

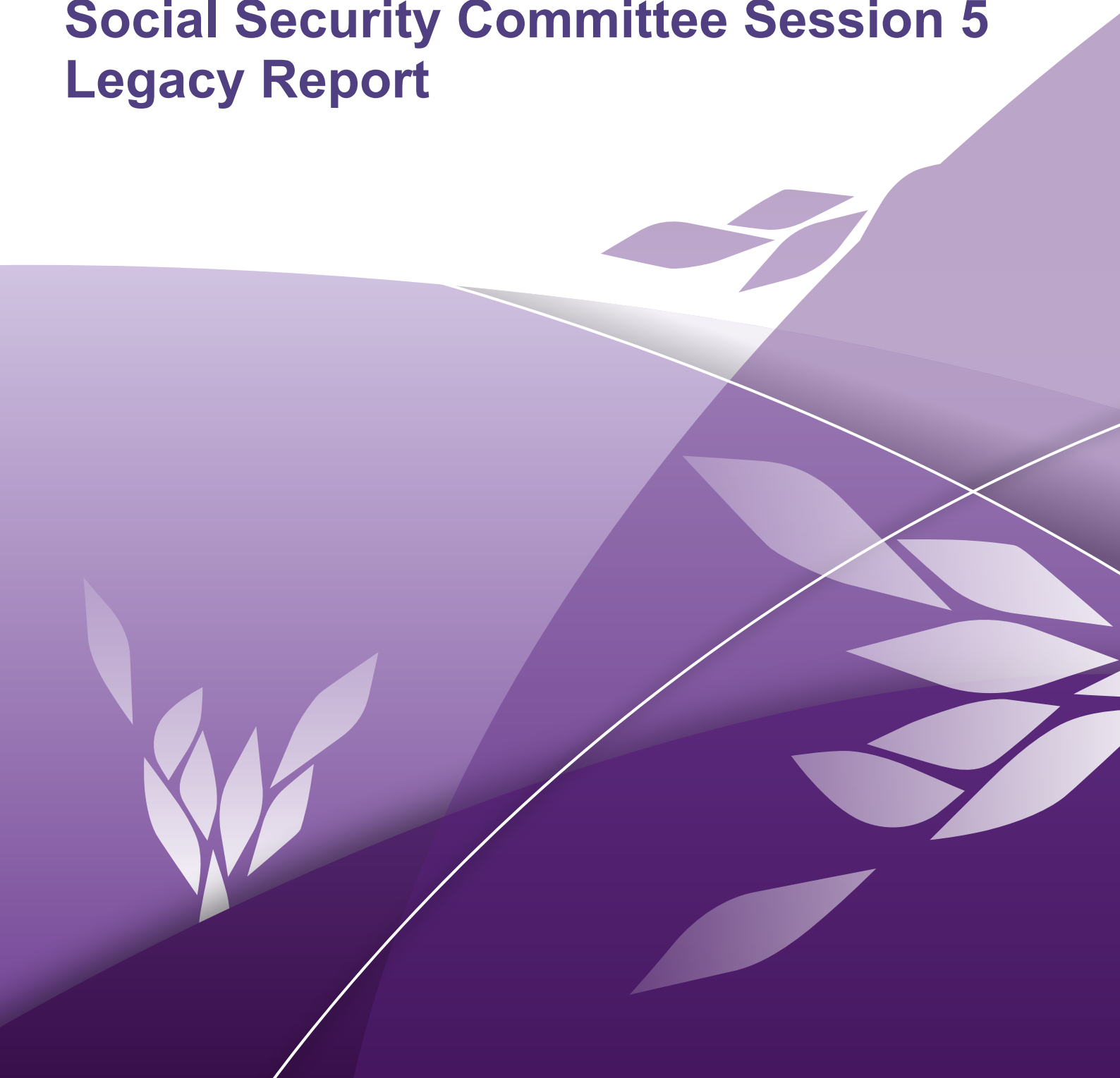


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Pàrlamaid na h-Alba

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## **Social Security Committee Comataidh Tèarainteachd Sòisealta**

# **Social Security Committee Session 5 Legacy Report**



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# Social Security Committee

To consider and report on matters relating to social security (including the delivery and payment of benefits that help address poverty) falling within the responsibility of the Cabinet Secretary for Social Security and Older People.



