



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Security Committee

Thursday 21 May 2020

Session 5



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SOCIAL SECURITY COMMITTEE

10th Meeting 2020, Session 5

CONVENER

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

DEPUTY CONVENER

*Pauline McNeill (Glasgow) (Lab)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Jeremy Balfour (Lothian) (Con)

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Mark Griffin (Central Scotland) (Lab)

*Alison Johnstone (Lothian) (Green)

*Shona Robison (Dundee City East) (SNP)

*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jon Shaw (Child Poverty Action Group)

Craig Smith (Scottish Association for Mental Health)

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

CLERK TO THE COMMITTEE

Anne Peat

LOCATION

Virtual Meeting

Scottish Parliament

Social Security Committee

Thursday 21 May 2020

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Bob Doris): Welcome to the 10th meeting in 2020 of Scotland's Social Security Committee. We have received no apologies. Mr Balfour is having some issues with his information technology, but he will join us shortly. Other than that, we will have a full house this morning. As I did privately before the start of the broadcast, I thank the clerking team, broadcasters and witnesses for their efforts to ensure that the committee meeting can take place. Thank you to everyone.

Agenda item 1 is a decision on taking item 3, our consideration of the evidence that we will hear today, and item 4, on the committee's annual report, in private. Given the technical issues of the broadcast, unless I hear anyone say anything I will take that decision as agreed.

No one has spoken, so the committee agrees to take items 3 and 4 in private.

Social Security Administration and Tribunal Membership (Scotland) Bill: Stage 1

09:02

The Convener: We now move to agenda item 2, which is consideration of evidence on the Social Security Administration and Tribunal Membership (Scotland) Bill at stage 1.

I thank Craig Smith, public affairs officer with the Scottish Association for Mental Health, and Jon Shaw, welfare rights adviser for the Child Poverty Action Group, for joining us this morning. Good morning, gentlemen. Our consideration of the bill is a bit of a truncated process, but you are very welcome, so thank you for joining us. Alison Johnstone has the first question.

Alison Johnstone (Lothian) (Green): I, too, thank our witnesses for joining us.

I know that you have concerns about the procedure for appointees. The Law Society of Scotland, however, has looked at what is proposed and thinks that the bill does not have sufficient safeguards of the kind that exist for similar purposes in other laws, such as the Adults with Incapacity (Scotland) Act 2000. The Law Society is also concerned about whether the proposals are compliant with the European convention on human rights and the United Nations Convention on the Rights of Persons with Disabilities. Do your organisations have any similar concerns? Have you considered that?

Craig Smith (Scottish Association for Mental Health): [Temporary loss of sound]—and seeing those concerns. That is not something on which I feel I could give a detailed response. We are keeping it in mind that the law on adults with incapacity is due to be reviewed at some point; we obviously keep an eye on the area. I could not give you an example, as we have not looked at appointeeship in that regard.

We have concerns around the specific proposals in the bill, which we will come on to. There is always a concern about keeping safeguards to ensure that people lacking capacity are not exploited and that appointees are working in their best interests, but I could not provide any clear examples of our concerns around incapacity law as it stands. I would not want to say anything off the top of my head on that.

The Convener: Thank you. Jon Shaw, we will give you the opportunity to comment on that. When you come in, please allow a second or two to let broadcasting turn on your microphone.

Jon Shaw (Child Poverty Action Group): Having looked at the Law Society's evidence, I would point to article 6 of the ECHR—the right to a fair trial. We raised in our evidence the lack of dispute resolution for somebody who does not agree that there should be an appointee or for somebody who is incapable, as defined in the Adults with Incapacity (Scotland) Act 2000, in relation to whether they are able to have any recourse to an independent challenge.

The Law Society raises a valid concern. It is important to note that that is also a concern with the current appointee system that the Department for Work and Pensions has. As the Law Society signposts, the 2000 act gives recourse to the sheriff if somebody has a concern about whether an appointeeship is appropriate.

It is important to acknowledge that there is a balance between the difficulty of the process—*[Interruption.]* Sorry, that was the cat. We need to consider the difficulty of the process for administrative purposes because the power of attorney guardianship procedures are much more labour intensive for the people making decisions. At the same time, although there are few disputes in the current system, we have evidence that there are disputes and that, when those disputes happen, they are very difficult for people, so there should be a way to get some kind of independent resolution.

Alison Johnstone: Mr Shaw, what are your views on how that resolution might best be achieved?

Jon Shaw: We are perhaps not best placed to answer that question, given that our expertise is in social security law. However, the 2000 act gives access to the sheriff court and there is a separate children's hearings system, so forums exist in Scotland for resolving disputes about the rights of people with disabilities and the rights of children. I think that those forums could be considered.

Craig Smith's point that the 2000 act is being reviewed is important—perhaps that could be tied in. The other option would be to come up with a novel method of resolving those disputes in the same way that these proposals are novel and unfamiliar in current social security law.

Alison Johnstone: That is helpful, thank you.

Graham Simpson (Central Scotland) (Con): I have questions for both witnesses so I will need to get your names right, gents. I have a question for Craig Smith first, from SAMH, based on your submission to the committee. On appointees, your submission states that the policy memorandum

"to the Bill provides suggested circumstances where a claimant with capacity may wish to appoint another adult to act on their behalf. The examples given relate to a claimant

with a terminal illness or 'for other personal reasons unable to act on their own behalf'".

You go on to say that there should be

"clear detailed guidance and advice"

around this. Can you expand on that and say what kind of guidance and advice you would be looking for? Should it be in the bill or in regulations?

Craig Smith: Our concern about appointees, particularly for people with capacity, is that it is a novel thing—it does not exist in the DWP system, as far as I am aware—and it is not clear from the bill, the policy memorandum or the explanatory notes in what circumstances it would be used.

As a principle, we are in favour of somebody who feels that they could not manage their own social security claim being able to ask someone to do that on their behalf. That is a good proposal, but an appointee would have significant information about that person and significant powers that relate to—*[Temporary loss of sound]*—processing and possible payment of a person's claim. That is a big responsibility and it is difficult for us to determine circumstances when that would be appropriate. The policy memorandum gives the example of a person being appointed for an individual with a terminal illness, which seems to make sense, particularly if that is tied in with the non-disclosure of harmful health information, which we have some concerns about.

