



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Social Justice and Social Security Committee

Thursday 7 November 2024

Session 6



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SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE
29th 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)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Paul O’Kane (West Scotland) (Lab)

*Liz Smith (Mid Scotland and Fife) (Con)

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Roz McCall (Mid Scotland and Fife) (Con) (Committee Substitute)

Shirley-Anne Somerville (Cabinet Secretary for Social Justice)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Justice and Social Security Committee

Thursday 7 November 2024

[The Deputy Convener opened the meeting in private at 08:30.]

09:00

Meeting continued in public.

Decision on Taking Business in Private

The Deputy Convener (Bob Doris): Good morning and welcome to the 29th meeting of the Social Justice and Social Security Committee in 2024. We have apologies from our convener, Collette Stevenson, and from Jeremy Balfour. I welcome Roz McCall, who is attending as a substitute for Jeremy Balfour. It is good to have her back.

Our first two agenda items were taken in private, so we move to item 3, which is to agree also to take agenda item 7 in private. Do members agree to do so?

Members indicated agreement.

Subordinate Legislation

Scotland Act 1998 (Agency Arrangements) (Specification) Order 2024 (SI 2024/989)

09:00

The Deputy Convener: Our next agenda item is consideration of a United Kingdom statutory instrument, the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2024, which is subject to the negative procedure.

The main purpose of the instrument is to specify certain functions as exercisable in connection with winter heating assistance under section 30 of the Social Security (Scotland) Act 2018. Those functions relate to winter heating assistance for pensioners and do not relate to other forms of winter heating assistance that the Scottish ministers have previously introduced. The detailed arrangements for those functions will be set out in an agency agreement between the United Kingdom Government and the Scottish Government and the instrument allows for such arrangements to be agreed.

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

Members indicated agreement.

Funeral Expense Assistance (Scotland) Amendment Regulations 2024 [Draft]

09:01

The Deputy Convener: Our fifth agenda item is consideration of a Scottish statutory instrument, the Funeral Expense Assistance (Scotland) Amendment Regulations 2024. The instrument is laid under the affirmative procedure, which means that the Parliament must approve it before it comes into force.

I welcome Shirley-Anne Somerville, the Cabinet Secretary for Social Justice, and her officials from the Scottish Government: Posy Musgrave, team leader for early years and funeral support; and Barbara Hughes, a lawyer. I thank them for attending.

Following this evidence session, the committee will be invited to consider a motion to approve the instrument. I remind members that Scottish Government officials can speak during this part of the meeting, but not during any debate that follows. I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): Thank you and good morning.

Since its launch in 2019, the funeral support payment has provided more than £51.1 million of support to more than 26,000 people on low incomes, at a time when they most needed it.

The improvements proposed in the regulations will provide further support to people who are struggling to pay funeral costs and will help to reduce the burden of debt that a person might face when paying for a loved one's funeral.

The regulations before you are evidence of the Scottish Government's commitment to the continuous improvement of our social security system. In developing the legislation, we have consulted a range of stakeholders, including third sector organisations and funeral industry experts.

We are extending the definition of "funeral" to include alkaline hydrolysis as an alternative to burial or cremation. The Scottish Government recently consulted on whether alkaline hydrolysis should be introduced as a regulated form of body disposal and found 84 per cent of respondents to be in favour. Introducing that amendment now will future proof the regulations to ensure that we can award funeral support payments for people who choose that method, should it become available in Scotland. It will also be brought into scope for people who are eligible for expenses assistance for funerals abroad.

In line with our values of dignity, fairness and respect, we are introducing an exceptional circumstance provision for funerals abroad. Doing so will allow us to award a funeral support payment in unique circumstances, such as when disruption due to war or extreme weather events prevents a body from being returned to the United Kingdom for a funeral. As recommended by the Scottish Commission on Social Security during its scrutiny of the regulations, Social Security Scotland will be equipped with robust guidance to support that provision.

The regulations also support our commitment to protect the rights given to European Union citizens under the withdrawal agreement. Although Social Security Scotland is not aware of anyone having missed out, the changes will clarify the regulations to ensure that people who, before Brexit, would have been entitled to assistance to pay for a funeral abroad will continue to be entitled to that.