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# Convener forward



**Bob Doris MSP**  
**Convener**  
Social Security committee

Source: Scottish Parliament

As Convener of the Social Security Committee, I am pleased to present our Session 5 (2016–2021) legacy report. I took over as Convener from Clare Adamson MSP who, in 2017, took over from Sandra White MSP. I thank both my predecessors for their sterling work with the Committee, particularly in scrutinising the framework legislation for Scotland’s social security system.

The Scottish Government is now responsible for around £3.6bn of social security payments; the third largest area of spend after health and local government. As a new, but increasingly significant and developing, area of policy, there is an important scrutiny role for the Parliament. This report considers the Social Security Committee’s work to date and looks ahead to, what we see as, some of the challenges for our successor committee.

During this Session we were determined to explore different ways of getting input from stakeholders and people with lived experience, including through community engagement sessions, social media and inviting people to give evidence more formally. This input has been invaluable, and we thank all who contributed to our work.

We expected this Session of Parliament to be challenging but its final year, for everyone in Scotland and indeed in many other countries, was more challenging than anyone could have imagined. The Covid-19 pandemic had a devastating impact on people’s lives and, in some cases, finances. Both the Scottish and UK Governments took swift action to put in place temporary financial support measures, including furlough provisions – a term many of us were unfamiliar with before 2020. But there were significant gaps in available support and the pandemic led to delays in delivering the Scottish Government’s planned social security programme.

The key challenge for the incoming Scottish Government will undoubtedly be to ensure that all powers at its disposal are used to ensure Scotland is able to recover from the unprecedented recession caused by the pandemic. The challenge for our successor committee will be to scrutinise the Scottish Government’s use of its social security powers

to ensure they continue to contribute towards the provision of an adequate safety net and that support is targeted fairly. This scrutiny should include inter-governmental working.

It is now for the incoming Committee to take up that challenge and ensure that Scottish social security continues to embody the principles of dignity, fairness and respect.

# Our work during Session 5

1. We scrutinised primary and secondary legislation in addition to undertaking inquiries and engagement work. We were designated lead committee for three Bills, the Child Poverty (Scotland) Bill, the Social Security (Scotland) Bill and the Social Security Administration and Tribunal Membership (Scotland) Bill.

## Child Poverty Scotland Bill

2. Tackling poverty is a cross-cutting ambition that engages the remits of a number of subject committees. In 2017, the Social Security Committee was designated lead committee for consideration of the [Child Poverty Scotland Bill](#). The purpose of the Bill was to reinstate statutory targets to tackle child poverty, measure progress towards the targets and report on actions taken to meet them. Our [Stage 1 report](#) recommended approval of the general principles.
3. Although we supported the general principles, we made a number of recommendations to strengthen its provisions, including:
  - setting interim targets to be met by March 2024
  - the addition of a target to address persistent poverty
  - increased oversight by an independent body, on a statutory footing, to provide advice to Scottish Ministers and scrutinise progress towards meeting the targets
  - a requirement to consult with people with direct experience of poverty when preparing delivery plans.
4. Our recommendations were agreed to and the Act was passed in 2017. We welcomed the establishment of the Poverty and Inequality Commission (the Commission) in July 2019. The Parliament was required to approve the Scottish Ministers' nominations for appointment to the Commission. Following public and private hearings, we were content to recommend to the Parliament that the nominees be approved.
5. The Scottish Government's first tackling child poverty delivery plan covers the period to March 2022. The Scottish Government reports annually on progress towards targets. The next report is due in the summer.

## Social Security (Scotland) Bill

6. The [Social Security \(Scotland\) Bill](#) was introduced in 2017, arguably one of the most important pieces of legislation this Session. It proposed the legal framework to underpin the new Scottish social security system, following the devolution of eleven benefits to Scottish Ministers.
7. The Bill set out the Scottish Government's overarching principles, how applications



would be made and appeal processes. It established the new Scottish social security agency (Social Security Scotland) and gave powers to the Scottish Ministers to top-up existing UK benefits and create new benefits in devolved areas. The Bill did not set out the detail or eligibility for any of the new benefits. Instead, draft regulations for each were to follow.