There is a definite need for detailed guidance about situations in which appointees would be appropriate, particularly for people with capacity, which we imagine would be appropriate in very limited situations. The Social Security (Scotland) Act 2018 already provides a much clearer rationale for appointees for people who lack capacity. Providing safeguards for people would be the most important aspect. Safeguards should ensure that people are not exploited and that appointees are appropriate. When people lack capacity, the DWP interviews both the individual and the proposed appointee. It is essential that safeguards like that are in place to ensure that the appointee, who has such significant powers, is appropriate and works in the best interests of the individual. Obviously, the individual should retain their right to advocacy and, as they have capacity, they can review their consent for the appointeeship at any point. Clear guidance needs to be given to the individual at all points in the process about their powers to withhold or remove consent and how they can access advocacy.

We generally like things to be included in primary or secondary legislation so that they have legal status. It is not appropriate for detailed guidance to be in the bill, but it could be appropriate to mandate the Scottish Government

to develop guidance around safeguards, appointeeship and when that is appropriate. Those things could be included in the bill, or at least in secondary legislation. As I said, we do not need those details in the bill, but it would be helpful for the Scottish Government to develop that guidance.

Graham Simpson: Thank you, that is useful. I have a question for Jon Shaw. Time is very short, so I will ask two questions at once.

The Child Poverty Action Group has sent in a detailed and useful submission, which has a lot to say about appointees. The submission says:

“Whilst an individual with capacity can withdraw consent to an appointee, there is no provision in the Act for individuals judged to be incapable to challenge a decision to appoint someone to act for them”—

which is quite a serious point—

“or resolve disputes between two people who wish to be the appointee. The latter point also applies to the proposal for appointees for children.”

Would you want to change that in the bill? Part of the committee’s process is to look for ideas that guide us when we are starting to think about amendments to the bill. Perhaps you could flesh that out and say what you think might have to change in that section of the bill.

Jon Shaw: Certainly. We made the point in our submission that, unless there is some change to the bill, it is difficult to see how an independent dispute process could be introduced through guidance. It is important to come back to the fact that that is, in effect, a criticism of the DWP’s system, where there is no independent dispute mechanism.

The question whether it is appropriate to have something similar to the processes and procedures under the Adults with Incapacity (Scotland) Act 2000 or to develop something novel to the Scottish system, such as giving a tribunal jurisdiction to consider whether an appointeeship is appropriate, will have cost and process applications for Social Security Scotland. We think that an attempt should be made to introduce something like that and to allow somebody who has concerns to be able to raise them in a formal way.

Our evidence is that currently, when people disagree with an appointeeship or want to end it, that is the point at which there are difficulties with the DWP system. We do not have a firm view on what process should be set up for the Scottish system simply because right now the processes exist only in relation to incapacity legislation, but we think that the Government should be exploring ways to do that.

09:15

The Convener: Do you have any further questions Mr Simpson, before I bring in other colleagues?

Graham Simpson: No thank you, convener. I see that Jeremy Balfour has joined us.

The Convener: Good morning, Jeremy.

Jeremy Balfour (Lothian) (Con): Good morning, convener. I apologise for my lateness.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Most of my questions have been substantially answered already. However, I have been thinking of a recent high-profile, tragic case, where a vulnerable adult’s benefits were claimed on her behalf by two adults who murdered the recipient but were able to continue claiming those benefits for many years. Do the witnesses think that there are sufficient safeguards and reviews to prevent such an experience from happening again?

Craig Smith: On the DWP provisions and the proposed provisions for Scotland, I would go back to the points that Jon Shaw and I have made previously: at the moment those safeguards are not in place. We know that there have been cases in the DWP system where an appointee has been in receipt of benefits inappropriately. As I said before, there is a need for safeguards when someone is appointed to ensure that the appointee is a suitable person, that they are interviewed and that there is appropriate oversight of that individual.

We must also ensure that the individual who does not have capacity is still provided with information about their rights throughout the process. I definitely agree with what Jon Shaw was saying and the comments in other evidence about the need for a network of people to be able to raise concerns with the social security agency if they are worried that someone who is vulnerable is being exploited by an appointee or anyone else who is involved in their benefits and social security. At the moment, the bill has no details on that and we would like to see something in primary legislation, with the stipulation that those provisions should be developed either through secondary legislation or in guidance—there needs to be something in the bill stating that those provisions are to be developed.

We are concerned by the lack of safeguards around the appointee, how the appointeeship is monitored and how people can raise concerns about a vulnerable person or how the vulnerable person themselves can raise concerns. It is key that people have access to that review mechanism.

Jon Shaw: I largely agree with what Craig Smith has said. Right now, the process that Social Security Scotland has introduced is that it simply automatically accepts the DWP appointeeship, which imports that lack of a formal review mechanism into the Scottish social security system.

One advantage of what the DWP has put in place is that it has published very detailed guidance on processes around different legal powers and how those interact with appointeeships, which is available to the public. Ideally, we would want there to be something in the bill to indicate that an attempt is being made to improve on the DWP system. Whatever the outcome is, it is vital that what Social Security Scotland staff use to make those decisions is publicly available, because that will give people confidence in their ability to exercise their rights. In addition to a review process, it is really important that there is transparent, publicly accessible information about how that process works and how people can engage with it.

The Convener: Do you want to follow up on that, Mr Brown?

Keith Brown: I understand what has been said about safeguards and checks to make sure that the person who is appointed is the right person and about the ability for people to raise concerns, but my point was more about the fact that the agency should be obliged to carry out periodic reviews, because that is the safeguard against long-term continuing abuse. However, I am happy to take up that issue with the cabinet secretary.

The Convener: Pauline McNeill has an interest in appointees.

Pauline McNeill (Glasgow) (Lab): From what I have read and what I have heard this morning, the lack of a dispute resolution process appears to be a significant omission. I am a bit concerned that the position does not seem to be clear and that there is still a question about whether the relevant provisions should be in regulations or in guidance.

In its submission, the Child Poverty Action Group highlighted the example of shared parenting. The situation appears to be extremely complicated. In Scotland, even though a child might reside with one parent, the parenting should still be shared. One parent could receive the child benefit, while the other one could receive the other benefits.

In the case of children, should there be some basic criteria on who the appointee should be? There are a number of issues that we need to concern ourselves with, such as what happens while there is a dispute over who the appointee is. Are there temporary arrangements for that? Do

the witnesses agree that that is a big issue, which needs to be cleared up?

