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**From:** McVie A (Ann)  
**Sent:** 20 April 2017 09:00  
**To:**  
**Cc:**  
**Subject:** Fw: WASPI Glasgow

To see. Ann

Sent from my BlackBerry 10 smartphone.

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**From:** Minister for Social Security <MinisterSocSec@gov.scot>  
**Sent:** Thursday, 20 April 2017 08:52  
**To:** Hill O (Olive)  
**Cc:** Cabinet Secretary for Communities, Social Security and Equalities; Campbell J (Jeanette); McVie A (Ann); Minister for Social Security  
**Subject:** RE: WASPI Glasgow

Olive

Please find attached a response from Richard Harrington MP, Minister for Pensions.

Thanks

PS/Minister for Social Security

Please see the Ministerial Preferences which may be of assistance to you.

*All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.*

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**From:** **On Behalf Of** Minister for Social Security  
**Sent:** 06 April 2017 17:06  
**To:**  
**Cc:** Cabinet Secretary for Communities, Social Security and Equalities; Campbell J (Jeanette); McVie A (Ann); Minister for Social Security  
**Subject:** RE: WASPI Glasgow

Please find attached a scanned copy of the letter for your records.

Thanks

PS/Minister for Social Security

**Please see the Ministerial Preferences which may be of assistance to you.**

*All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.*

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**From:**  
**Sent:** 04 April 2017 09:58  
**To:** Minister for Social Security; Campbell J (Jeanette)  
**Cc:** Cabinet Secretary for Communities, Social Security and Equalities; McVie A (Ann);  
**Subject:** RE: WASPI Glasgow

Draft response attached as requested. Jeanette is content with the draft.

Please let me know if you need anything further on this.

Regards

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**From: On Behalf Of** Minister for Social Security  
**Sent:** 03 April 2017 16:10  
**To:** Campbell J (Jeanette);  
**Cc:** Cabinet Secretary for Communities, Social Security and Equalities; McVie A (Ann); Abell D (Dawn); Minister for Social Security  
**Subject:** WASPI Glasgow

Thanks for this.

The Minister has commented that we need to clarify our position very clearly and get it out there.

, Comms - The Minister is keen for lines and advice on this.

Thanks

PS/Minister for Social Security

**Please see the Ministerial Preferences which may be of assistance to you.**

*All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.*

**From:** Campbell J (Jeanette)  
**Sent:** 30 March 2017 10:16  
**To:** Minister for Social Security; Cabinet Secretary for Communities, Social Security and Equalities  
**Cc:** McVie A (Ann)  
**Subject:** FW: WASPI Glasgow (

Please note letter excerpt attached where DWP say SG can top up benefits for waspi women. This is misleading people as to what we can genuinely do for this one section of women.  
JC

## WASPI Glasgow mentioned you.

Reply

**WASPI Glasgow**  
@waspig1

Mar 29

@waspig1 @NicolaSturgeon  
@SandraWhiteSNP @jackiebmsp  
@AnnieWellsMSP @patrickharvie  
Interesting response from Harrington re  
WASPI Invite? [twitter.com/ladyelizajane1...](https://twitter.com/ladyelizajane1...)

[View conversation](#)

[Settings](#) | [Help](#) | [Opt-out](#) | [Download app](#)

Twitter, Inc. 1355 Market Street, Suite 900 San Francisco, CA 94103


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**Subject:** FW: Pensions / Waspi

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**From:** Kerr S (Stephen) (Social Security Director)  
**Sent:** 22 August 2016 10:23  
**To:** McVie A (Ann)  
**Subject:** FW: Pensions / Waspi

**Stephen Kerr** | Social Security Director | Scottish Government | Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU and Victoria Quay, Edinburgh EH6 6QQ | Tel: +44 (0)300 244 1222 or 07765 897121| email: [stephen.kerr@gov.scot](mailto:stephen.kerr@gov.scot)   
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[Click here to respond to our consultation on social security in Scotland](#)

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**From:** Kerr S (Stephen) (Social Security Director)  
**Sent:** 12 August 2016 20:10  
**To:** McAllister C (Colin)  
**Cc:** Campbell J (Jeanette)  
**Subject:** Re: Pensions / Waspi

No probs, S.