8. We issued our call for evidence in different formats including Easy Read and Braille. During our [scrutiny](#) of the Bill, we linked-up with members of the “Your say” initiative, pioneered by the Session 4 Welfare Reform Committee. The initiative successfully brought together people with experience of claiming benefits, willing to share their personal stories. Others took part in workshops in Edinburgh, Glasgow and Perth sharing their views on what should be done differently.
9. Our [Stage 1 report](#) recommended approval of the Bill’s general principles but expressed reservation about the lack of detail on the face of the Bill (a concern also raised by the Delegated Powers and Legislative Reform Committee). We asked the Scottish Government to reflect carefully on the balance between primary and secondary legislation. We concluded that because the Bill did not provide any detail for the new benefits, it did not enable adequate scrutiny. We made a number of recommendations, including:
  - the establishment of an independent social security scrutiny body to provide expert technical advice to Scottish Ministers on the draft regulations for each new Scottish benefit
  - that there should be a right to independent advocacy
  - that there should be a statutory duty on Scottish Ministers to promote benefit take-up.
10. More than 200 amendments were lodged at stage 2 and we paused to take further evidence on the issue of independent scrutiny. Over the course of five meetings we then agreed amendments that included restricting private sector involvement in assessments, creating a Scottish Commission on Social Security and setting out a new definition of terminal illness.
11. We were proud to have played an important scrutiny role in what was, this Session, an entirely new and developing policy area for the Scottish Government.

## **The Social Security Administration and Tribunal Membership (Scotland) Bill**

12. This Bill was introduced in April 2020 and an expedited scrutiny timetable was agreed. The Bill made administrative changes to the social security system and expanded the range of people allowed to act as judges in Scottish Tribunals. We recommended approval of the Bill’s general principles in June and stages 2 and 3 took place in September 2020.

## **The Scottish Government’s social security**

## programme

13. The Social Security (Scotland) Act 2018 received royal assent in June 2018. Annexe A sets out the Scottish Government's delivery timetable taking account of delays in 2020 due to Covid-19. Annexe B details the benefits delivered so far and key milestones for next Session.
14. Draft regulations for each new Scottish social security benefit are subject to a "super-affirmative" procedure – consideration of (and often consultation on) proposed draft regulations, enabling amendments to be made, before draft regulations are laid. The Scottish Commission on Social Security (SCoSS) undertakes this pre-Parliamentary scrutiny and publishes its findings and recommendations in reports to the Scottish Government. The Scottish Government must then publish its response to the SCoSS report when laying regulations.
15. The expert technical input from SCoSS in its reports and when giving evidence to us, has been invaluable. We thank the Chair of the Commission, Dr Sally Witcher, and the three other Commissioners for their work and the constructive and thoughtful approach taken in the initial years of SCoSS's establishment.
16. **Once laid, the strict timescales for considering draft regulations can limit the time available for scrutiny. This may become an issue as regulations for more complex disability benefits are brought forward next Session. We emphasise the importance of SCoSS being given sufficient notice of proposed regulations to ensure it remains able to undertake its scrutiny as thoroughly as it sees fit.**

## Inquiries into the impact of Universal Credit in Scotland

17. During this Session, the UK Government continued its rollout of Universal Credit (UC), the main working-age benefit, administered by DWP. UC replaces six means-tested benefits with a single monthly payment. People claiming legacy benefits are gradually being moved over to UC.
18. We undertook two inquiries into the impact of UC in Scotland. Our [Social Security and In Work Poverty](#) inquiry included visits to Dundee (including to Social Security Scotland) and evening engagement events to hear directly from those with lived experience. Our inquiry into [Social Security Support for Housing](#) considered how assistance is provided, the level of local housing allowance, the role of Discretionary Housing Payment and Scottish Choices.
19. Common to both inquiries were concerns about the five-week wait for the first UC payment and conditionality and problems caused by the "digital by default" approach, central to the design of UC.

## **Inquiry into benefit take-up**

20. This 2019 inquiry considered why people do not claim all the benefits to which they are entitled. We partnered with Maximise! (an innovative Edinburgh project that works with people to ensure they receive their entitlements) for a community meeting at Wester Hailes Education Centre. We met and spoke with people there about their experiences and difficulties with the benefits system. We visited the Calder Residents Association community hub too to see some of their on-site initiatives.
21. The Scottish Government published its first benefit take-up strategy at the end of 2019. In recent months, it has launched a new income maximisation campaign and made a joint approach, with the Welsh and Northern Irish Ministers, urging the UK Government to take a more considered and collaborative approach to benefit take-up across all devolved and reserved benefits.

