

Joint Ministerial Working Group on Welfare, 8th Meeting

Scottish Parliament, Edinburgh.

Thursday 14 September 2017, 10:15 – 11:15

Present:

Angela Constance MSP, Cabinet Secretary for Communities, Social Security and Equalities (Chair)

David Gauke MP, Secretary of State for Work and Pensions (via video conference)

David Mundell MP, Secretary of State for Scotland (from item 6)

Jamie Hepburn MSP, Minister for Employability and Training

Jeane Freeman MSP, Minister for Social Security

In attendance:

Mary Pattison, DWP

Nick McGruer, DWP

Teresa McHugh, DWP

James Dowling, DWP (via video conference)

Chloe Clarke, DWP (via video conference)

Louise Nicholls, Scotland Office

Ben Wilkins, Scotland Office

Victoria Jones, Scotland Office (from item 6)

Stephen Kerr, Scottish Government

Gavin Gray, Scottish Government

Jeanette Campbell, Scottish Government

Ann McVie, Scottish Government

Lisa Baron-Broadhurst, Scottish Government

Stuart McLean, Scottish Government

Note: due to flight cancellations, the Secretary of State for Work and Pensions (SoS DWP) joined the meeting via video conference from London, as did two DWP officials. Also due to flight delays, the Secretary of State for Scotland (SoSS) arrived part way through the meeting, as indicated, along with his Private Secretary.

Item 1 - Welcome and introductions

1. Cabinet Secretary for Communities, Social Security and Equalities (Cab Sec CSSE) welcomed everyone to the meeting. In the interest of time it was agreed by all Ministers to begin in the absence of SoSS.

Item 2 – Note of previous meeting and review of actions

2. Reflecting the importance and value of the meetings, and the devolution schedule for the next year, Cab Sec CSSE suggested a date in early 2018 for the next meeting.
3. Cab Sec CSSE noted the minutes had been agreed and published, and that all actions had either been addressed or were for discussion on this agenda. SoS DWP was in agreement.
4. Cab Sec CSSE also started the meeting by praising the good joint working of officials in both Governments, particularly in taking forward work on Universal Credit flexibilities.

Item 3 – Social Security (Scotland) Bill

5. Minister for Social Security (MfSS) gave an overview of progress on the Bill so far: having been introduced to the Scottish Parliament on 20 June 2017, the Social Security Committee had called for evidence over the summer. MfSS described the Bill as a framework, enabling Bill with the detail to be covered in secondary legislation. It is now at Stage 1, with the Social Security Committee taking evidence, and should finish this stage with a debate in December 2017. It will then move on to the next two stages, and MfSS expected it to have received Royal Assent by spring 2018. The transfer of executive competence for the first wave of benefits to be devolved - which are, Carer's Allowance, Best Start Grant and Funeral Expenses Assistance - will then be triggered by the commencement of the relevant sections of the Bill.
6. Turning to the Job Grant, MfSS explained that this had been looked at in detail and Scottish Government had concluded they did not have the necessary vires to legislate for the Grant in its current form and would therefore request a Section 30 Order under the Scotland Act 2016 to enable them to deliver this.
7. SoS DWP said he was pleased that the Bill had been introduced. He explained that the Department for Work and Pensions (DWP) are keen to get as much information on the detail as soon as possible. Noting both Governments share the objective of a smooth transition, early sight of draft regulations and plans was important. He thanked MfSS for the information she had set out, and said any further detail on when the regulations are planned to come into force would be appreciated. He stressed that DWP would continue to be cooperative on this process and that the early information helped with this.
8. On the Job Grant and Section 30 Order, SoS DWP confirmed the formal request had only been recently received, and officials would need time to work through the implications. He explained he is conscious that this is a priority for the Scottish Government and noted that DWP had also discussed with SG the options within existing legislation. **Action: DWP/SO to respond to the Section 30 Order proposal as soon as possible.**
9. Cab Sec CSSE responded that the Scottish Government would endeavour to be as open as possible. On the Job Grant, she appreciated DWP have only recently received the request but stated that the Scottish Government had looked in detail at the existing legislative options.
10. MfSS added that they will be sharing draft regulations on the Best Start Grant with the Scottish Parliament and are happy to share with UK Government at the same time. SoS DWP said he would be grateful for this. **Action: SG to share draft regulations when possible**

