



Scottish
Commission
on Social
Security

Scottish Commission on Social Security

Interim Report

October 2020

SCoSS INTERIM REPORT



SCoSS board members: Sharon McIntyre, Judith Paterson, Mark Simpson and Sally Witcher, Chair

Introduction from the Chair

It's been a great pleasure to chair the Scottish Commission on Social Security, or 'SCoSS', since it opened for business in February 2019. There has been much to do to establish the new Commission and deliver a demanding workload. We have aimed to establish SCoSS as a trusted, impartial and influential body. We have achieved a great deal, but there is more to do.

Like every other organisation in the country, we've been affected by COVID. Without this, we would have published a business plan earlier in 2020, detailing all our main areas of work and detailed objectives for the year ahead. However, the disruption caused by COVID meant this was not possible.

As a new and publicly-funded body with a key role to play in scrutinising Scotland's devolved social security system, we believe it is important to provide clear and accessible information about what we do and how we do it. This interim report provides key information about SCoSS, our activities to date and our priorities, as we work towards producing a full annual report of our activities later in 2020 and our business plan for future activities in early 2021.

This report is divided into two main sections:

- What SCoSS does, focusing on its legal duties
- How SCoSS works, explaining its vision, values and aims, and its main work to date.

We hope you find our report useful and we welcome your feedback.

Sally Witcher, Chair of the SCoSS Board

SECTION ONE: SCOSS'S ROLE

What is SCoSS?

SCoSS is the Scottish Commission on Social Security, an independent body that provides expert scrutiny of the Scottish social security system. It was created by the Social Security (Scotland) Act 2018, which is called 'the Act' throughout this report.¹ SCoSS is separate from the Scottish Government and the Scottish Parliament but has strong relationships with both.

There are currently four members of SCoSS, although there can be a maximum of five members.



Sally Witcher, SCoSS Chair and Chief Executive of Inclusion Scotland;
Mark Simpson, SCoSS member and lecturer in law at Ulster University;
Judith Paterson, SCoSS member and Head of Advice and Rights at Child Poverty Action Group in Scotland;
Sharon McIntyre, SCoSS member and Operations Director at Changeworks. Sharon is talking to a parent at SCoSS's event on the Scottish Child Payment;

SCoSS's reports are made public, so that anyone can read them.

¹ <http://www.legislation.gov.uk/asp/2018/9/enacted>

What does SCoSS do?

SCoSS has three main roles as set out in the Act. These are explained in turn below.

1. Scrutinising draft regulations

One of SCoSS's roles is to scrutinise and report on certain draft social security regulations. Draft regulations are part of the process for making law:

- A Bill is introduced in the Scottish Parliament. A Bill is a draft law that is debated and can be changed. Once this has happened, the final version becomes an Act of the Scottish Parliament. This means that it becomes law.
- The Social Security (Scotland) Act 2018 sets out different types of social security assistance to be provided by the Scottish Government, for example, for some carers and some disabled people. The detail of this assistance is filled in later by regulations, which can cover very important details like who will get the assistance and how much they will get.
- SCoSS must be consulted by the Scottish Government on most regulations about social security assistance made under the Act. This is because the Scottish Parliament has agreed that the subject matter of these regulations is so important that a more detailed level of scrutiny is required. The Scottish Government provides SCoSS with draft regulations for comment.
- This is a very simplified summary of the legislative process. [Further information](#) is available on the Scottish Parliament's website².

How are social security regulations developed?

- Sometimes the Scottish Government will consult to inform the preparation of its draft regulations. The Scottish Parliament's Social Security Committee may also decide to discuss or consult on related policy issues.
- The Cabinet Secretary formally refers draft regulations to SCoSS. SCoSS must then scrutinise the draft regulations and produce a public report with recommendations for changes.