## **Evidence sessions on intergovernmental co-operation on social security**

22. In 2017, we held two joint sessions with the Scottish Affairs Committee, taking evidence from both the Cabinet Secretary and the Secretary of State on inter-governmental co-operation on social security. In recent months, we met informally with the Scottish Affairs Committee to discuss areas of mutual interest.

## **The fiscal framework agreement between the Scottish and UK Governments**

23. The fiscal framework agreement was published in 2016 and includes provision for a first review, after the 2021 Scottish Parliament elections. In October 2020, in anticipation of the review, [a joint letter](#) from the Conveners of the Social Security Committee and the Finance and Constitution Committee and the Cabinet Secretary for Finance was sent to the Chief Secretary of the Treasury.
24. The letter (and accompanying report) was the output of an official-led working group tasked with considering what issues should inform the scope and terms of the review into the operation of the agreement.
25. From this Committee's perspective, issues that should be considered as part of the review include (1) the risk of demographic divergence (for example, a greater proportion of elderly or sick people in Scotland) that, over time, could lead to a disproportionately higher social security spend, (2) the risk from forecast error (because the Scottish Government's budget is based on Scottish Fiscal Commission forecasts), (3) whether it is appropriate for the implementation costs of devolved social security to be wholly the responsibility of the Scottish Government and (4) the need for greater clarity on policy spillover and the no-detriment principle, whereby policy decisions taken by one Government should not result in cost to the other Government.

## Scottish Government budget scrutiny

26. Budget scrutiny is now a continuous cycle. All work throughout a year is intended to contribute. Our 2021/22 pre-budget letter to the Cabinet Secretary joined calls to retain the £20 uplift to UC and extend it to legacy benefits, asked the Scottish Government to consider whether uprating for Scottish Child Benefit could be brought forward, called for more to be done to promote benefit take-up, called on the Scottish Government to work with COSLA to consider the funding for administration of the Scottish Welfare Fund and to consider the allocation of Discretionary Housing Payment monies.

**27. Concerns about the sufficiency and allocation of Scottish Welfare Fund payments arose regularly during this Session. Problems have been exacerbated by the pandemic. We have called on the Scottish Government to commit to review whether the purpose, operation and funding of the SWF remain fit for purpose. Our successor committee will wish to follow this up.**

## Brexit and social security

28. Last year, we commissioned Dr Simon Roberts, University of Nottingham, to consider the impact of Social Security Co-ordination on devolved benefits. Social Security Co-ordination applies when someone moves between different EU countries – mainly to ensure people do not “fall between gaps” of different social security systems. New rules apply following Brexit. As Scotland designs new benefits, these will be categorised for Social Security Co-ordination.

**29. We are grateful to Dr Roberts for his briefings and presentations. Our successor committee will wish to continue to scrutinise how new Scottish social security benefits are treated under the UK-EU trade and cooperation agreement.**

## Inquiry into the social security response to Covid-19

30. Our final inquiry of the session considered the impact of Covid-19 and how social security should contribute to the social and economic recovery from Covid. In our [report, published in March](#), we expressed considerable concern that many people had been unable to access any Government social security support. We again called on the UK Government to make permanent the temporary increases to UC and apply them to legacy benefits. We also called on both the Scottish and UK Governments to work together to consider what more could be done to assist people struggling with housing costs (regardless of tenure).

31. Much of the support provided by the Scottish Government was through discretionary payments. As new Scottish benefits are developed, the balance between national and local delivery of benefits and discretionary or entitlement-based payments must be carefully considered. We welcomed the Scottish Government's intention to review whether top-up is the most appropriate delivery for Scottish Child Benefit and we restated our call for a review of the purpose, operation and funding of the Scottish Welfare Fund.
  
32. We sought more assurance that lessons learned from the pandemic are being considered systematically and banked to improve future service provision, resilience, and agility. And whilst we acknowledged the difficulties in creating a permanent Citizens Basic Income, we concluded that consideration of it as a future emergency response should be on the table. We called for both Governments to commit to work together to consider the feasibility of a Citizens Basic Income as part of the planning for any future crisis response.