To ensure that more people get the correct level of assistance, we are taking away the current restriction on costs for funerals that take place outwith the deceased's local area. Social Security Scotland will continue to apply a test to ensure that costs are reasonable so that we retain value for money while removing any potential unfairness

from the process. That means that we will provide help with costs based on what is reasonable rather than where people lived.

Finally, the regulations remove the provision to deny an application if funds to pay for a funeral are available in the estate. Instead, those available funds will be deducted from the award amount. That change means that all cases will be assessed in the same way.

We have engaged with the Scottish Fiscal Commission, which has confirmed that it anticipates no significant financial implications for the Scottish Government as a result of the regulations. That is particularly welcome in this challenging fiscal period, as it means that the regulations offer further improvements for the people of Scotland at minimal cost.

I extend my thanks to the Scottish Commission on Social Security for its formal scrutiny of the draft amendment regulations earlier this year and for its recommendations, which have strengthened the detail of the regulations that are before us today. I welcome the opportunity to assist the committee in its consideration.

The Deputy Convener: Thank you, cabinet secretary. We will move to the committee's questions.

First, will the regulations and the changes that we are looking at this morning make it more likely that people will apply for support with funeral costs outwith their local area? If so, has that been factored into the costs?

Shirley-Anne Somerville: We do not believe that the changes will make it significantly more likely that people will apply for support for funerals outwith their local area. The internal analysis that has been undertaken estimates the increased cost to be around £80,000 per annum, so the difference is minimal. We are introducing the change to ensure that people are, in effect, not disadvantaged and can choose the location that is most suitable, even if it is not the closest to where the deceased lived. My answer, then, is no, we do not think that there will be much of a change and we think that the cost increase will be minimal.

The Deputy Convener: That was helpful. Roz McCall, did you want to come in?

Roz McCall (Mid Scotland and Fife) (Con): Yes, convener.

I just want to follow on from that by teasing things out a bit. You have talked about the internal analysis, which I totally understand, but if we are going to make such changes, we must ensure that we gather the right kind of statistical information. What information will Social Security Scotland publish on funeral support payments that are

awarded outwith local areas, and what process will you put in place for that?

Shirley-Anne Somerville: Currently, we do not intend to publish information on funerals outwith the local area, and that is because the data held by Social Security Scotland is not detailed enough to do so at this stage. However, the agency will continue to review the matter as it develops future publications. We will keep it under active consideration.

Roz McCall: With the possibility of putting such a process in place, if need be.

Shirley-Anne Somerville: Yes.

Roz McCall: Thank you.

Marie McNair (Clydebank and Milngavie) (SNP): Good morning. In your opening remarks, cabinet secretary, you touched on allowing funeral support payments to be paid outwith the UK. What circumstances might be considered exceptional in that respect?

Shirley-Anne Somerville: Clearly, although there will be guidance that will give Social Security Scotland case managers the ability to assess matters, it is very important that we do not start listing what would and would not be exceptional, because, by definition, such things would not be exceptional.

I can perhaps give you some examples. In my opening remarks, I talked about disruption due to extreme weather or war; in other cases, people might require a funeral to be held within a certain timeframe, say, for religious reasons. Those are the types of situations in which the case managers will be able to refer to guidance. Of course, there will be an escalation route in the agency to ensure that decisions are taken at the right level and with the degree of sensitivity that is required in such circumstances.

Marie McNair: That was much appreciated. Thank you.

Katy Clark (West Scotland) (Lab): Good morning, cabinet secretary. What statistical information will Social Security Scotland publish on the funeral support payment awarded for funerals outwith the UK?

Shirley-Anne Somerville: The number of awards made outwith the UK is exceptionally small; currently, it is less than 1 per cent of all applications. That, in essence, means that the numbers are too small for the agency to provide data that would be considered robust. Because of that lack of robustness, which is required for official statistics, we currently have no plans to publish it.