Stephen Kerr | Social Security Director | Scottish Government | Tel: +44 (0)300 244 1222 or 07765 897121

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**From:** McAllister C (Colin)  
**Sent:** Friday, 12 August 2016 19:06  
**To:** Kerr S (Stephen) (Social Security Director)  
**Cc:** Campbell J (Jeanette)  
**Subject:** RE: Pensions / Waspi

Cheers. That's very helpful indeed.

Rgds

**Colin McAllister**



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**From:** Kerr S (Stephen) (Social Security Director)  
**Sent:** 12 August 2016 15:46  
**To:** McAllister C (Colin)  
**Cc:** Campbell J (Jeanette)  
**Subject:** RE: Pensions / Waspi


Colin

I've reached out to the folk that know more about this than me. I know you'd want me to condense their answer into terms you and I would understand. Here goes.

Technically WASPI and the issue of the Apr 1951-Apr 1953 cohort of women (acceleration) are two separate things. But, for the purposes of the query, the solution to the question you're asking would (in this case) require us to create a new benefit to effectively bring forward the date of State Pension Eligibility (nothing to top-up as you say). And that we cannot do because of the reservation.

Hope that's helpful (well, you know what I mean).

Stephen

**Stephen Kerr** | Social Security Director | Scottish Government | Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU and Victoria Quay, Edinburgh EH6 6QQ | Tel: +44 (0)300 244 1222 or 07765 897121| email: [stephen.kerr@gov.scot](mailto:stephen.kerr@gov.scot)   
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You can find out more about our social security consultation at: <http://www.gov.scot/Topics/People/fairerscotland/future-powers/Consultation>

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**From:** McAllister C (Colin)  
**Sent:** 10 August 2016 19:02  
**To:** Kerr S (Stephen) (Social Security Director)  
**Cc:** Campbell J (Jeanette)  
**Subject:** I will forward to [REDACTED] - Pensions / Waspi

Stephen

Grateful for a quick view on my understanding regarding pensions / Waspi.

Essentially I am keen to be sure of our ground regarding what we can and cannot do on this issue under the Scotland Act once we have the full powers.

My understanding is as follows:

We do not have the powers to address the Waspi issue of the acceleration in state pension age for some women because:

The SG is not able to create a new benefit in a reserved area eg pensions.

We are able to top up benefits in a reserved area (inc pensions)

But people caught by the Waspi issue are not in receipt of that benefit – that's the core issue at hand - so there is nothing to top-up.

Is that correct? Grateful for something in the next few days if possible.

Rgds

**Colin McAllister**

<< OLE Object: Picture (Device Independent Bitmap) >>



T: 0300 244 4000  
E: scottish.ministers@gov.scot

Richard Harrington MP  
Parliamentary Under Secretary  
Department for Work & Pensions  
Caxton House  
Tothill Street  
London  
SW1H 9DA

6 April 2017

#### WASPI WOMEN AND SCOTTISH GOVERNMENT POWERS TO TOP UP BENEFITS

It has been brought to my attention that a letter recently sent from your office (extract attached) contained some misleading information around the Scottish Government's powers to top up reserved benefits. Principally it suggests that the Scottish Government has powers to fill the gap in pension provision for the group known as WASPI women.

To use the top up powers you refer to, in section 24 of the Scotland Act 2016, the payment must be for one of the purposes for which the reserved benefit is being provided. The Scottish Government can't make a pension purpose payment to a person who isn't getting a state pension.

The discretionary payment power you mention within section 25 is solely for Discretionary Housing Payments. You may have intended to refer to section 26 (discretionary payments), however use of section 26 is restricted to meeting only short term needs that require to be met to avoid a risk to a person's well-being.

I would appreciate if you could ensure such suggestions are not repeated in future correspondence as they propose remedies that are not within the gift of the Scottish Government under its current powers.

Kind regards

JEANE FREEMAN



Department  
for Work &  
Pensions

**RICHARD HARRINGTON MP**  
Minister for Pensions

Jeane Freeman MSP  
Minister for Social Security  
Scottish Government  
St Andrews House  
Regent Road  
Edinburgh  
EH1 3DG

19<sup>th</sup>  
April 2017

Dear Jeane,

Thank you for your letter dated 6 April. Please accept my apology for the error in my previous letter to which you refer. The reference to section 25 of the Scotland Act 2016 should, of course, have instead referenced section 26: discretionary payments and assistance.