# Engagement

33. Hearing people's lived experiences first-hand, finding new ways to do that and bring new voices to the table, other than by formal evidence sessions in the Parliament, was important for our work. There can be sensitivities and stigma around claiming benefits or struggling to make ends.
34. A number of strategies were used to effectively inform our scrutiny, and to develop a meaningful and sensitive approach. These enabled us to hear from a diverse range of people with lived experiences and included:
- using partnership approaches with trusted organisations, umbrella bodies and grass roots groups, networks who have: established relationships with individuals and communities; developed particular and recognised approaches to working with individuals and groups; are experts in the field; have experience and are working within the benefits system
  - external meetings in informal, local, known and trusted settings involving front-line and support staff as valuable intermediaries for 'worked experience' and to support people with 'lived experience' to participate
  - exploring different means of gathering and presenting evidence, such as video clips and reports-back via the Parliament's Committee Engagement Unit staff
  - providing advance information for event attendees, 'getting to know you' sessions for individuals and groups, feedback and follow up after engagement.

## What works

35. To hear from people with lived and worked experience in a way that is supportive, meaningful and ethical, we suggest the following can be effective:
- working in partnership with organisations who have established trusted relationships and methods of working with the people the Committee seeks to hear from, and to co-develop approaches together
  - authorising engagement staff, where appropriate, to work independently to co-produce sessions and deliver them with or without Member involvement. Parliament staff can explore creative ways of doing that and report back
  - communicating and producing information in a number of different formats and media, making it clear and accessible, before, during and after engagement
  - a 'lived experience panel', in partnership with other organisations, and using deliberative methods, can provide engagement that is meaningful, empowering and rewarding for individuals.

## Some feedback we received

- ” “The team at Parliament were fantastic to work with - very accommodating to what would suit our local organisations and individuals best. Would definitely be interested in working together again.”

- ” “I found this very interesting and valuable and would be very keen to work again with community outreach project. I think the co-delivery aspect was highly useful to both parties.”
- ” “I felt like (the team) was very engaged with us and welcomed us in such a nice way. It was great to see (them) on the morning of the session and the follow up has been amazing. All of this has made the process feel very authentic and meaningful.”
- ” “I think the consultation was a very helpful way of connecting to local people democratically. I would very much welcome more meetings like this as I think strengthening the relationship between Parliament and the local population is very worthwhile.”

# Looking ahead to Session 6

## Immediate challenges

36. The impact of Covid-19, how to respond and the role social security should play in that, will continue to be the immediate challenge, across all policy areas, in the next Session. Our inquiry report published in March noted and welcomed the unprecedented resource passed to public bodies, local authorities and third sector providers.
37. The main income-replacement benefit for working age adults is reserved. Although there are limits to what the Scottish Government can do, it does have powers to set the level of Scottish benefits, top-up reserved benefits and create new benefits in devolved areas.
38. Scottish Government covid funding was mainly provided in the form of discretionary payments. Increasingly, discretionary payments are being used to plug gaps in provision by way of national entitlements. Discretionary payments play an important role in addressing short-term need or temporary gaps in provision but for longer-term need, national entitlements (benefits) should be available.

39. **Our view was that, where appropriate, the Scottish Government should consider whether financial assistance can be provided through social security entitlements. Unless there are strong reasons not to, taking a rights-based approach to social security should mean delivery of financial support as a national entitlement, not a discretionary payment. The successor committee will wish to have regard to this.**

