



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Social Justice and Social Security Committee

Thursday 22 February 2024

Session 6



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SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE

5th Meeting 2024, Session 6

CONVENER

*Collette Stevenson (East Kilbride) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Katie Joshi (Scottish Government)
- Dominic Mellan (Scottish Government)
- Kyle Murray (Scottish Government)
- Shirley-Anne Somerville (Cabinet Secretary for Social Justice)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Justice and Social Security Committee

Thursday 22 February 2024

[The Convener opened the meeting at 09:00]

Subordinate Legislation

Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2024 [Draft]

Social Security Up-rating (Scotland) Order 2024 [Draft]

The Convener (Collette Stevenson): A very good morning, and welcome to the fifth meeting in 2024 of the Social Justice and Social Security Committee. We have received no apologies today.

Our first item of business is consideration of two Scottish statutory instruments. The draft instruments have been laid under the affirmative procedure, which means that the Parliament must approve them before they come into force.

I welcome to the meeting Shirley-Anne Somerville, the Cabinet Secretary for Social Justice, and her officials from the Scottish Government: Kyle Murray is a policy adviser, Dominic Mellan is an economic adviser, and Katie Joshi is a lawyer. Thank you very much for joining us today.

Following this evidence session, the committee will be invited to consider motions to approve the two draft instruments. I remind everyone that Scottish Government officials can speak under this item but not during the debate that follows.

I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): Good morning. I welcome the opportunity to assist the committee in its consideration of the draft order and regulations. The draft Social Security Up-rating (Scotland) Order 2024 provides for the uprating of benefits administered in Scotland by the Department for Work and Pensions. The draft Social Security (Up-rating) (Scotland) (Miscellaneous Amendments) Regulations 2024 provide for the uprating of devolved benefits administered by the Scottish Government and Social Security Scotland. I am pleased to say that the laid instruments provide a 6.7 per cent increase in the rates of all devolved benefits. That means that we are uprating all those

benefits where there is a statutory requirement for us to do so, and we have additionally chosen to uprate those where there is no statutory requirement.

We know that the hard Brexit and the Tory cost of living crisis are having devastating consequences and a detrimental effect on people. That is why the Scottish Government is investing a record £6.3 billion in social security in 2024-25, delivering £1.1 billion more than was received via the block grant adjustment from Westminster. We are doing all that we can within the limited powers of devolution to protect people from the continued austerity that is being driven by Westminster. Since 2022-23, we have continued to allocate around £3 billion a year to policies that tackle poverty and protect people as far as possible during the on-going cost of living crisis.

In addition, this year, as part of our annual process to consider the impact of inflation, the Scottish Government has published a fuller multicriteria analysis of the available uprating measures. We consider that the annual rate of the consumer prices index to September remains the most appropriate measure to use. Subject to parliamentary approval, the new rates will come into force in April 2024.

I thank the committee for its scrutiny of the uprating instruments, and I welcome any questions that you may have.

The Convener: We will now move on to questions. They will be directed to you, cabinet secretary, but you are, of course, welcome to invite any official to respond, should you wish to do so.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): First, I welcome the fact that we are in a place, in this Parliament, where there is an obligation and a statutory duty on Government to uprate certain core benefits by inflation. That is a very powerful thing.

It is, however, always reasonable to ask—and we had this debate during the passage of the social security legislation—why some benefits have been picked for statutory obligations to uprate while others are discretionary. I, of course, welcome the fact that the discretionary ones are being uprated by inflation under the draft order, but that might not always be the case. What is the rationale? What is the latest thinking of the Government in relation to that?

Shirley-Anne Somerville: As you say, the issue was debated when the Social Security (Scotland) Bill went through Parliament. The Government's view at the time—it continues to be our view—was that it is important that there is sometimes a discretionary approach to uprating, as that allows ministers the flexibility to consider

all the different ways in which we can support people. As the committee is well aware, social security is but one way in which the Government can and does support people during a cost of living crisis, or at any other time.

It is important to look at the different benefits that we have. Some are of a higher value and perhaps provide a greater proportion of a person's income, and some are intended to supplement income from other sources. There is a difference in the types of benefits that Social Security Scotland and the Scottish Government administer, which is why we take different approaches to them. As I said, we also look in the round to see whether there are other ways outwith social security that we can support people. That is why we have the £3 billion a year overall to support people during the cost of living crisis.

Bob Doris: I am interested in the financial realities of some of this. You said in your opening statement that the spend on social welfare provisions in Scotland is £1.1 billion more than what we get in comparable Barnett consequential from the United Kingdom Government. That is additional spend that we have invested in Scotland due to our priorities. As the gap grows between what we get from Westminster and the additional money that we spend, does it reduce the Scottish Government's flexibility to do more?