Craig Smith and Jon Shaw have told us that we could look to the DWP arrangements or those under the Adults with Incapacity (Scotland) Act 2000, but it strikes me that that will not be adequate, given that that act is under review and the DWP process is not terribly satisfactory. Do we need to ask ministers to concentrate on this part of the bill to make sure that we get it right? In the case of children, should there be some guidance and criteria in relation to which member of the family would be first in line and which would be second in line? I am concerned that there could be disputes about who the appointee is all over the place, given that there is quite a lot of money involved.

Jon Shaw: That is a very valid concern. It is important to acknowledge that there is a fundamental difference between the DWP's approach and the policy approach that is proposed in the bill. The DWP's approach is that any child who is under 16 automatically has an appointee, and the starting point is the person whom the child lives with. As I understand it, the policy intent of the proposal is minimal regulation. The discretion is provided to appoint someone to act, but there is not a duty to appoint someone to act.

We understand that the Scottish Government knows that anyone who has parental rights and responsibilities has the right to act as the child's legal representative. The proposal for children leaves more uncertain when an appointee will be appointed; it also does not give such a clear steer as to what the order of priority would be.

We cited some case evidence of difficulties in relation to shared care of children, and the DWP has not resolved those through a formal dispute mechanism. The approach that the Scottish Government has chosen to take perhaps increases the uncertainty because, when there is someone with parental rights and responsibilities, it is not clear how somebody whom a child normally lives with would take over responsibility for that claim. I am not sure whether that is helpful.

Craig Smith: I agree with Jon Shaw's point. I do not have much to add on the aspect about children and young people, except to say that there is a real need for clarity, particularly in relation to the vulnerabilities of children. There needs to be clear guidance about appointeeships and the order of preference for appointeeship.

Pauline McNeill is right: appointeeships and non-disclosure of harmful information are key issues in the bill. There needs to be some more scrutiny by the Scottish Government, but we also suggest that the issue of appointees, particularly for people with capacity, and non-disclosure of

harmful information to claimants, which is a significant power, should be scrutinised by the experience panel, which is made up of people with lived experience of social security, and by the disability and carers benefits expert advisory group, or DACBEAG—there are so many acronyms. That group has been set up to give advice to ministers on disability and carers benefits, and this would be in the area—[*Temporary loss of sound*—safeguarding proposals. There is not much detail in the bill at all about appointeeships, and we need DACBEAG and the experience panel to look at how we provide safeguards and at the non-disclosure of information. They need to provide their insight, so that they can help to shape the bill and particularly the guidance when it is developed.

Pauline McNeill: I want to conclude by asking the witnesses about the way forward. The DWP's approach seems to be quite a sensible starting point. In the case of children with two parents, for example, the appointee could be whomever the child lives with. However, there must be scope for that appointeeship to be overturned. Furthermore, if a child aged 12, 13 or 14 has the capacity to challenge a decision, or they have someone who can challenge it on their behalf, why should it not be possible to challenge it? An argument for that could be made. Keith Brown's point about including periodic reviews also seems sensible, although I do not know who would carry them out. Would including those aspects be a better starting point for the bill?

The Convener: Those are very helpful questions. I will take Craig Smith first.

Craig Smith: The point about children is not in my area of expertise, so I will defer to Jon Shaw, who will probably have more to offer on the issue. Holding periodic reviews would be a sensible approach, and we should learn from the DWP's process—it works—build it into the system and then build on that.

Jon Shaw: I have had discussions with officials, who have indicated that they think that children are, in essence, largely prevented from applying for benefits. We think that that relates to the Age of Legal Capacity (Scotland) Act 1991, which is still in force. However, that is not made clear in the bill, which leaves uncertainty. Whether a child should be able to challenge an appointeeship comes back to the point about whether there should be a meaningful dispute process.

The other side of that is that there is a provision to take the child's views into account in so far as is reasonably practicable. That suggests that, for example, when two parents are separating and care is shared, there might be a situation in which Social Security Scotland could take the child's views into account. However, that is not binding

and it does not give a lot of teeth to the child's ability to make their views known. I point to the United Nations Convention on the Rights of the Child in that regard.

It is clear that the Scottish Government is trying to bring in the child's views in a way that the DWP does not. It comes back to the point about public consultation, and the Scottish Government should be engaging with stakeholders including the Children and Young People's Commissioner Scotland, the Scottish Youth Parliament and young people to develop proposals for how this should work.

09:30

The Convener: Deputy convener, do you have any follow-up questions on that?

Pauline McNeill: No, thank you.

The Convener: Before we end the evidence session, and as members are not indicating that they have anything else to ask, I have another question. The bill is to go through Parliament in relatively short order. An essential aspect of the bill is that it will allow, for example, the Scottish child payment to proceed, which we are all keen to see. Suggestions have also been made this morning about how we could enhance other provisions in the bill. It would be good to get on the record whether you support the bill—with the caveats that have been given here this morning—or whether you might have any other concerns. That might just help our scrutiny of the bill, especially as we have quite a limited time for that. I ask that you be brief.

Jon Shaw: The major rationale for the bill in respect of the Scottish child payment relates to the lack of explicit authority to create fraud offences. We can see the argument for consistency between devolved benefits, but it is important to note that, as our evidence on the earlier Social Security (Scotland) Bill made clear, we have concerns about the Scottish Government's approach to fraud in the Scottish social security system.

It is also important to note that our written submission raises a point about the suspension of payments, which the bill does not allow for. When we look at the child disability payment regulations, the drafting quite clearly suggests that entitlement cannot be separated from payability. We can see two key issues with that which relate to children in residential care. If their payment stops, their entitlement ends, which means that they cannot qualify for additional disabled child elements support from the DWP. We know that officials are working with the DWP on the issue, but a tried and tested solution would simply be to have a power to separate entitlement and payability.

That would also help with when someone is entitled to two different benefits. An example that will come up in future years is carers allowance and the state pension. If someone loses their entitlement to carer's allowance when they start getting their state pension, that will have an impact on passported DWP entitlements. We accept the need for amendments to the Social Security (Scotland) Act 2018, but our view, having seen the draft regulations, is that in order to make them work for people, the more important amendment would be to bring in a power to suspend payments.

The second issue to note is that, if somebody is not engaging with a review of their disability benefit entitlement, the only option available is to stop their benefit and make them claim again and to challenge the decision to stop the benefit. If their address has gone awry on Social Security Scotland's computers, suspending their benefit and prompting them to get in touch without the need for a new claim would be a real advantage and perhaps better for claimants than having to make a new claim. Therefore, we accept that the primary legislation needs to change, but we would have prioritised that aspect over the rationale for the Scottish child payment.