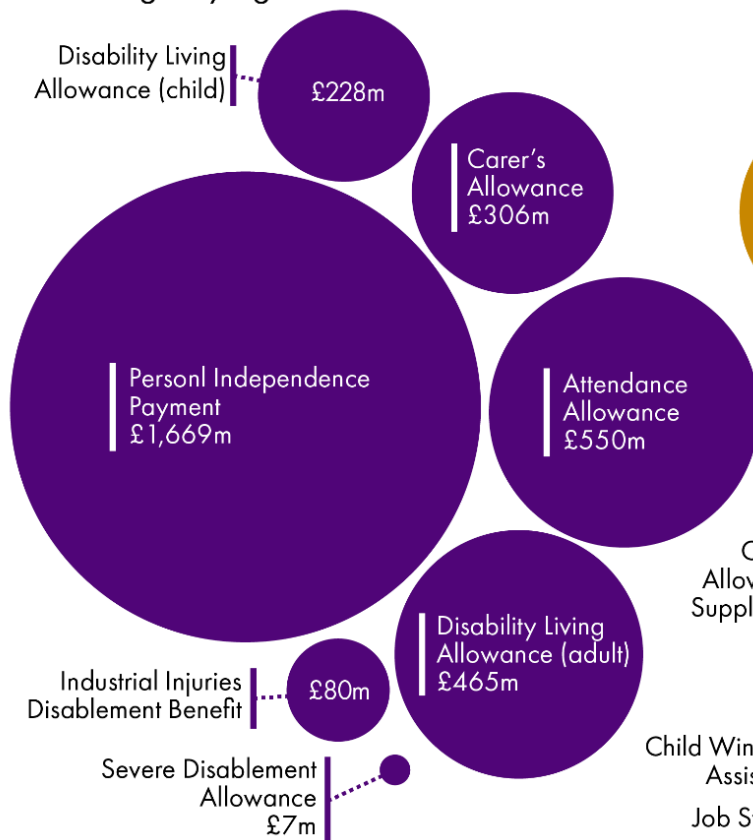
## Continuing roll-out of the Scottish Government's social security programme

40. For now, larger benefits are still being delivered by DWP through agency agreements in keeping with the Scottish Government's approach of safe and secure transfer. The following infographic details Scottish social security spend for 2021/22 and who currently delivers each benefit. Over the next session, purple benefits will move to blue, representing a shift to delivery by Social Security Scotland and a significant increase in workload.
41. Devolved benefits rolled-out so far have been either one-off or relatively small payments. Child Disability Benefit, the first regularly paid benefit to be delivered by Social Security Scotland and Scottish Child Payment will both start to be paid in the next few months Together, these represent a significant delivery step for the Agency.

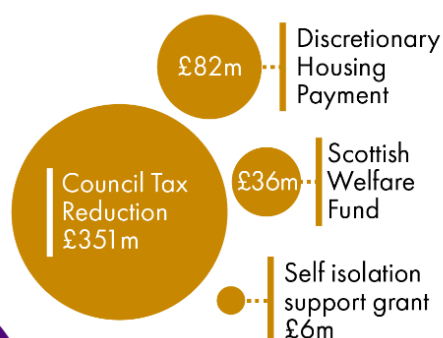


Total forecast spend for 2021/22 :  
**£3,940m**

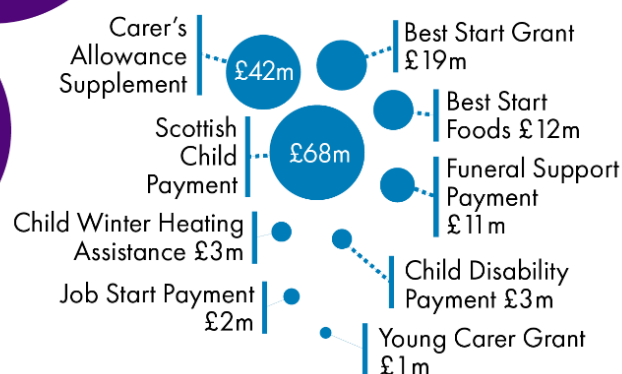
**DWP agency agreement**



**Local authorities**



**Social Security Scotland**



**Please note:**

- Council Tax Reduction is estimated income foregone in 2020/21, and included here to indicate the scale of assistance provided with council tax bills. Not included in SG social security budget or SFC forecast.
- Child Disability Living Allowance and Child Disability Payment are split according to SFC forecast additional policy cost.
- Best Start Foods and Discretionary Housing Payments are not included in the SG social security budget chapter.
- Fair Start Scotland employment support is not included.

Source: Scottish Parliament

42. When operating at “steady state” it is expected that Social Security Scotland will employ around 1900 people, split between its headquarters in Dundee, a second operational hub in Glasgow and with around 400 employees in communities across Scotland, providing face-to-face support and advice<sup>i</sup>.

