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12 November 2021

Dear Dr Witcher,

Thank you for your scrutiny report of 05 November on The Best Start Grants and Scottish Child Payment (Miscellaneous Amendments) Regulations 2021. I want to extend my sincere thanks to the Commission for looking at the Amendment Regulations in very short time given your already packed programme of work.

The Scottish Government recognises the profound positive impact that Scottish Child Payment and Best Start Grant can have on tackling child poverty. Scottish Child Payment has already supported 108,000 children with payments worth £40 every four weeks and together with support from Best Start Grant and Best Start Foods, this provides £5,300 to low income families by the time their first child turns six.

In line with our commitment to continuously improve how Scottish Child Payment and Best Start Grant operate, and ensure the payment is received by the person who is responsible for the child, we took action to amend our regulations. This approach is in line with our determination to respond as quickly as possible to issues that come up as we roll out our delivery of benefits, ensuring they meet the needs of all the people of Scotland.

The Commission's comments on the Amendments Regulations are very helpful, and I am confident that by clarifying in legislation our policy intent in regard to competing claims, this will improve the client journey and enable us to take the action required to reduce the risk of a payment being refused for applications for those who are otherwise entitled. I am attaching a copy of the Scottish Government's response to SCoSS's recommendations which I have also copied to the Conveners of the Social Justice and Social Security Committee and to the Delegated Powers and Law Reform Committee.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



Thank you again for your continued support.

Yours sincerely,



**BEN MACPHERSON**

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THE BEST START GRANTS AND SCOTTISH CHILD PAYMENT (MISCELLANEOUS AMENDMENTS) REGULATIONS 2021:  
SCOTTISH COMMISSION ON SOCIAL SECURITY RECOMMENDATIONS

<b>Scottish Commission on Social Security recommendations</b>	<b>Accept/ Partially accept/ Decline</b>	<b>Scottish Government Response</b>
<p>1. While recognising that an exhaustive list is likely to be impossible, SCoSS asks the Scottish Government to ensure that guidance on how the test envisaged by draft Regulation 6 will work in practice is as comprehensive as possible. Guidance should be clear that the objective is to ensure that the award goes to the person who, in the Scottish Ministers' judgement, has main responsibility for the child.</p>	<p>Accept</p>	<p>We will ensure that the guidance Social Security Scotland uses to make decisions on applications provides clear advice on the evidence to be considered in the circumstances where a competing claim is made. We will be as clear as possible, without being overly prescriptive, whilst aligning the guidance with the policy intent. This will ensure the payment goes to the person who is responsible for the child on every occasion.</p> <p>We have been working closely with Social Security Scotland to update the guidance document that will be used by their decision makers and have provided input into the client notification letters that will be used to inform people of the steps they need to take and the timescales involved.</p> <p>We will also ensure that clear information is provided so that where clients have a change of circumstances that affect their entitlement, they understand and fulfil their duty to report such changes to Social Security Scotland. This will help prevent errors and ensure that those eligible for Scottish Child Payment or Best Start Grant receive the payment and should reduce the occurrence of competing claims.</p> <p>We will continue to ensure that any public facing information is accurate, easy to understand and properly informs people of their entitlements.</p>

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<b>Scottish Commission on Social Security recommendations</b>	<b>Accept/ Partially accept/ Decline</b>	<b>Scottish Government Response</b>
<p>2. The Scottish Government should consider a further amendment to allow Scottish Ministers to decide who should receive SCP or BSG in situations where the hierarchy in paragraph 5 of the schedule to the SCP Regulations (as amended by the draft Regulations) might result in an award being made to an individual other than the person who currently has main responsibility for care of the child.</p>	<p>Accept</p>	<p>The Scottish Government recognises that there may be some cases where an individual who is a kinship carer for a child is not entitled to a qualifying benefit, but another individual is in receipt of a qualifying benefit in respect of the child. Under the current rules, the individual receiving the qualifying benefit would be placed at the top of the hierarchy, even though that person is not responsible for the child.</p> <p>This scenario could also apply in the context of BSG. To address this, we have made further amendments to the Amending Regulations to alter the hierarchy in paragraph 5 of the schedule to the SCP Regulations and new paragraph 6 of schedule 1 of the BSG Regulations (inserted by regulation 2 of the amending regulations).</p> <p>These provisions create a new rule that will allow Ministers to exercise a discretion in the cases in question.</p>