However, the data can, and will be, gathered for internal use, and officials have already engaged

with Social Security Scotland to ensure that the relevant data can be captured. Clearly, there will be internal analysis to measure the impact of the changes, with the gathering of the first data scheduled six months after the regulations come into force. Although the data is not robust enough for external publication, it will certainly be used internally, where it is already gathered.

Katy Clark: Thank you.

Paul O’Kane (West Scotland) (Lab): Good morning. In your opening remarks, cabinet secretary, you mentioned the alkaline hydrolysis procedure and the payment being available to cover it—I think that you talked about being ready for that eventuality. What further work has been done on when the alkaline hydrolysis procedure might be available to those who receive the payment and what cross-Government work has there been on the matter? I appreciate that it touches on a number of portfolios. I wonder whether you could say something further on that.

Shirley-Anne Somerville: I will say a little bit, convener, but perhaps my colleague the Minister for Public Health and Women’s Health can write to the committee with further details, because, as Mr O’Kane said, the matter does not fall within my remit. Certainly, the regulations to approve alkaline hydrolysis for use in Scotland are being developed, but as I said, they sit with another minister.

I know that the issue has been touched on and discussed by the cross-party group on funerals and bereavement, so there is clearly an interest in it, and I wish to see movement on it. However, if you will permit me, convener, I will ask my colleague to write to the committee on the matter.

The Deputy Convener: Did you want to follow up on that, Mr O’Kane?

Paul O’Kane: No, except to say that that would be helpful to the committee, if it were possible.

Liz Smith (Mid Scotland and Fife) (Con): I have no issues with the instrument whatsoever; the Conservatives are very happy with it. However, cabinet secretary, I would like to probe a little bit further into some of the issues that arise from this kind of situation. In doing so, I go back to what you said at stage 1 of the Social Security (Amendment) (Scotland) Bill and, indeed, what the committee convener said at that time, which is that we have to ensure value for money. We get value for money if we have an effective impact assessment of the changes that we make to any of these things, and that, in turn, is determined by the data that is available.

You will be aware that, this morning, the Finance and Public Administration Committee has put out a very robust report on the need for much

greater transparency and fiscal probity in the public finances. What is the Scottish Government doing to ensure that the measurement of the impacts of changes that are made in the social security brief helps those most in need and that we have the right data to assess that?

Shirley-Anne Somerville: The issue of having the right data is one that the committee has discussed before. As I have said to the committee, there is an on-going process within Social Security Scotland to ensure that more and more data is provided as the system grows. As you would expect, the system within Social Security Scotland is being updated on a regular basis, and that updating is not just about readiness for a new benefit, but about improving the data that can be collected.

We take the issue very seriously. We know that there is more to do, and the work is on-going. We all want Social Security Scotland to gather the correct data that will allow us to identify how the money is being spent and what impact it is having.

That takes me to your first part of your question. That sort of work sits not just with Social Security Scotland or, indeed, with the Scottish Government; there are a number of ways in which we can look at outcomes and impact. For example, Professor Linda Bauld has recently done a piece of work on exactly that type of thing.

Data collection is key, and it requires us to continually build on what we have at the moment. After all, all of us—the Government and the committee—would like more data, and the impacts are being covered not only in some of the analysis undertaken by the Government in its statistical publications, but in the areas that Professor Bauld has looked at. I am sure that the committee is already aware of that work, but we would be happy to provide some examples in due course.

09:15

Liz Smith: That was very helpful, because this is a huge area. The Scottish Fiscal Commission's predictions with regard to fiscal spend over the next 50 years, whether it be in social security, social care or health, paint a pretty alarming picture. To ensure greater fiscal probity, we need to understand where the money is best spent, and that means that we—and this committee in particular—have to be able to assess where the impact is being felt and ensure that the data underlying all that is as accurate as possible. Any efforts that the Scottish Government can make to inform the committee of any gaps in the data would therefore be very helpful.

Shirley-Anne Somerville: I would just point to the £1.1 billion over the block grant adjustment that the Scottish Government invests in Social

Security Scotland. Clearly, a large part of that—just under half a billion pounds—goes on the Scottish child payment; there is also the funding for the child and adult disability payments, which again is over and above the block grant adjustment, and the benefits that are available in Scotland but not in the rest of the UK such as the young carer grant and the other elements of the five family payments.