43. **Our successor Committee will wish to pay close attention to Scottish social security administration costs and continue to ensure that delivery of devolved benefits embodies the principles of dignity, fairness and respect as promised during the passage of the Social Security (Scotland) Act 2018. As part of that, the incoming Committee may wish to make an early visit to the Agency.**

<sup>i</sup> <https://www.gov.scot/policies/social-security/social-security-agency/>

## The Scottish Fiscal Commission and the Scottish budget

44. The Scottish Fiscal Commission is Scotland's independent economic and fiscal forecaster. It produces five-year forecasts twice yearly to support the development of Scotland's budget. The SFC is responsible for costing any new devolved benefit but does not cost forecast spending on administration. SFC forecasts must be used when setting the Scottish budget.
45. The Scottish Government receives funding from the UK Government through 'Block Grant Adjustments' (BGA), machinery of government transfers and the Barnett formula. If there is a large difference between BGA and forecast spend on a benefit, this could have a potentially large impact on the Scottish budget. For 2021/22 the initial BGAs are in line with forecast spend.
46. The Scottish Government has limited borrowing powers; up to £300m to cover forecast error and access to the Reserve only in certain circumstances. It continues to make the case for increased resource borrowing powers and other fiscal flexibilities to assist with budget volatility. The SFC has reported that, so far, the impact of Covid has been less than might have been expected on the Scottish social security budget. In future, impacts on devolved spending could include health and demographic changes, continuing social restrictions, increasing unemployment and lower wages.
47. Social security is demand-led. Forecasts are uncertain and actual spend can vary from forecast spend. Any increase in Scottish social security spend must be managed by the Scottish Government within the overall budget. By way of illustration, if due to an increase in claimant numbers, the Scottish Child Benefit spend for 2021/22 increases by 5% this would represent an additional £3.4m to be found in-year. A 5% increase to the Scottish Personal Independence Payment budget would result in an increase of £83m to be found from elsewhere in the budget.
48. As larger, more complex benefits come onstream and where Scottish Government policy starts to diverge from UK Government policy, effective and regular communication between the incoming Scottish Government and the SFC will be even more important to ensure that forecasts are based on best data.

## Intergovernmental co-operation

49. The UK Government still retains responsibility for most social security. It is now an area of split competence. Over the course of our work, we have regularly taken evidence from DWP officials. Good working relationships exist at official-to-official level. We have had less success in securing the attendance of UK Government Ministers. We were pleased that the Minister for Employment recently gave evidence to us on the UK Government's Plan for Jobs, as part of our final inquiry. We were disappointed that our repeated invitations to successive Secretaries of State for Work and Pensions did not result in attendance at any of our meetings other than once in 2018.

