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Dear Dr Witcher,

ANNUAL UP-RATING OF SOCIAL SECURITY ASSISTANCE

Thank you for your letter of 8 February and the accompanying report under section 97 of the Social Security (Scotland) Act 2018, on the draft 'The Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2021'.

I have reviewed the recommendations and I have responded to each in turn in the annex to this letter at **Annex A**. I am pleased that no substantive changes to the draft regulations are required and that you welcome the extra increase to benefits that the Scottish Government has implemented, beyond the legislative requirements, to mitigate the impact of COVID-19 on low income households. I understand your concerns that this may impact the stated strategic approach to the up-rating policy but trust that you would agree that the impact of COVID-19 has indeed been exceptional.

I note that you found the section 77 report helpful as an important source of information and evidence that could be drawn upon to inform scrutiny of the up-rating regulations. My officials will consider the issues you raise regarding the report and will look to develop the content of future reports to assist understanding as more types of assistance are delivered.

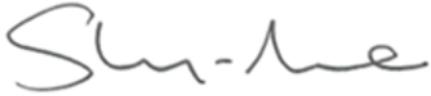
I fully appreciate that the available scrutiny time has been impacted by the postponement of the UK Autumn Budget and the subsequent delay to the Scottish Budget. It was not anticipated that this would occur for a second year in a row and I am very grateful to you and your team for responding so promptly and thoroughly.

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Please accept my sincere thanks for your support under these circumstances for helping to ensure that the Regulations can be laid in the Scottish Parliament with sufficient time for them to come into effect for 1 April 2021.

Yours sincerely.



SHIRLEY-ANNE SOMERVILLE

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1. SCOSS recommendation

The Scottish Government is asked to clarify its strategic policy approach to uprating assistance, by explaining where, when, why and how flexibility in decision making is desirable and could be used.

Scottish Government response

The Scottish Government's uprating policy has been underpinned by a comprehensive evidence review, as published in 2019, and remains focussed on ensuring that payments keep pace with price inflation as reflected by the September CPI. The longer-term, strategic policy approach to uprating is to ensure it remains relevant and suitable for changes or improvements to inflation measures.

The decision to double the September CPI rate of 0.5% to support low income households was taken because of the exceptional circumstance of COVID-19.

2. SCOSS recommendation

The Scottish Government is asked to clarify its strategic approach to uprating assistance, distinguishing between the maintenance of value and the increase of value.

Scottish Government response

The purpose of uprating is to protect the value of the benefit from eroding when prices are rising. That is why Scottish Ministers will consider the impact of price inflation on the benefits under s77 of the Act and, under s78 of the Act, uprate the carer's, funeral support and disability benefits which they consider are materially below the inflation-adjusted level to at least that level. This approach maintains the purchasing power of the benefit.

An increase in value is increasing the generosity of a benefit and this would be a separate discussion and policy decision, outwith the scope of Section 77 report. The decision to double the 0.5% CPI rate for the low-income assistance was taken within the context of the impact of COVID-19 on low income families and as such should not be taken to represent a fundamental change of approach but rather a response to the current exceptional circumstances.

3. SCOSS recommendation

The Scottish Government is asked to clarify what might constitute an 'exceptional circumstance' that would justify benefits being increased beyond the September rate of CPI.

Scottish Government response

The COVID-19 pandemic alongside health and social impacts has brought an unprecedented economic shock. Because economic shocks are unpredictable in nature, it would not be suitable to set out what might constitute an 'exceptional circumstance' in the future. The Scottish Government's uprating policy is established and set out in the

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Policy and Analytical reports published in 2019. However, it is kept under review to ensure is suitable for unprecedented events like the COVID-19 pandemic or developments in the inflation measures area.

4. SCOSS recommendation

Unless circumstances outwith the control of the Scottish Government preclude it, where there is a policy intent to uprate in a non-routine way, enough time should be factored in for stakeholder engagement.

Scottish Government response

The annual uprating process is to ensure that carer's, funeral support and disability benefits maintain their value as prices rise. Therefore, consultation is not necessary for this annual process as uprating by inflation does not alter the policy underlying a particular form of assistance.

Stakeholder engagement and impact assessments will be conducted for each set of regulations providing for assistance under Chapter 2 of Part 2 and for assistance by way of top-up. Whenever possible, any future consideration of increasing the generosity of an existing benefit would involve stakeholder engagement and consultation including impact assessments.

5. SCOSS recommendation

To improve transparency, the Scottish Government is asked to consider whether section 77 reports or information provided to accompany uprating regulations could usefully say more on the economic impact on different groups and the overall costs of uprating decisions.

Scottish Government response

The section 77 report informs the Scottish Budget and was published the day after the budget announcement. The policy note that accompanies the Scottish Statutory Instruments sets out the financial impact of the policy and references the Scottish Fiscal Commission Economic and Fiscal Forecasts January 2021 which sets out in detail the expenditure in Social Security. The policy note when laid will contain a footnote to the publication.

6. SCOSS recommendation

The Scottish Government should prepare equality impact assessments concerning the overall impact of uprating decisions on equality, where there is a policy intent to uprate in a non-routine way.

Scottish Government response

see response to recommendation 4 above.

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7. SCOSS recommendation

The Scottish Government should review whether other information could usefully be provided in section 77 reports in order to improve transparency.

Scottish Government response

The Scottish Government will look to develop the content of future reports to assist understanding as more types of assistance are delivered.

8. SCOSS recommendation

Acknowledging there may be good reasons that preclude uprating SCP for 2021-22, the Scottish Government is asked to clarify the basis for deciding not to uprate it and any implications for its strategic approach in comparable situations.

Scottish Government response

The statutory approach to uprating of Scottish Child Payment was agreed at Stage 3 of the ‘Social Security Administration and Tribunal Membership (Scotland) Bill 2020’ on 29 September 2020.

It was agreed that the duty to consider the effects of price inflation under section 77 of the 2018 Act would apply to all top-up assistance and that the duty to uprate under section 78 of the 2018 Act would apply to the Scottish Child Payment. As the first payments of the Scottish Child Payment would start from the end of February 2021, it makes sense that the duty to uprate annually would be made effective from April 2022 and would be brought into force by commencement regulations, likely to be in late 2021.

We have always been clear since its announcement that the SCP would be worth £10 per week per child when it launched in 2020/21 – that has not changed. The payment of £10 per week is already double what was originally asked for through the “Give me Five” campaign.

For any new assistance introduced under s79 of the Act, there is a clear duty under s77 to consider the effects of price inflation. The approach to uprating any new forms of assistance would be considered through stakeholder engagement.