The Convener: I was taking lots of notes while you were speaking, and your comments are helpful. I think that what we are hearing from you is that the bill is fine as far as it goes, but you have identified certain areas where you would want greater scrutiny and some improvements—or the Scottish Government should return to the provisions more generally at a later date.

You do not have to get into this now, but you said that the Government should reconsider broad provisions in general across a number of areas.

Jon Shaw: Yes. It is important to note that we support the prioritisation of the Scottish child payment, and we think that it should be introduced as soon as possible. We and some other groups have written to the First Minister indicating that, regardless of the bill, we think that some things should be done now to support families. The cabinet secretary has already confirmed that the Scottish child payment, as it is being developed, cannot be introduced according to the previous timescales, and that potentially makes it possible to scrutinise further the proposals in the bill and to take a little bit more time over it. As far as I understand, it is not expected that anyone will be able to apply for the Scottish child payment until December at the earliest. That provides a longer window of time in which to increase scrutiny of the proposals on appointees and of other areas of the bill, which could benefit from amendment before we get to delivering benefits that we now know are not expected in 2020.

The Convener: I will come to Craig Smith in a second, but it might be helpful to highlight that I wrote on behalf of the committee to the Cabinet Secretary for Social Security and Older People, saying that, despite the unavoidable slippage in the delivery of the Scottish child payment, we are keen to make the bill as robust as possible and to pass it as quickly as possible, because we would hate it if an opportunity to introduce the measures a little bit quicker is missed because of the bill not completing its course through Parliament, in which case there could be a delay.

Thank you very much for those really helpful comments.

Craig Smith: Following on from what Jon Shaw has said and from our written evidence, we are generally in favour of the bill. We understand the rationale for the truncated timescale for the proposed legislation, particularly in aligning with the Scottish child payment. We definitely understand the rationale for the quick timescale. Of course, we want the legislation to be as robust as possible.

As we have discussed today, the main issue for us is that of appointeeship. The issue of the non-disclosure of harmful information, which has been discussed, needs to be considered. The bill contains powers whereby some information about a person's health is not to be disclosed to the individual. We think that that significant power needs proper scrutiny.

As with the wider point about appointeeship, there is not much detail in the bill about how that power would operate and in what circumstances. The policy memorandum gives the example of someone with a terminal illness who does not have a clear understanding of their prognosis. It could be incredibly distressing and harmful for them to see some of the evidence that their general practitioner or consultant gave in relation to their claim. We understand the rationale for that approach, but it needs to be balanced with someone's right to have information about their claim, in line with the charter.

We have concerns about the scope of the power, because it has not been sketched out very well in the policy memorandum. Our understanding is that it allows for non-disclosure beyond cases of terminal illness, and we would like to see a bit more information about the circumstances in which that would apply and about how "harmful" and "serious harm" are being defined, as those terms are not defined in the bill.

We know that there is precedent in mental health legislation for non-disclosure in very limited circumstances but, in such instances, there are clear safeguards involving the Mental Welfare Commission for Scotland and the Mental Health

Tribunal for Scotland being informed about the non-disclosure and being given a report. We think that there is probably a role for Social Security Scotland to play in having to be informed about non-disclosure and keeping a record of the reasons why non-disclosure of information has been applied.

To go back to the main point, we are broadly in favour of the principles of the bill. It is important, and I can see the rationale for it and why there needs to be a short timetable for its consideration. However, that must be balanced against the need for proper scrutiny. We want to move forwards, but not in a rush. There must be more detail in the bill or in secondary legislation on appointees and the non-disclosure of information.

The Convener: I thank Craig Smith and Jon Shaw for their evidence, and we appreciate their very helpful closing comments.

That brings an end to this evidence session, but not to the committee meeting. We will be continuing with agenda item 2 as we hear from the Cabinet Secretary for Social Security and Older People at 10 am. This short break will give all of us a chance to consider some of the evidence that we have heard.

09:40

Meeting suspended.

10:00

On resuming—

The Convener: Good morning, everyone, and welcome back. We are still on agenda item 2, which is evidence to the committee on the Social Security Administration and Tribunal Membership (Scotland) Bill. We have heard evidence this morning from SAMH and CPAG. I am pleased to say that we will now hear from the Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville. She is joined by Stephanie Virlogeux, a Scottish Government lawyer; Walter Drummond-Murray, head of the reserved tribunals and civil courts team in the Scottish Government; and Chris Boyland, the bill manager from Social Security Scotland.

I thank everyone for joining us. I know that you were able to hear the first evidence session, which was very helpful for the committee. Before we move to questions, there is an opportunity for the cabinet secretary to make an opening statement if she wishes to do so.

The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville): Thank you, convener. My opening remarks will be brief.

I thank the committee for its consideration of the bill in an expedited timeframe. Had it not been for the vital requirement for us to introduce the Scottish child payment as soon as possible, the bill might not have been required but, given our Government's commitment to that policy, it certainly still is.

In order to ensure the effective implementation of the 2018 act, the bill addresses a small number of other issues that we think are better progressed together rather than in separate, overlapping bills. As I have said, the Scottish child payment is a vitally important benefit, and we are determined to introduce it as quickly as possible, but I will not do so until the statutory offence provisions in the bill are in place.

The 2018 act already provides for adults who need an appointee where they cannot act for themselves. We are working with stakeholders on how that will work in practice, and we will put in place appropriate and proportionate safeguards on which we will consult more fully in due course.

Through the bill, we propose to make some minor changes by allowing appointees who are aged 16 or over rather than 18 or over, and by allowing adults with capacity to access an appointee if they wish. We want to ensure that no one is disadvantaged, and it is only right that Social Security Scotland can deal with a responsible person on the client's behalf where that is necessary. That would include a situation in which a child's parent or guardian is unable to act on their behalf.

As for other appointee arrangements, we will ensure that appropriate safeguards are in place, and we are developing guidance to make sure that there is a robust and flexible process to ensure that the right to social security is protected.

In the very rare cases in which a medical professional has decided to withhold information about an individual's health on the basis that to do otherwise would cause serious harm, it is important that Social Security Scotland can also withhold that information. It would do so only if the client's doctor or nurse has advised that disclosure would cause serious harm to the client. Although we welcome openness in communications, including with those who have a terminal illness, timing can be critical to ensuring that such conversations are sensitive and thoughtful.