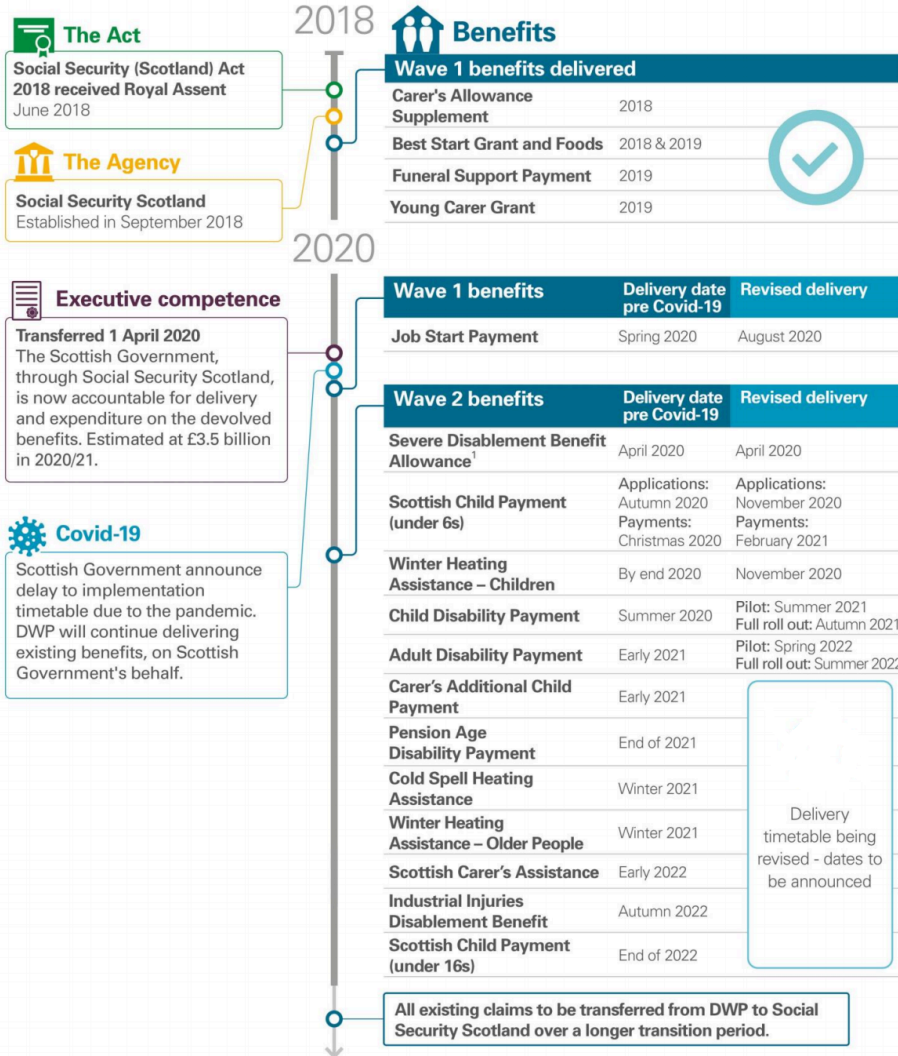
50. **Our successor committee will wish to continue to scrutinise intergovernmental working on social security and continue efforts to secure the attendance of UK Ministers to give evidence, from time to time.**

## **Committee remits**

51. **During Session 5, measures to tackle poverty straddled a number of Committee remits. At times, there was a lack of clarity around which Committee should take the lead in scrutinising this important policy area. The incoming administration may wish to reflect on this and consider how the remits of Session 6 committees could be adjusted to ensure effective scrutiny and a better balance of workload across committees.**

# Annexe A - Scottish social security delivery timetable

This Audit Scotland infographic shows the timeline of devolved benefits.



Source: Audit Scotland (2020, December): [The 2019/20 audit of Social Security Scotland](#). [Accessed March 2021].

# Annexe B - Scottish social security rolled-out

- **Carer's Allowance Supplement** – an additional payment for people in receipt of Carer's Allowance (DWP administered benefit)
- **Best Start Grant** – a suite of benefits to provide support during a child's early life.
  - **pregnancy and baby payment** – replaced the UK's Sure Start Maternity Grant and provides £600 on the birth of the first child and £300 for any subsequent children
  - **early learning payment** – a new benefit of £250 to help with the costs of early learning when a child is between 2 and 3½ years old.
  - **school age payment** –£250 to help with the costs of preparing for school
- **Funeral Support Payment** – help with the costs of a funeral.
- **Young Carer Grant** – a new annual payment of £305 for young people who care for someone but who are not eligible for Carer's Allowance.
- **Job Start Payment** – to help young people transition into employment
- **Scottish Child Payment** – £40/month per child
- **Child Winter heating assistance** – £200 payment for children and young people up to the age of 18 in receipt of Disability Living Allowance for Children.
- **Child Disability Payment** – The Scottish Government's replacement for Child Disability Allowance.

## Key social security delivery dates for Session 6

- **2021 (November)** – national roll-out of **Child Disability Payment**
- **2022 (Summer)** - national roll-out of **Adult Disability Payment**
- **2022 (end)** – extension of **Scottish Child Payment** from ages 6 – 16
- **Between 2022 and 2025** – **Older People's Disability Assistance, Carers Assistance, Cold Spell Heating Assistance, Winter Heating Assistance for Older People, Employment Injury Assistance (new timetable to be announced following Covid delay to programme)**
- **2023** – **Independent review of Adult Disability Payment** to assess the longer-term rules and eligibility criteria
- **2024** – **Review of the Social Security Charter**. The operation of the Charter must be reviewed every 5 years, this will be the first review
- **2025** – **Full roll-out of devolved social security due to be completed**