The decision to equalise the State Pension age for men and women dates back to 1995 and addresses a longstanding inequality in pension age. Due to increasing life expectancy, the Pensions Act 2011 accelerated this process to allow for a rise to age 66 by 2020 for both genders and the equalisation of the State Pension age by November 2018. During the passage of the bill that became the Pensions Act 2011, the UK Government made a concession costing £1.1 billion which slowed down the increase of the State Pension age so that no one would face an increase of more than 18 months compared to the Pensions Act 1995 timetable.

The substantial new welfare powers that the Scottish Parliament has provides you with options to support people affected by changes to the State Pension, including supporting women affected by increases in State Pension age, should you so wish. Of course, this is entirely a matter for the Scottish Government and the Scottish Parliament to decide.

One such option, however, could be for you to legislate to introduce new discretionary payments using section 26 the Scotland Act 2016 (exception 7 to Section F1 of Schedule 5 to the Scotland Act 1998). This power was introduced to give you the widest possible scope to help meet the short-term needs of people in Scotland, which could include those who are affected by changes to the State Pension. In respect of which, there is no prescribed definition of 'short-term', and this will be substantially for the Scottish Parliament to determine.



Another option could be to legislate under section 28 of the Scotland Act 2016 (exception 10 to Section F1) to create new benefits in Scotland. This is a significant power and one that gives the Scottish Parliament the competence to provide financial support in devolved areas of responsibility.

Whilst this power cannot be used to provide pensions to people who qualify by reason of old age, many of those affected by changes to the State Pension age will not yet have reached State Pension age. As a result, this broad power does offer the Scottish Government the possibility of introducing new financial support to help this group.

Finally, there are also powers available to you, should you wish to support people in Scotland who may already be in receipt of their State Pension. As I have mentioned, the wide ranging discretionary payments power, under section 26 provides one such option. You could also consider paying people a top-up to any reserved benefits they may be receiving by legislating under section 24 of the Scotland Act 2016 (exception 5 to Section F1). Individuals could be paid on a case by case basis or all benefit claimants could be provided with an on-going entitlement.

All the provisions that I have referenced in this letter have been fully commenced and competence transferred to the Scottish Parliament, so legislation in respect of them could have been introduced into at any time since September 2016.

*Yours Sincerely*

*Richard Harrington*

**RICHARD HARRINGTON MP**  
**MINISTER FOR PENSIONS**

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**From:****Sent:** 03 February 2017 09:34**To:****Cc:** DWP Devolution Scotland Bill G6; Annison Dave STRATEGY STRATEGY DEVOLUTION DIVISION**Subject:** RE: Scotland Act, top ups and pensions

The Minister was conflating a couple of things, perhaps in her haste to conclude the debate by its (extended) timescale. But that's of no practical significance here.

I don't see any doubt as to the legal position. The Scottish Parliament would be unable to create a new benefit to assist people by way of old age pension, because of the restrictions in section 28. But for an individual who is entitled to a state pension the section 24 top-up competence would be available if the Parliament wished to use it, for pension purposes.

For the WASPI group, the second point is no help, because the issue is that their pensions are not payable until a later age than its members and supporters consider fair and appropriate. That means there is no pension to top up, and the Scottish Parliament has no devolved competence to address the issue by creating an old age pension or top-up. Assistance by either of those routes is for the UK Parliament to provide.

**This correspondence is from the Scottish Government Legal Directorate. To the extent that it may contain legal advice, it is legally privileged and therefore may be exempt from disclosure under the Freedom of Information (S) Act 2002 or the Environmental Information (S) Regulations 2004.**

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**From:****Sent:** 03 February 2017 08:07**To:****Cc:** DWP Devolution Scotland Bill G6; Annison Dave STRATEGY STRATEGY DEVOLUTION DIVISION**Subject:** Scotland Act, top ups and pensions

Morning both,

I noticed in a very recent Scottish Parliament debate on State Pension age and the WASPI group (link here <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10765>) that the Minister for Social Security, Ms Freeman, said:

*"I say that I am not prepared to let the Tory Government off the hook but, even if I was, section 28 of the Scotland Act 2016, on exceptions to reserved areas, says that top-up does not include pensions assistance or assistance by reason of old age."*

Although I think the Minister may have confused the sections of the Scotland Act (something that is easy to do), I wondered whether it was your position and understanding that the new top-up powers, under section 24, does not enable Scottish Ministers to top up a state pension?

Clarification from you on this position would be welcome.

Many thanks