the failures and fall-outs are happening. There are definitely opportunities to beef up the role of the welfare reform scrutiny group to include the role that you mentioned.

**Bill Scott:** The experience of work capability assessments is that there is quite a variation between assessment centres in the numbers of people who are found to be fully fit for work. In the Borders, it is only about one in five, whereas in Falkirk it is more than 50 per cent. That sort of variation could pose real difficulties for some local authorities, as the number of assessments that they have to do for blue badges could increase. We know that the numbers will be high, but they could run into thousands more cases than local authorities might otherwise have expected. That is a significant financial burden on local authorities—and on the disabled people if those costs are passed on to them—because people are being assessed regularly for the work capability assessment. It is not a one-off assessment. In many cases, people are being brought back in within six months.

Similarly, the PIP assessment will not lead to a lifetime award. Again, the expectation is that you will be regularly reviewed—I think that they are talking about annual or biannual reviews. Then you have assessments for the blue badge. You can understand why disabled people feel stressed—all those assessments are extremely stressful for the individual and for their carers, because the fear is that they might lose something that is vital to their life. Putting people through that process once every two or three months would subject disabled people to a phenomenal amount of stress.

**Richard Gass:** On that point, a suggestion from COSLA was alluded to earlier, about extending some entitlement pending an appeal process. If such a provision could be written in, that would alleviate some of the issues that Bill Scott raised.

We would not have to assess somebody locally; we could give them the benefit of their entitlement pending the outcome of their appeal. If the appeal was successful, that would resolve matters and that would be one less assessment for the individual and a reduction in the burden on the local authority.

**Annabelle Ewing:** I will pick up on the question of local authority involvement. The submission from Carers Scotland makes the point that an assessment survey was carried out by Transport Scotland in October 2011 wherein various inconsistencies in approach by the different local authorities were noted. Of course, since then amendments have been made to the legislation and a new code of practice was introduced in January 2012. However, the point is made that

"it is unclear"

whether the inconsistencies in practice that were specified and identified with regard to assessments

"and variations in rejection rates"

have improved or got worse. As regards work with local authority partners, is there any intention to conduct another study or is there any monitoring to see what pattern is emerging since the code of practice in particular was introduced?

**Bill Scott:** I am not aware of any studies or monitoring, but it seems like a worthwhile exercise, either through freedom of information or some other means, to get those figures and establish whether there has been an increase or a decrease in consistency, at least between different local authority areas.

**Richard Gass:** What guidance is given to local authorities on conducting that local assessment? There is guidance that refers to assessing somebody against being virtually unable to walk, but that used to be for a distance of 100 yards when it was with the social security commissioner, then it came down to 50 yards. I am not sure which definition of being virtually unable to walk the local authorities are advised is the correct one. If there was some clear guidance on that, we could have greater equality across Scotland in that area.

**The Convener:** It occurs to me, based on my knowledge of where some of the facilities are at which assessments are carried out, that someone could drive up, park in the car park with their blue badge and then have to walk 20 metres to get into the building, which would mean that they would automatically have done themselves out of a PIP.

**Annabelle Ewing:** Twenty-one metres.

**The Convener:** Yes, 21 metres. It just makes no sense whatsoever that they have a system that by its nature, fails people who are just trying to take part in the assessment process.

**Kevin Stewart:** I attended a session on Dennis Robertson's proposed blue badge bill on Monday in Aberdeen. I believe that there is another session today in Glasgow. Some assurances were given regarding local authorities' universal application of eligibility criteria in assessing applicants, and I think that it would be worth while for the committee to confirm with local authorities that such universality is now in place. Aberdeen City Council still has a wee anomaly, as it operates a green badge scheme as well as a blue badge scheme, and it would be worth while for us to find out whether there are any other anomalies.

With regard to people's human rights, one reason why the current Westminster Government wants to get rid of a huge amount of human rights legislation may well concern the very issues that we have discussed today.

**The Convener:** I will give Alex Johnstone the final question; he might want to put it on the record.

**Annabelle Ewing:** Or he might not.

**Alex Johnstone:** A few moments ago, Bill Scott suggested that disabled people were—or were likely to be—subject to work capability assessments on a two-to-three-month cycle. Can I take it that that was a slip of the tongue?

**Bill Scott:** I meant all the different assessments taken together. Those people might have to attend a PIP assessment once a year, because that is what the DWP is suggesting, and a WCA once every six months, as quite a lot of people have been assessed six months after the first assessment. If people must also undergo mobility assessments for their blue badge, that would mean another assessment. Putting those all into the mix means that someone could have to go through an assessment once every two or three months for one thing or another, not just for work capability.

**Alex Johnstone:** Thank you for the clarification.

**The Convener:** That concludes our questions. I thank the witnesses for being helpful and informative, as ever. I ask them to keep in touch with the committee as things develop, and we will keep the dialogue going; I thank you all for your contributions so far.

11:12

*Meeting continued in private until 11:39.*

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