The 2018 act allows only a registered medical practitioner to clinically determine whether an individual is terminally ill for the purposes of disability assistance. However, it has become clear that many registered nurses have the required skills and interaction with patients to be able to make such a judgment.

The provisions in relation to tribunals will facilitate access to a wider group of experienced judges via the route of temporary authorisation in order to increase the capacity of the Scottish tribunals.

Finally, I note that organisations have, in their written submissions, recommended that we use the bill to bring forward provisions to suspend payments. I am very mindful of the reduced time period for stage 2 consideration, and we will lodge only amendments that carry very broad support, not just within stakeholder organisations but across the Parliament. Nonetheless, I am minded to use the bill for that suggested purpose.

I am happy to take questions.

The Convener: Thank you very much, cabinet secretary.

You said in your opening comments that the process is an expedited one. We understand why that is the case and, indeed, from what we heard from the first panel of witnesses, there is broad agreement for that. However, the witnesses had some thoughts about the consultation on the bill. It has not been the kind of consultation that one would normally anticipate for primary legislation. Some of the consultation has been confidential, or managed—for example, in relation to the clinical guidance on terminal illness. For the measures on tribunals, there was very much a judicial stakeholder consultation. We are aware that there has been a general conversation and dialogue with various organisations, such as Citizens Advice Scotland, about some of the issues and the content of the bill, but there has been no set formal consultation.

As Parkinson's UK Scotland said in its submission, it has been a “managed” consultation process as opposed to an open process. That might just be because of the truncated period for the consideration of the bill.

How have you been able to engage with stakeholders on the specific measures in the bill? It is reasonable to ask you that question.

Shirley-Anne Somerville: There are a number of different aspects of the bill, and the consultation has varied accordingly. On fraud, for example, we had a great deal of consultation on fraud for the 2018 act, the regulations that followed it, and the guidance. There has been a great deal of consultation about fraud in general and about how Social Security Scotland should handle it; indeed, I have been to the committee to talk about that on a number of occasions. With regard to the provisions on fraud in the bill, we are suggesting that we should replicate what we have done in the past. The consultation that we have done on fraud follows on from that.

A lot of the work on the cross-cutting measures—not just on fraud—relates back to what we have done in previous consultations. We are not suggesting a new way of doing things for the cross-cutting measures.

You have quite rightly pointed out with regard to terminal illness and the withholding of information that the consultation was done through the chief medical officer's guidance. That was a managed consultation because it was to support medical practitioners at that point. However, stakeholder groups were invited to contribute, and responses were sought from more than 220 consultees.

On tribunal memberships, we have spoken to the Scottish Courts and Tribunals Service, the president of the Scottish tribunals and the senior president of tribunals, and we have done a great deal of close stakeholder engagement on how they feel we need to move forward.

I hope that that gives members a sense of what has taken place as well as of what we regularly do on other aspects of informal engagement with stakeholders that officials and I have. I hope that it gives a flavour of the consultation that has taken place on those issues.

Tom Arthur (Renfrewshire South) (SNP): My question relates to top-up assistance and the creation of offences. By means of a preface, I will summarise my understanding of things as they currently stand.

Sections 71 to 73 of the 2018 act provide for specific types of offence in relation to fraud, but those are not applicable to section 79, which makes provision for the creation of assistance to top up reserved benefits. Sections 3 to 6 of the bill seek to remedy that set of circumstances by allowing for the offences created in section 71 to 73 of the 2018 act to apply by default to section 79 of that act, and also by allowing for specific offences to be created by the regulations that are referred to in section 79.

Is that a fair understanding of the provisions? What thinking has informed the Scottish Government's decision to take that approach? I also ask, as a specific and important question: are those changes essential, or merely desirable, prior to the introduction of the Scottish child payment?

Shirley-Anne Somerville: We certainly see them as being essential. In the Scottish child payment we have an important tool for tackling child poverty, but the Government also has a heavy responsibility to deal with fraud where it takes place. I remind the committee that the level of fraud in our benefits system is low, but it does happen and we need to take a tough stance against it. For that reason, it makes sense to have the same provisions for the Scottish child payment as we do for our current live benefits, which allow

for simplification and ensure that there is no confusion about what is covered.

To touch on a point that has already been mentioned, a great deal of consultation and work was done to get us to the point that we have reached on fraud, so I see no reason for there to be a different way of doing things. Given the importance that any Government should place on tackling fraud, it would not be sensible or appropriate for us to implement the Scottish child payment without relevant statutory offences also being in place.

Mark Griffin (Central Scotland) (Lab): Do any other parts of the bill have the same level of urgency as the measures to ensure that the Scottish child payment comes in on time?

Shirley-Anne Somerville: The position has changed slightly because of the impact of the Covid-19 crisis on the social security programme. However, it has not changed to the extent that we would not envisage coming back to the committee very quickly with another bill to enable us to put in place the other parts of the bill that deal with disability and other aspects.

Although the absolute urgency is on the Scottish child payment aspect of the bill, we are not far behind on the aspects that would be covered in its other provisions. If they were not included now, we would be coming back to the committee very quickly with another bill. Given the timeframes for doing so, we are keen to ensure that we develop our approach as quickly as possible. Having the provisions in place at this point would also help us with the design of the disability benefits. We would be able to move forward with any regulations or guidance in due course, because we would already have a legislative framework in place.

I hope that the committee will take from my remarks that, although the Scottish child payment is the most urgent aspect, quite frankly, the others follow not far behind.

Mark Griffin: I have no more questions on that area.

The Convener: Keith Brown, do you have any follow-up questions on that aspect?

Keith Brown: No, convener. If I may, I will come back on the appointeeships when that is appropriate.

The Convener: That is the next one up, Mr Brown, so let us just kick off on that.

Keith Brown: The cabinet secretary has said that fraud in the benefits system is at relatively low levels, but in today's media we have seen reports of there having been £1.5 billion-worth of fraud, including that carried out through organised crime in the universal credit system. Although I am

concerned about that, I am more concerned about fraud that is perpetrated against benefit recipients. The cabinet secretary may be aware of the example that I gave earlier of a high-profile case in which, for many years, two people were receiving benefits on behalf of a vulnerable adult whom they had murdered.

