



Scottish
Commission
on Social
Security

Scottish Commission on Social Security
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23 April 2020

Shirley-Anne Somerville MSP
Cabinet Secretary for Social Security and Older People

By email only

Dear Cabinet Secretary,

Thank you for letter of 1st April, in which you set out some of the implications of Covid-19 for the delivery of social security benefits and the ongoing work of the Scottish Commission on Social Security (SCoSS).

SCoSS members were very grateful to receive your update, at a time of unprecedented challenge for the Scottish Government and the wider public sector. At our board meeting of 7th April we considered how we could adjust both our ongoing work plan and our ways of working in light of COVID-19 and the disruption to business that your letter describes. We reviewed the implications for our three statutory functions: scrutinising draft regulations, reporting on the delivery of expectations in the Social Security Charter, and reporting on any matters pertaining to social security that are referred to us by either Scottish Ministers or the Scottish Parliament. Our over-riding concern is to consider how SCoSS can best add value and provide support at this time of considerable uncertainty.

While clearly the expected demand for us to scrutinise draft regulations will now unavoidably be much reduced, we discussed whether there may be implications for Social Security Scotland and the Scottish Government in delivering expectations in the Social Security Charter. We fully understand your decision to prioritise 'live running within Social Security Scotland' to ensure that benefits continue to be paid. Clearly, many difficult decisions are being taken at pace and at a time of great

uncertainty. In our view, this makes it even more important that the social security principles, the commitments in the social security charter, and relevant human rights obligations continue to be adhered to. We would welcome an update on how the Scottish Government and Social Security Scotland intend to achieve this. This, in turn, will help us to consider how best we can undertake our own statutory duties relating to the Charter, as set out in the Social Security (Scotland) Act. Please note that I have also written to David Wallace, chief executive of Social Security Scotland, to ask questions about the Charter, and have attached a copy of this letter for you.

It is clearly for Scottish Ministers and the Scottish Parliament to come to a view on whether there are matters at the current time that it would be helpful for us to investigate and report on. I hope it is useful to offer for your consideration some of the thoughts we had on where SCoSS might be in a position to add some value. However, we of course fully acknowledge that there may be more pressing immediate priorities and would be pleased to consider any other ideas you may have. We stress that it is far from our intention to generate unnecessary additional work for the Scottish Government or for Social Security Scotland.

- Clearly there will be a great deal of action underway, which SCoSS may be unaware of, that is relevant to our remit. While the need to operate at pace may preclude contemporaneous scrutiny, there may be instances where we could usefully act as a sounding board. Perhaps SCoSS could undertake a later review of action taken to identify learning that could be drawn upon to make the system more flexible and robust for the longer term, or to report on the extent to which it proved possible to continue to adhere to human rights, social security principles and Charter expectations;
- Subject to the extent of any delays and interim changes in context or to approach, there may be value in SCoSS producing supplementary reports on draft regulations that we have already reported on that have yet to be laid, i.e. the Scottish Child Payment and the Child Disability Payment;
- We note that there will be delays to the timetable for launching all remaining devolved benefits, including those that would be statutorily considered by SCoSS. Therefore, while schedule 7 of the Coronavirus (Scotland) Act 2020 contains provisions that revise procedure on affirmative instruments, we understand that these provisions will not apply to any benefits that SCoSS would otherwise scrutinise and report on. Nevertheless, should this scenario arise, SCoSS could provide a view on the draft

regulations in question should that be considered useful by the Scottish Government and the Scottish Parliament. Given that the timescales for our doing so would likely be extremely restricted, we appreciate that this may entail SCoSS providing an initial view with the option of producing a fuller report retrospectively.

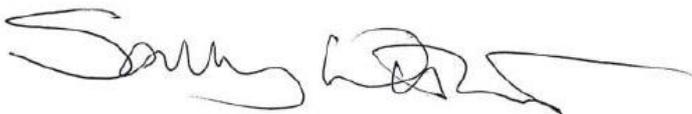
- There are some draft social security regulations that, under the Social Security (Scotland) Act, will not be referred to SCoSS for consideration. SCoSS only reports on draft regulations prepared under Chapter 2 of Part 2, and section 79 of the Act, and therefore we did not, for example, consider recent regulations relating to Carer's Allowance¹. Again, however, we could provide our views on such draft regulations if that were considered helpful in current circumstances.

SCoSS welcomes your commitment to provide a further update on Wave 2 benefits delivery when the situation is clearer. We have also received very useful updates from your officials on a possible Social Security Bill and on draft regulations that are not being scrutinised by SCoSS. These updates help us to develop our own work plan and will likely shape our future scrutiny of draft regulations that are referred to us.

SCoSS will continue to meet and is reprioritising its work programme to identify governance and a few operational issues that still require to be progressed given the considerable time we have devoted to scrutinising draft regulations. We will also consider how best to progress our statutory duties on the Charter, taking into account any further information that Scottish Government and Social Security Scotland provide in response to our letters. The Secretariat will continue to keep your officials informed about our relevant work.

Finally, please note that I will write in similar terms to the Social Security Committee.

Kind Regards,



Dr Sally Witcher OBE
Chair of the Scottish Commission on Social Security

¹ The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020