Liz Smith has pointed to a very important number—the £1.1 billion, which is expected to grow. We as a Government are conscious of that, because it needs to be accounted and paid for in every budgetary process, but it is important that the committee realises what the funding is for and its impact on low-income families, the disabled and carers.

Liz Smith: I do not disagree with you, cabinet secretary, but I note that, in its most recent report, the Joseph Rowntree Foundation makes the point that it is quite difficult to measure a policy—one that it entirely approves of, as does the committee—its impact, whether it is delivering a better outcome and whether it is good management of public finances. That is quite important as the committee deliberates various social security policies.

Shirley-Anne Somerville: I will certainly be able to provide further advice on that in writing.

The Deputy Convener: Thank you, cabinet secretary.

Before we move to agenda item 6, it is worth putting it on the record that the committee did a very brief inquiry into the Scottish child payment, and although we very much welcomed the positive impact that it was having, we identified the need for additional data, including on approaches to tackling child poverty being taken not only in Scotland but in England, and the need for a longitudinal study that would provide additional evidence on the benefits of the payment. I thought that this was an appropriate time to put that on the record, Ms Smith.

You do not have to give us your reflections on that, cabinet secretary, but you are welcome to respond if you wish.

Shirley-Anne Somerville: It was a good plug for the committee's previous work on the matter, which I read with interest, and it is certainly something that we are conscious of, particularly as we move forward with developing the next child poverty delivery plan.

The Deputy Convener: Thank you, cabinet secretary—plug noted.

As there are no other questions, we move to agenda item 6, which is formal consideration of

motion S6M-14591. I invite the cabinet secretary to speak to and move the motion.

Motion moved,

That the Social Justice and Social Security Committee recommends that the Funeral Expense Assistance (Scotland) Amendment Regulations 2024 [draft] be approved.—[*Shirley-Anne Somerville*]

The Deputy Convener: If no member wishes to make a contribution, I want to put one thing on the record in relation to a constituency interest of mine.

A lady called Julie Love started the Death Abroad—You're Not Alone charity, which deals with the real financial strains and emotional turmoil faced by those who lose loved ones overseas. I am aware of individuals who have wished to repatriate bodies but have had to have the funerals overseas, because they could not afford the repatriation costs, and I would just like to highlight the general swirl that happens, not just in a financial sense but with regard to the need for a pathway to steer around.

Given that funeral expense assistance is starting to look at supporting those who have lost loved ones overseas, it would be helpful—not as part of this statutory instrument, of course—if some cross-cutting work on the issue could be carried out between Social Security Scotland and perhaps the Scottish Government justice directorate, which I know has looked at the matter previously, based on points raised not just by me, but by Hannah Bardell, when she was an MP, and by Angela Constance before she returned to the post of Cabinet Secretary for Justice.

I wanted to put that on the record, because there seems to be a connection between providing funeral assistance to those who lose loved ones overseas and how we support them more widely. I will say no more than that, but given this opportunity for a brief debate, I wanted to put some of that on the record.

As no other members wish to contribute, I ask the cabinet secretary to sum up and to respond to the debate, if she so wishes.

Shirley-Anne Somerville: I note your remarks, convener, and the work that has gone on in the area. I assure you that we will continue to work across Government and across the social justice and justice portfolios on these issues, but I am certainly delighted to play my part in assisting at least some of those families today.

Motion agreed to,

That the Social Justice and Social Security Committee recommends that the Funeral Expense Assistance (Scotland) Amendment Regulations 2024 [draft] be approved.

The Deputy Convener: The committee will report on the outcome of the instrument in due course. I invite the committee to delegate authority to our convener, if she returns in time, or otherwise to me, to approve the draft of any report for publication. Are members agreed?

Members indicated agreement.

The Deputy Convener: Thank you very much.

I thank the cabinet secretary and her officials for attending. As that concludes the public part of our meeting, we will move into private session to consider the remaining agenda items.

09:21

Meeting continued in private until 09:25.

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