What systems can be put in place so that, instead of requiring somebody else to come to the agency, the agency is required to check periodically to make sure that the benefits are still reaching the intended person for the intended purpose?

10:15

Shirley-Anne Somerville: I heard the question that was put to the panel earlier, and, in that regard, Keith Brown is correct to point to the tragic case of Margaret Fleming. There is an absolute requirement to ensure that we learn any lessons that we need to from that case. A significant review of that case is going on, and we will learn from and take into account the findings that come from that.

In general, there is an important point around safeguarding measures to ensure that everyone is protected within the system. In this bill, we are dealing with adults with capacity, and, therefore, consent is important. The adult with capacity would have to give consent for someone to become their appointee and could withdraw that consent at any time. We will consider carefully how we build in those safeguards. That will be addressed in the guidance and we are keen to work with stakeholders on that.

I have listened carefully to the concerns around some aspects that were raised by the first panel and in the written evidence, and I will take them on board. SAMH suggested that we consult DACBEAG, our expert advisory group, on the issue. That is a sensible and correct suggestion and, as we move forward with our guidance, I am more than happy to consider how that can be done.

It is important that we ensure that adults with capacity are able to give their consent and that we build in safeguarding measures to make sure that it is done correctly. An important part of our process, which was mentioned in the evidence session with the first panel, is to ensure that there is a review mechanism within what we are doing, in order to reassure the client, the appointee and wider society that we are taking a careful approach. The provision will be used on rare occasions but, when it is used, it needs to be done with the utmost care and attention to ensure that people are safeguarded through it.

Keith Brown: With regard to adults with capacity, there is still the potential for fraud and for the benefits to which they are entitled not to be received by them. However, I am grateful for and reassured by the cabinet secretary's response.

Pauline McNeill: You will have heard the earlier discussion about appointees and the concern that the bill does not seem to address the ability to challenge an appointment or resolve disputes. The Law Society of Scotland has said that the power amounts to a power of attorney and argues that, as you said, safeguards such as are in the Adults with Incapacity (Scotland) Act 2000 could be appropriate. On the other hand, the DWP system has a more automatic process for appointees.

It has also been suggested that there is no provision in the bill for assessing the capacity of someone who is turning 16 to take over their benefits.

Lastly, it was suggested that there is nothing in the bill about publishing statutory guidance, so that people know which guidance will be used.

Does the cabinet secretary agree that those are substantial issues to scrutinise at stage 2? Do you have a preference on the question of ability to challenge an appointment or to resolve a dispute? An example of that might be where there is shared parenting. Which parent would be the appointee? Would it be the person whom the child lives with, or is there a case for starting somewhere else when making that decision?

Shirley-Anne Somerville: There were a number of questions in there. I think that I scribbled them all down, but I am sure that Pauline McNeill will come back in, if I miss any.

It is very important that we give stakeholders faith and assurance about the guidance. It is also important to stress that, once we have gone through the consultation process—which is important—our guidance will be publicly available when it is completed.

On the power of attorney, the granting of that power operates in a very different context from the appointment under the bill's provisions, which deals with appointees for children and people with incapacity. A power of attorney under the Adults with Incapacity (Scotland) Act 2000 carries extensive and long-lasting powers that are granted personally by an individual, and requires much greater scrutiny and protection, which is, rightly, set out in statute. That is unlike the much narrower provisions for appointees for adults with capacity to deal solely with the determination of entitlement to social security, which are granted by Scottish ministers with the individual's consent. Although I understand where the Law Society of Scotland is coming from, I see a difference.

Given the shortness of time this morning, I will be happy to write to the committee with more detail on why we have chosen to do things slightly differently from the DWP in that respect. Although I appreciate that we absolutely can, should and will learn lessons in some areas from the DWP, other aspects of the DWP system have been criticised—for example, the lack of transparency around appointees, with individuals not being told what is happening or that an appointee has set for them. That is an important aspect that we probably do not have enough time to go into in detail this morning. However, I will write to the committee with the reasons why we have taken a slightly different approach on that.

Having capacity to manage their own benefit claim is obviously a key transitional stage for a young person, and we want to ensure that the young person's rights and interests are protected. We are obviously very keen to move forward in a way that protects the young person's rights and responsibilities. We have been in discussion with other parts of government, including the Office of the Public Guardian and the Mental Welfare Commission for Scotland, in order to understand better the issues around the existing appointee systems and other forms of guardianship that are in place. We will work very closely with them, as well as with stakeholders, as we move forward.

I think that Pauline McNeill also suggested that there might be an issue around the guidance being made statutory, rather than it not being referred to in the bill. I am perfectly relaxed about that. If the committee and stakeholders feel that it would provide a little bit of reassurance—which, I say again, it is really important that we provide—I will be happy to look in detail at how that can be taken forward, if the committee wishes for that when it produces its stage 1 report.

The Convener: Does Pauline McNeill have anything else to add before we move to Graham Simpson on the same topic?

Pauline McNeill: I will leave it for now. I have one other question, but I will let others in.

The Convener: If the question is about appointees, you can ask it just now. I also have you down to open up a new line of questioning on non-disclosure in a moment.

Pauline McNeill: My brief question is this: does the cabinet secretary feel that there needs to be something in the bill that would provide the ability to challenge an appointment, or whether any additional provisions are required on resolving disputes?

Shirley-Anne Somerville: I have listened closely to what has been said on that. We need to ensure that we keep the process as simple as possible, and that we do not create one that is

overburdensome. Finding appointees can be very difficult, so we need to balance that with safeguarding and ensuring that people have faith and trust in the system.

I am not sure that that needs to be in the bill. It could be addressed through close working with, for example, DACBEAG. I am sure that the committee could give us very detailed advice as we move forward with that. As I said earlier, I would be happy to look into how we can work with DACBEAG to ensure that the guidance is as strong as it needs to be.

The Convener: We will move on to Graham Simpson. We just about have time for a question from him on appointees.

Graham Simpson: My question is not specifically about appointees, but it flows from evidence that we heard earlier. It is a very quick question, convener.

The Convener: If it is not about appointees, we will move on to Pauline McNeill to begin the next question theme, which is non-disclosure of health information.

Pauline McNeill: Thank you, convener. I have seen what submissions say about the disclosure of health information. Am I correct that the decision on whether to disclose or withhold information will be guided by clinicians, and that ministers are simply to follow their decision?