Shirley-Anne Somerville: Indeed, it reduces the Scottish Government's flexibility to spend the money on anti-poverty measures and other measures. Of that £1.1 billion, £614 million is for new benefits that are unique to Scotland, including the Scottish child payment, which will cost £457 million in 2024-25. We also have £110 million for other social security benefits, such as the welfare fund and discretionary housing payments. The spend above the BGA for social security is around £368 million, of which £300 million is for the adult disability payment.

I hope that that gives the committee a sense of the decisions that are taken on new benefits and the policy changes that we have made to other benefits that have been devolved, which have led to that £1.1 billion additional expenditure above the BGA.

Bob Doris: Thank you.

Roz McCall (Mid Scotland and Fife) (Con): In explaining the decision to uprate benefits such as the best start foods payment and the best start grant this year, the Scottish Government told the Scottish Commission on Social Security that that will

"strengthen our collective action on child poverty",

which I understand. If those benefits contribute to reducing child poverty, why do we not have a statutory requirement to uprate them?

Shirley-Anne Somerville: As I said to Mr Doris, that is part of the wider discussion that we have in Government about how best to support people. You will be aware of the action that the Government has taken to increase eligibility for the best start foods payment, for example, which we estimate will increase eligibility by 20,000 people. That is an important measure that we have taken to increase our support, but it does not involve uprating.

Again, it comes down to decisions that the Government inevitably has to make about how best to support people. That can be about changes to eligibility or uprating or, as I said, it can involve aspects that will support people but that sit not within social security but in other parts of Government.

Roz McCall: Thank you.

Paul O'Kane (West Scotland) (Lab): The Social Security (Amendment) (Scotland) Bill, which is before the Parliament, will introduce two new forms of assistance—childhood assistance and care experience assistance. Is it your view that there should be a statutory requirement to uprate those in line with inflation?

Shirley-Anne Somerville: As Mr O'Kane rightly hints, that uprating is not in the bill as a statutory requirement. I will continue to keep that under review as the bill develops.

It is fair to say that the provisions on childhood assistance and care experience assistance in the bill are at the early stages of formation. The committee will be well aware that other consultation is going on—for example, on care experience assistance. We continue to consider what that benefit will look like and how best to deliver it, so it would be unwise to make decisions about some of the other details of the bill until that is done and we have more concrete policy formations.

I will keep that under review as the bill develops. After the bill, if Parliament chooses to pass it into an act, we will do everything that we need to do in secondary legislation, as it is sometimes more important and more reasonable to do things in secondary rather than primary legislation.

Paul O'Kane: I welcome the cabinet secretary's openness to that process. Last night, in this room, I chaired the cross-party group on care leavers, and one of the discussions that we had was about the importance of uprating in relation to the challenge of cost of living pressures. Will the cabinet secretary agree to consult and discuss with people with lived experience the importance

of uprating as part of the on-going scrutiny work that we will all undertake on the bill?

Shirley-Anne Somerville: That is an important point. Given everything that we have done in the past on social security, I hope that Mr O’Kane is reassured that we always endeavour to work closely with people with lived experience. We will continue to do that on those types of assistance and on other parts of policies to do with care experience.

It is an important point that we need to listen to, and I am happy to give that reassurance. If the cross-party group wants to be involved in that, I am at its disposal.

Katy Clark (West Scotland) (Lab): I understand that winter heating payments are being increased in line with the CPI. Has any work been done on the cost of increasing them in line with energy prices, which, as the cabinet secretary is well aware, are a major challenge? Have there been any costings? What would the financial implications of that be?

Shirley-Anne Somerville: Of course, we look to do what we can within the powers that we have to support people, and that does not just include social security, as I said.

The purpose of annual uprating is to maintain the true value of a benefit payment as prices rise overall. Applying a consistent measure of inflation across all benefits is more manageable and reflects people’s overall experiences. I appreciate that energy and food inflation has been high during the cost of living crisis, but it is volatile and difficult to predict.

The Government in Scotland has a responsibility to consider what can be done, but we must also be cognisant of the fact that the powers over energy and what can be done on energy bills lie with the UK Government. I refer, for example, to the social tariff, which the UK Government remains opposed to progressing in any way, shape or form that will benefit people.

The social security payments that will be made through Social Security Scotland are important, but they are not the only way to address the issue. One of the challenges that we have is an understandable but challenging ask for the Scottish Government to mitigate the inaction of the Westminster Government on energy and, indeed, on the ending of the cost of living payments. As I discussed with Mr Doris earlier, we are already £1.1 billion over what we receive in block grant adjustments, and that has to come out of the overall Scottish Government budget.