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<p>3. The Scottish Government should consider whether there is a case for deleting paragraph 5(5) from the Schedule to the SCP Regulations, or including an equivalent provision in the BSG Regulations, and explain its decision.</p>	<p>Accept</p>	<p>Paragraph 5(5) from the schedule to the Scottish Child Payment Regulations 2020 is a paragraph that prescribes the order of determinations where the hierarchy is engaged in Scottish Child Payment.</p> <p>In particular, paragraph 5(5) provides the order for determination to allow sub-paragraph 4(c) to operate effectively. Where the individuals are kinship carers for the child and none of them have been awarded any kind of assistance as described in sub-paragraph 4(a) or 4(b) of paragraph 5 of the schedule, sub-paragraph (5) sets out the order Scottish Ministers must determine the competing claims. In addition, as SCP is a continuous payment, paragraph 5(5) triggers a determination without application under Part 2 of the schedule.</p> <p>If it appears to Scottish Ministers that another individual is eligible for SCP, paragraph 5(5) means that a determination for the eligible new applicant can only be made (after applying the rules in paragraph 5(4)) following a determination (without application) that the other individual is no longer entitled to the payment in respect of the child, in accordance with paragraph 10(1)(b) of the schedule.</p> <p>After further consideration, we accept that an equivalent provision to paragraph 5(5) is required in the BSG regulations.</p> <p>Paragraph 6(4) of schedule 1 (inserted by regulation 2 of the amending regulations) has been drafted to ensure that paragraph 6(3)(c) operates effectively in the same way as paragraph 5(4)(c) of the SCP regulations. There is no requirement to trigger a determination without application in the BSG regulations in this case, as it is not a continuous payment.</p>

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<p>4. The Scottish Government should monitor the impact of the draft Regulations to ensure that the additional discretion conferred upon Social Security Scotland is used appropriately to enhance the role of SCP and BSG in reducing child poverty/deprivation.</p>	<p>Accept</p>	<p>By ensuring the payment is made to the person who is responsible for the child the amendments will enhance the impact Scottish Child Payment and Best Start Grant will have on reducing child poverty.</p> <p>Social Security Scotland will provide Management Information and feedback from decision makers, where applicable, on how this change is working in practice to meet the policy intent of making the payment to the person responsible for the child. The Scottish Government will also continue to monitor trends in child poverty data.</p> <p>We are currently undertaking an interim evaluation of Scottish Child Payment, with emerging findings delivered towards the end of 2021. We expect to receive the final report on this evaluation in early 2022. The findings will help inform development of the under 16s payment and will help to identify issues with the delivery of the payment. The evaluation focuses on the priority groups outlined in the Tackling Child Poverty Delivery plan, who are more likely to experience poverty. We will conduct a full evaluation of Scottish Child Payment once it is rolled out to those with children under 16.</p>

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<p>5. The Scottish Government should ensure that learning arising from the need for these amendments is factored into the use of top-up powers in general.</p>	<p>Accept</p>	<p>We have acted to tackle the key drivers of child poverty and Scottish Child Payment (SCP) is one of the Scottish Government's flagship policies to tackle child poverty. It is a new form of assistance to support low income families with the costs of caring for a child.</p> <p>SCP has been introduced first for families with children under six in recognition of the fact that of all children in poverty, almost 60% live in a family where a child is under six years old, and the early years are key to improving a child's outcomes. The timetable from announcement to delivery was under 18 months and the Scottish Government used the top up powers from the Scotland Act 2016 to get help to those who needed it most as quickly as possible.</p> <p>Our 'game-changing' Scottish Child Payment has already supported 108,000 children with payments worth £40 every four weeks and together with support from Best Start Grant and Best Start Foods, this provides £5,300 to low income families by the time their first child turns 6 – unparalleled across the UK.</p> <p>The Scottish Government are building a brand new public service from the ground up based on dignity, fairness and respect, listening to what people have told us they need. We are taking the opportunity with the Social Security programme to review what we have learned, to see where there are options to do things differently and more efficiently as we work towards our commitment of rolling out Scottish Child Payment for under 16s by the end of 2022.</p> <p>There is a Continuous Improvement Team in the Social Security Programme with responsibility for identifying lessons learnt and ensuring the right processes and forums are in place to apply that learning. We have captured lessons learned on the development of the Scottish Child Payment, and we will build on them to ensure a strong and robust alignment between policy, legislation and delivery, as well as consistency, where appropriate, between regulations across all types of Scottish assistance.</p>