Item 4 – Devolved employability programmes

11. Minister for Employability and Training (MfET) briefly outlined the paper on the Scottish Government's employment programmes. He noted there has been a lot of good work between officials on the 1 year transitional programmes. Turning to

Fair Start Scotland, he said it was key to ensure Jobcentre Plus (JCP) staff are aware of the scheme and how it will work. He welcomed that DWP have confirmed there would be potentially enough customers for the target number of starts.

12. SoS DWP replied that he was pleased the transitional programmes had launched and also praised the good joint working. He noted JCP has been working hard to identify and refer candidates, notwithstanding the lack of mandation which DWP regard as an important tool. Looking ahead, SoS DWP commented that both Governments need to learn lessons from the transitional programmes including the need for a clear referral strategy which includes scope for variation in the design of the scheme if this will help referrals.
13. MfET responded that, with the exception of the point around mandation, he was in agreement with SoS DWP.

Item 5 - Joint Operational Framework for Employability

14. SoS DWP outlined that the Joint Operating Framework for Employability aims to cement close joint working between both governments with respect to Fair Start Scotland. A key principle is the importance of placing the customer at the centre of work to ensure support on offer is clear to claimants as we move to delivery of services across both Governments. SoS DWP noted that this will become increasingly important as further areas are devolved. It is also important to work together on referrals and to have a clear referral strategy that considered the role of JCP alongside the role of SG and providers. SoS DWP also said it was important to agree today the core of the framework is around Fair Start Scotland, although this might provide useful learning for other areas.
15. Cab Sec CSSE commented that she also supports the principles of the Framework for Employability and that it was both positive and constructive. She noted she was conscious that the operating context for the remaining social security areas to be devolved is quite different and that further work would be required to determine what might be appropriate in that context.
16. MfET generally welcomed the paper, though he noted there is no explicit reference to Paragraph 58 of the Smith Commission Agreement. MfET said he hoped the Joint Operational Framework for Employability would help to build a smooth exchange of information going forward, and be supported by learning from the transitional programmes. MfET suggested that officials should work on a Terms of Reference for a final framework.
17. SoS DWP agreed with the principle of close working where appropriate. He agreed officials should work on a terms of reference.
18. MfSS echoed Cab Sec CSSE's point that the operational aspects of social security were different, and that while this employability framework has helpful aspects, a fresh eye will be needed in these other areas. SoS DWP was in agreement that a different approach might be needed in different areas.

Action: DWP/SG/SO to work on Terms of Reference for the Joint Operational Framework for Employability by end of October

Item 6 – Agency Agreements approach

[SoSS arrived during this item]

19. SoS DWP outlined that since the last meeting there has been progress on how to manage the transition without any breaks in delivery. There has been agreement in principle on Agency Agreements – one overarching Section 93 Order with Agency Agreements in place for each benefit that is required - and he was now seeking agreement on some of the detail. SoS DWP said that Agency Agreements were temporary and DWP will deliver each benefit to customers in Scotland as it is delivered in England and Wales until the agreement ends. Each Agency Agreement will reference how fraud, error and debt will be managed, in particular as the GB policy will apply in Scotland for the duration of the Agency Arrangement. The principles of the Fiscal Framework will need to be reflected in Agency Agreements, and DWP and Scottish Government will need to work with the Scotland Office and HM Treasury on this.
20. Cab Sec CSSE agreed that the suggested approach was proportionate and the right direction of travel. She supported the shared approach to governance and praised the good joint work on this. The Section 93 approach was a pragmatic approach and will save time.
21. A safe and secure transition of the social security system is vital, something that was raised by stakeholders as part of the Social Security (Scotland) Bill consultation. She was in agreement that the Agency Agreement process will involve the Scotland Office and HM Treasury, and noted that work on an Agency Agreement for Carer's Allowance was progressing well. SoS DWP commented that the Agency Agreement work showed a pragmatic approach from all parties.
Action: Item to return at next meeting