Shirley-Anne Somerville: Social Security Scotland will withhold information only when a medical practitioner has decided that disclosure of that information would be likely to cause the patient serious physical or mental harm. We anticipate that that will happen very rarely, but it is possible.

As we move through the current situation, the important thing is that it is not for Social Security Scotland, ministers or anyone else to second-guess the call that a health professional makes. If the professional feels that their decision is the best way to move forward, it would not be right for the agency to second-guess that decision.

The Convener: Pauline—do you want to follow up on that?

Pauline McNeill: No, thank you.

Jeremy Balfour: I want to ask about the provision—I think it is quite right—to extend who can act under the terminal illness rules beyond doctors. From my reading of the bill and policy memorandum, it seems that we are not defining which types of nurse should be allowed to sign the form, so that would be left to regulations to define. Why is that the Government's thinking? Would not it be more helpful to specify which medical professionals could sign the form, so that there is

no lack of clarity? I presume that we would be looking to nurses who have specific training to take on the role.

Shirley-Anne Somerville: It is critical that we get that right, but it is also critical that what we do allows us enough flexibility to deal with changing circumstances in the health professions. Previously in the bill process, we discussed whether we could say, for example, that it would be “specialist nurses”, but there is no agreed definition of “specialist nurse” or the training that would be required for a person to be called a specialist nurse.

10:30

If we are too specific in the primary legislation, we will run into difficulties in the future, as things change in the health professions. It is important that we are able to strike the right balance between flexibility in the regulations and what is in the primary legislation, which is why we have made the call that we have made. Of course, regulations can include the skills and experience that would be required for a person to be allowed to act under the terminal illness rules.

Jeremy Balfour: I presume that the regulations will provide a clear definition in that regard.

How far down the road has the Scottish Government got with the regulations? Will they be available for consultation and for the committee to see before the bill completes stage 3?

Shirley-Anne Somerville: I am not aware of the regulations' timetable, but I do not think that that will happen while the bill is going through Parliament. However, regulations will be in place for when they are first required, which will be in the context of the child disability payment.

The Convener: Jeremy Balfour has no further questions, so we will move on. You can come back in later on other themes, of course.

On the extension to registered nurses of the responsibility that doctors have to determine whether someone has a terminal illness, is the Government considering going beyond that to include other health professionals who might be well placed to assist—perhaps if they have had additional training—in order to make the process as smooth as possible?

Shirley-Anne Somerville: The decision that we have made is based on responses to the consultation on the chief medical officer's work on terminal illness. The consultation responses did not come out strongly in favour of adding other health professionals. Of course, if things change, the ability to make changes by regulation, if the bill is enacted, will give us much more flexibility than we have at the moment. Currently, changes must

be made to primary legislation; that is, the Social Security (Scotland) Act 2018.

The Convener: I have a couple of bids from members who want to ask supplementary questions. I hope to have time to bring in both Graham Simpson and Pauline McNeill before we move on to the next theme.

Graham Simpson: On Jeremy Balfour's question about the people who can give a diagnosis, the bill says that the regulations

"must provide that being a registered medical practitioner or registered nurse is a requirement for being an appropriate healthcare professional".

That seems quite wide; there are all kinds of registered medical practitioners and registered nurses. Should the definition in the bill be tighter in order to make it clear what we mean, with other stuff being dealt with in regulations?

Shirley-Anne Somerville: The regulations will allow us to provide further specificity. The policy intent is to ensure that people have appropriate skills and experience, are involved in the diagnosis and care of a patient, and are working in a professional capacity. It is absolutely our intention to establish the clear criteria that a registered medical practitioner or registered nurse must meet in order to be able to make that judgment.

Graham Simpson: I presume that we are not talking about dental nurses, for example, or optical nurses. We are talking specifically about medical nurses, or advanced nurses. Surely that could be stated in the bill.

Shirley-Anne Somerville: [*Temporary loss of sound.*]
—of the bill, because things change so much. The terms that the member has used could be construed in different ways by different people. It is important that we future proof the bill by not using terms that might change in the future and that the regulations refer to the importance of diagnosis, the care of the patient and appropriate skills and experience. If we get that correct in regulations and guidance—as we will—nobody will undertake that very serious role unless they have the professional capacity and understanding to do so. It is important that that is done in regulations; that, rather than the bill, is the right place for the detail.

Graham Simpson: [*Temporary loss of sound.*]
—could share her thinking on that, in a bit more detail, as the bill progresses.

The Convener: I had advised members that we would deal next with a specific theme, but we will rearrange that a little because of time constraints. Shona Robison can be next, after which we will return to our previously agreed theme.

Shona Robison (Dundee City East) (SNP):

Thank you, convener, for allowing me to come in now. My question is about tribunals. What plans have the Scottish Government and the Scottish Courts and Tribunals Service made in anticipation of the increase in appeals on Scottish social security, and of the further devolution of tribunals, and will the ability to make temporary appointments itself be temporary, as the Law Society has suggested it should be?

Shirley-Anne Somerville: We have been working very closely on that with stakeholders, as the committee will no doubt think we should. That includes the Scottish Courts and Tribunals Service, the Judicial Office for Scotland and the Judicial Appointments Board for Scotland, to ensure that the social security chamber is adequately resourced to cope with the forecast number of appeals.

Timetables and plans are in place for the recruitment of fee-paid members for 2020 and 2021. That work is also being overseen by the social security chamber project board, to ensure the successful implementation of the chamber and the associated appeals process.

We believe that the bill's provisions, alongside other on-going planned work, should alleviate any concerns about the preparedness of the tribunal system to deal with devolved social security.

The devolution of tribunals more generally is an issue that sits outwith my portfolio, but the member is right—the Scotland Act 2016 enables the devolution of relevant powers to the Scottish Parliament via an order in council. Regular dialogue continues at official level between the two Governments to work through the issues on that, and we are optimistic that a way forward can be found in the near future.

The ability to make temporary appointments will not itself be temporary. The ability to temporarily authorise existing judges to sit on the Scottish tribunals is not new. The Tribunals (Scotland) Act 2014 sets out a list of those who can be temporarily authorised to sit on the Upper Tribunal. The amendments that are provided for under the bill widen that list to allow more types of judges, with current and former judges to be temporarily authorised to sit in the First-tier Tribunal and Upper Tribunal. Given that the provisions are explicitly designed to facilitate temporary arrangements, we do not consider that the provisions require to be time bound in legislation.