Of course, we look to see what can be done, but, at the foundation of the matter, the UK

Government must ensure that it lives up to its responsibilities.

Katy Clark: I am very much aware of the UK’s responsibilities and of its failings. We spent the whole of Tuesday afternoon discussing a hypothetical social security system in an independent Scotland. Surely the payments that we are discussing are within your power. It might be that there is not the money to do this, but I am asking whether you have done any costings and whether you could look into the matter, given that we are dealing with real costs to people. Has any work been done on that, and could that be shared?

09:15

Shirley-Anne Somerville: The latest data from the Office for National Statistics shows that food prices had a large downward trend effect on the overall annual inflation rate under the consumer prices index including owner occupiers’ housing costs—CPIH—in January 2024. No official forecasts are available for energy and food inflation, so this a challenging area to consider.

With the greatest respect to Ms Clark, I would say that the whole point of the debate on Tuesday was to point out that there will be no change at Westminster to assist with energy prices or to help people with the continuing cost of living crisis. It was therefore important to have a debate on the fact that there is an opportunity for change, but it can come only with independence.

Marie McNair (Clydebank and Milngavie) (SNP): As case transfer for carer support payment is likely to be complete in 2025, does the Social Security (Amendment) (Scotland) Bill provide a timely opportunity to introduce a statutory requirement to uprate the carer support payment earnings threshold?

Shirley-Anne Somerville: The member raises an important point, and I appreciate that carers have asked the Government to consider it. At present, there is no legal requirement for Scottish ministers to increase the earnings limits for benefits delivered under the Social Security (Scotland) Act 2018 or under UK-wide legislation, but carers believe that it is exceptionally important for us to consider it.

The committee will be aware that, overall, the most important aspect for which the Government has responsibility is the safe and secure transition of payments. As we move through case transfer for carers, we are keen to prevent a two-tier system, whereby some people are on one earnings threshold due to some regulations, while others who have not had their case transferred yet would be on a different system. That is not a place where we want to be.

Following case transfer, the way in which the UK Government looks at earnings limits and so on might not be the most appropriate or robust way of making earnings measurements in Scotland; it will require further analysis. When we get to the point of case transfer completion—once a safe and secure transition has been completed; I reiterate that we are on target for the completion of case transfer by the end of 2025, as we had planned—that will be the time to consider it.

The member will be aware that carers themselves took part in the consultation on carers, and they discussed the different priorities. The Government wished to have a realistic discussion, noting that we might not be able to do everything all at once, because of financial and resource limitations. We are, however, committed to considering that approach for the increase of earnings thresholds for Scottish benefits once the case transfer is complete, using the discussions that have already taken place under the carers consultation and keeping the discussion going as we move to case transfer completion.

John Mason (Glasgow Shettleston) (SNP): It is very unfortunate that Katy Clark came in and asked Jeremy Balfour's question. She was late to the meeting and took over a question that had already been allocated to another member. I accept, however, that that is your prerogative, convener.

My question is about the Scottish child payment. There have been quite a lot of requests for it to increase by more than inflation. I note what you have said already, cabinet secretary—and £6.3 billion is obviously a huge amount of money and a huge increase for the whole social security budget—but did you take into account those requests for a higher increase for the Scottish child payment?

Shirley-Anne Somerville: I take those requests very seriously, and the organisations that are challenging the Government to uprate the Scottish child payment further are absolutely right to do so. The point that we have raised with them, and which I have made in the chamber on a number of occasions, is that we have had to make really difficult choices as the budget has gone through.

I will not rehearse again the figures that I have mentioned. However, I will add that going beyond the uprating of the Scottish child payment for inflation to increase the payment to £30 per week, for example, would cost an additional £57 million, which would have to be found in the budget and taken from elsewhere. Increasing the Scottish child payment to £40, which some campaigners have asked for, would require an additional £228 million to be found in the budget. As members are aware, there simply is not that spare budget sitting unallocated in the budgetary process.

I also remind the committee—Mr Mason was there on Wednesday when we had this discussion—that members from across the chamber rightly challenged the Government to say that it is not just through social security that we should assist people. We need to look at employability, wages and other ways to support people. That is exactly why we look at the three drivers of poverty in “Best Start, Bright Futures: Tackling Child Poverty Delivery Plan 2022-2026” and why it is not just about social security.

In summary, yes, we look at that. We have taken our decisions on the basis of the budget that is available to us, but we also look at the other ways that we can support people, in addition to the uprating of the Scottish child payment.

John Mason: If we cannot do anything this year, would the Government think about going a bit further with the Scottish child payment in another year? Or, if you had extra money, would you prefer to move forward with some other benefit?