Item 7 – Spare room subsidy mitigation in Universal Credit

22. Cab Sec CSSE noted that mitigation of the 'bedroom tax' has previously been a contentious issue and that she appreciates this area is complex. MfSS continued that she was grateful to officials from both Governments for the hard work since then to find a way to achieve the objectives. Good progress has been made to allow Scottish Government to mitigate the removal of the spare room subsidy, whilst holding true to the Smith Commission Agreement and the Fiscal Framework, and respecting the UK Government position.
23. MfSS was content for work to continue on this and requested this to remain a priority for DWP.
24. SoS DWP agreed with the remarks on collaborative working and praised the creative and sensible approach to a complex issue. SoS DWP made two points that required agreement: first, there was a need for a clear commitment that the Scottish Government would take forward the legislative steps necessary; and second, that as per the Fiscal Framework, the Scottish Government agrees to

bear the increased costs. Subject to this agreement DWP were happy to continue with this work.

25. Cab Sec CSSE confirmed it was the Scottish Government's intention to legislate and introduce the necessary amendments to the Social Security Bill now that a way ahead had been agreed. On costs, she would require clarity on what those costs were, but in principle appreciated that there would be administration costs. MfSS said the Scottish Government know that the costs need to be agreed, and confirmed they were happy to meet the agreed costs.
26. SoS DWP was grateful to Cab Sec CSSE for her commitment to take forward legislation and bear increased costs. On that basis he was happy for DWP to continue with this work.
27. SoSS commented that this was a positive outcome for this forum: that there may be unanticipated issues but this was evidence that these could be resolved. He said UK Government is committed to reaching such resolutions, SoS DWP seconded that sentiment.

Action: SG/DWP to continue work on this area, including agreement to costs

Item 8 –Carer's Allowance Supplement

28. MfSS explained that as soon as the Social Security (Scotland) Bill achieved Royal Assent in spring 2018, the first benefit the Scottish Government intend to take responsibility for is Carer's Allowance. Reflecting the earlier conversation, Agency Agreements would be key to this and she praised the good joint working on these. With this good work officials are working towards as early a delivery date as possible.
29. SoS DWP also noted the good progress and that DWP officials are working on delivery as soon as is feasible. **Action: DWP/SO to continue to work toward delivery of Carer's Allowance Supplement as soon as feasible.**

Item 9 – Any other business and next meeting

30. MfET raised Specialist Employability Support (SES). He outlined correspondence with the Minister for Disabled People, Health and Work, on devolution of SES. He called for clarity on whether this will be devolved and what package of support goes with it.
31. SoS DWP responded that DWP is committed in principle to devolve this provision. However, the challenge for DWP is that they are still considering how best to design this support and the level of funding available. DWP expect their position to be agreed in November and SoS DWP said he had noted what MfET had said and they would be as open as they could be.
32. MfET thanked SoS DWP for this openness and expressed that he was keen for the open dialogue to continue. **Action: DWP officials to update SG as soon as is appropriate**

33. MfET also explained that the Work and Health Unit had agreed in principle to a pilot of a single referral gateway in Scotland; he asked DWP if this could be confirmed in writing. SoS DWP agreed to take the issue away. **Action: DWP to respond in writing on the position of a trial on a single referral gateway.**
34. Cab Sec CSSE said that Scottish Government Ministers value these meetings. As the devolution work picks up they will only become more important. SoS DWP said that Ministers agreed the next meeting should take place in early 2018. **Action: DWP/SG/SO to agree the date for the next meeting in early 2018.**
35. There was no further business and the meeting concluded.

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