Shona Robison: You talked about having more types of judges. Are salaried judges for the chamber being considered? If so, can you say when? Finally, how have the plans for the social

security chamber been affected by the delay to the social security programme?

Shirley-Anne Somerville: Earlier, I touched on the devolution of the reserved tribunals, which is a bigger piece of work; it is running to a different timescale, because it is not all in our hands but is in the hands of the United Kingdom Government. Had that work been completed, we would not have needed the provisions in this bill, because the judiciary working in the reserved system would already have been transferred. Given that that is not the case, we have moved forward in this way. Even with the delays in the social security programme because of Covid-19, the devolution of social security benefits is still progressing at a faster pace than that broader work on the devolution of tribunals. Therefore, it is important that we move forward with the parts in this bill that ensure that we have everything in place to deal with the increase in tribunal decisions that might be required after the devolution of the disability benefits.

The Convener: We now move back to the previous theme that we were going to explore.

Graham Simpson: I am sorry, convener—my question relates to something that we heard earlier. We heard a call for the bill to allow for the suspension of payments. Has the cabinet secretary given any thought to that?

The Convener: Alison Johnstone also had a question about the suspension of payments. Because Alison has been sitting patiently for most of the meeting, it is only fair to bring her in now, so that the cabinet secretary can answer both questions at the same time.

Alison Johnstone: Thank you, convener.

The Child Poverty Action Group and the Scottish Commission on Social Security have called for the bill to allow ministers to suspend payments of devolved benefits, which would avoid the need to cancel the claim. The Child Poverty Action Group gave us a nice example about a chap called Dave and the impact that it would have on the processing of the payment of the cash that he needs to survive, if, instead of suspensions being possible, we have to cancel the claim entirely and start again. When the cabinet secretary made her introductory comments this morning, I got the impression that she was mindful of the impact that the inability to suspend payments would have and that she would consider amending that. Is that the case?

Shirley-Anne Somerville: Yes, I am more than happy to look at that. In the past, my officials and I have looked at that issue and discussed it with CPAG. It is a complex undertaking; it is not a simple task.

There is only one caveat that I would put on bringing anything into the bill at stage 2. The bill is running according to a truncated timetable, and there is therefore a requirement to keep amendments to non-controversial areas. Otherwise, the bill may be delayed with the need for further evidence. I really need the bill to be passed so that we can start the Scottish child payment, so I do not want to bring anything else through unless we have broad support among stakeholders about what we are doing and how we are doing it, as well as broad support in the Parliament.

10:45

With that caveat, which I hope Alison Johnstone appreciates I am adding for the right reasons, given the timescale that applies to the bill, I am very much minded to move forward with the proposed legislation. It would be my intention to lodge amendments at stage 2 to include powers to suspend payment as long as we get broad support from stakeholders to do so.

Alison Johnstone: I am very heartened to hear that. I am sure that we all appreciate that stopping entitlement can create problems with passported entitlement to reserved benefits. I cannot speak for all my colleagues, but I am sure that they would wholeheartedly support such action. Thank you, cabinet secretary—that was helpful.

The Convener: Graham Simpson, that might have covered some of what you were going to ask about, but I will give you the opportunity to come back in.

Graham Simpson: No—that has covered it, thank you.

The Convener: The section of questions that we have so far omitted in the themes that we have been running through is on top-up benefits. Graham Simpson, Mark Griffin and Jeremy Balfour all want to contribute.

Mark Griffin: What is the Scottish Government's thinking on the reason for legislating for the Scottish child payment as a top-up, rather than legislating for it as a new benefit entitlement on its own?

Shirley-Anne Somerville: It goes back to the importance that the Scottish Government places on the Scottish child payment. It simply would not be possible for us to deliver that payment as quickly as we will do if we were delivering it under specific primary legislation. Delivering it as a top-up is the quickest route possible to allow us to move forward with what is a very important policy.

Mark Griffin: Thanks, cabinet secretary—I thought that that might have been your answer. I wonder, then, whether the Scottish Government

will consider legislating in the longer term for the Scottish child payment to be a benefit on its own.

The Convener: Thanks, Mark: you have saved the committee a bit of time, as I was going to ask the exact same question. I am really interested to hear your comments on that, cabinet secretary.

Shirley-Anne Somerville: I hope that the committee can appreciate that my absolute first priority is to deliver the Scottish child payment, and that should be understandable. We will see how it beds down and how it works.

The Scottish social security programme is very busy with disability and carers, so we would have to bear in mind the fact that the programme is not sitting empty or quiet. As we see how the top-up payment works, we can certainly reflect on whether that is indeed the best way to deliver the payment, but I think that we are probably a few steps away from that yet.

Mark Griffin: The committee has a long-standing interest in income maximisation. Does the cabinet secretary feel that the duty under section 53 of the 2018 act to inform claimants of other social security assistance should also apply to top-ups, given the number of people who might apply for the Scottish child payment? It would provide a good opportunity to let them know about other entitlements that they could apply for.

Shirley-Anne Somerville: The proposal that has been put forward is an interesting one, and I will certainly be looking at it with great interest.

The Convener: Thank you. Graham Simpson, I am not sure whether your area has now been covered, but there is an opportunity for you to come back in if you wish to do so.

Graham Simpson: No, thank you.

The Convener: I do not have any other bids to speak—you have all been admirably brief with the questions to the cabinet secretary. I do not see anyone waving at me to indicate that they want to come in with a question before we move into private session.

Cabinet secretary, I thank you and your officials for taking the time this morning to give evidence. On behalf of the committee, I also put on record that we have had private briefings from you before today as part of the common endeavour to get the legislation through Parliament as promptly, but robustly, as possible.

My apologies to the witnesses that they have to sit through the next little bit, as there is something that I forgot to do earlier. When we take evidence as part of our scrutiny of legislation, we usually agree to consider that evidence in private at future meetings, and I forgot to ask members that earlier. I will assume that everyone agrees that we should

consider the evidence that we have heard on the legislation in private at future meetings unless a member indicates otherwise. As no member has indicated otherwise, that is agreed.

My clerk has sent me a virtual note asking that I should also get agreement to consider any draft report on the legislation in private. I will assume that everyone agrees that we should do so unless a member indicates otherwise. As no member has indicated otherwise, the committee agrees to consider any draft report on the legislation in private.

I thank all the witnesses this morning from the Child Poverty Action Group and SAMH, as well as the cabinet secretary and her officials.

10:52

Meeting continued in private until 11:19.

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