Shirley-Anne Somerville: The First Minister is keen to continue to look at that, as he has said previously. The real challenge that limits our ability to do that will be that we continue to have to mitigate some of the worst excesses of Westminster policies. For example, there is already £127 million in the 2023-24 budget to mitigate some of the UK Government's welfare reform. Quite frankly, I also class the Scottish child payment as mitigation, because if the UK Government took forward an essentials guarantee, for example, and universal credit and other benefits were at a fit and proper rate to allow people to live with some sort of dignity, the Government in Scotland would not be continually asked to protect people from the poverty levels that they are experiencing.

We will continue to look at what can be done, but it is difficult when we continue to mitigate Westminster welfare policies. It is difficult to see how that will change, given the restrictions on the Scottish Government budget. However, we will continue to do everything that we can, and we will continue to look at that as part of each budgetary process.

Bob Doris: I am hugely supportive of the Scottish child payment, but my understanding is that, in effect, it is a top-up for families because of the insufficient universal credit levels in the UK. That is how people access the Scottish child payment.

What are the cabinet secretary's thoughts on the New Economics Foundation's report of October last year? It said that, even with the UK uprating of universal credit for this year, because of the end of cost of living payments, a lone parent

in the UK who has one child will be £350 worse off in April this year than they were in April last year. Surely that is unacceptable. Surely that has to stop.

The current or any future UK Government must surely do what the Scottish Government is doing and uprate benefits properly, rather than give with one hand and take away with another. There is £450 million of Scottish taxpayers' money—quite rightly, I should point out—going to subsidise the UK universal credit system, which in effect is not fit for purpose.

We do not need reviews of that system; we need fundamental principles that drive our attitude to welfare, and I am pleased to say that that is the case with the Scottish child payment. Has the cabinet secretary made representations to the UK Government about the insufficiency of universal credit? Will she do so consistently, irrespective of which Government is in power?

Shirley-Anne Somerville: The irony was not lost on me, as I am sure it was not lost on others, that, when the Scottish Government increased the Scottish child payment to £20—obviously, it is higher now—the UK Government took away the £20 uplift to universal credit, so what the Scottish Government gave with one hand, the UK Government took away with another. The member is right to point to the real challenges that we have in trying to protect people with a top-up when universal credit is at the level that it is at. That is exactly why we have continued to call for an essentials guarantee, which would—the clue is in the name—ensure that people can afford the essentials in life. Unfortunately, to date, that has been rebuffed by the UK Government.

The Convener: That concludes our questions.

Before I move on to agenda item 2, I want to pick up on the point that John Mason made about the allocation of questions. The committee agreed that the pre-brief, which starts at 8.45, is when we allocate questions or decide who will ask questions to the panel that is coming on the day. Unfortunately, Katy Clark came in late today, and I assumed that she was asking a supplementary question on the back of Paul O'Kane's question. I apologise to Jeremy Balfour that his question had already been asked. I just wanted to make that clear to everybody in the committee.

Agenda item 2 is formal consideration of motion S6M-12001. I invite the cabinet secretary to move the motion.

Motion moved,

That the Social Justice and Social Security Committee recommends that the Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2024 [draft] be approved.—[*Shirley-Anne Somerville*]

Motion agreed to.

The Convener: Agenda item 3 is formal consideration of motion S6M-12002. I invite the cabinet secretary to move the motion.

Motion moved,

That the Social Justice and Social Security Committee recommends that the Social Security Up-rating (Scotland) Order 2024 [draft] be approved.—[*Shirley-Anne Somerville*]

Motion agreed to.

The Convener: The committee will report on the outcome of the two instruments in due course. I invite the committee to delegate authority to me, as convener, to approve drafts of the reports for publication. Do members agree?

Members indicated agreement.

The Convener: I thank the cabinet secretary and her officials.

Council Tax Reduction (Scotland) Amendment Regulations 2024 (SSI 2024/35)

The Convener: Our final agenda item today is consideration of a Scottish statutory instrument that is subject to the negative procedure. The purpose of the instrument is to uprate premiums and allowances that are used in the council tax reduction scheme when the level of council tax reduction that a household should receive is calculated. Do members have any comments on the instrument?

Bob Doris: I understand that this is another example of the Scottish Government stepping in to provide support that would otherwise not be available elsewhere in the UK, so I support it.

The Convener: As there are no other comments, I invite the committee to agree that it does not wish to make any recommendation in relation to the instrument. Are members content to note the instrument?

Members indicated agreement.

The Convener: That concludes our business for today.

Meeting closed at 09:31.

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Email: official.report@parliament.scot
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