² See: <http://www.parliament.scot/parliamentarybusiness/bills.aspx>

- SCoSS usually consults on draft regulations with stakeholders, including people with lived experience of the social security system. This helps SCoSS to understand how the draft regulations may affect people who will receive assistance.
- The Scottish Government has to respond to SCoSS's reports and may change the draft regulations to reflect SCoSS's recommendations. If it doesn't accept SCoSS's recommendations it has to say why.
- The Scottish Government then lays the draft regulations in the Scottish Parliament, along with its response to SCoSS's scrutiny report recommendations.
- Before they can become law, draft regulations have to be approved by the Scottish Parliament. As part of this process, the Scottish Parliament's Social Security Committee will consider the draft regulations and make a recommendation to the Scottish Parliament whether to approve. This will involve the Committee, a group of MSPs from different political parties, taking evidence from the Cabinet Secretary and anyone else it chooses. They may invite SCoSS to give evidence about its report.
- If the Scottish Parliament approves the regulations, they will become law.

How does SCoSS scrutinise draft regulations?

When SCoSS scrutinises draft regulations, it has to consider whether they reflect the social security principles in the Act. These are:

- social security is an investment in the people of Scotland,
- social security is itself a human right and essential to the realisation of other human rights,
- the delivery of social security is a public service,
- respect for the dignity of individuals is to be at the heart of the Scottish social security system,
- the Scottish social security system is to contribute to reducing poverty in Scotland,
- the Scottish social security system is to be designed with the people of Scotland on the basis of evidence,
- opportunities are to be sought to continuously improve the Scottish social security system in ways which
 - put the needs of those who require assistance first, and
 - advance equality and non-discrimination,
- the Scottish social security system is to be efficient and deliver value for money.

SCoSS also has to consider if the draft regulations reflect relevant human rights conventions.

SCoSS will also look at different types of evidence to inform its scrutiny. In addition to input from SCoSS stakeholder consultation, particularly from people with lived experience, this may include the results of any Scottish Government consultation and impact assessments prepared by the Scottish Government. Impact assessments describe the implications of the draft regulations for different groups of people. Having to describe the implications means it's more likely anything that could unintentionally disadvantage these groups will be identified and prevented.

SCoSS will make recommendations for change if it considers that the draft regulations don't fully reflect any of the social security principles or human rights conventions. It might also point out anything that looks unclear or inconsistent with other regulations, or the Act, or any unintended consequences. It may also ask the Scottish Government for more information.

2. Reporting on the Social Security Charter

A second role for SCoSS under the Act is to report to the Scottish Government and the Scottish Parliament on whether the expectations in the Social Security Charter are being met. The Scottish Government and Social Security Scotland published the Social Security Charter in January 2019³. It is called 'Our Charter'.⁴

What is the Social Security Charter?

- The Charter explains what the social security principles mean in practice. It sets out what people are entitled to expect from [Social Security Scotland](#)⁵, the agency that delivers devolved Scottish social security, and the Scottish Government.
- It was produced with people with lived experience of receiving social security. Organisations that help or represent people who may use the social security system were also involved.
- People with lived experience have also produced the [Charter measurement framework](#)⁶. This document will help people to understand whether the Charter is delivering what it promised.

³ https://dgxmvz0tgkndr.cloudfront.net/production/images/general/Our-Charter_1.pdf

⁴ <https://www.socialsecurity.gov.scot/about/our-charter>

⁵ <https://www.socialsecurity.gov.scot/>

⁶ <https://www.gov.scot/publications/measuring-charter-social-security-scotland-scottish-government-delivering-charter-promised/>

- The Scottish Government has to report to the Scottish Parliament every year on the performance of the Scottish social security system, including what it has done to meet the expectations in the Charter. This means they will be held publicly accountable for this.

What is SCoSS's role with the Charter?

From time to time, SCoSS must report to Scottish Ministers and the Scottish Parliament on the Charter.

SCoSS must consider whether some or all of the expectations in the Charter are actually being met. If SCoSS does not believe that expectations are being met, it will make recommendations for improvement. It will be up to the Scottish Government to decide how to respond to SCoSS's reports about the Charter.

SCoSS must consider reporting on the Charter if it receives evidence that expectations are frequently not being met.

Whenever SCoSS reports on the Charter, it may consider human rights conventions in doing so. It may also speak to people and groups with an interest in the Charter and the social security system.

Scottish Government Charter reviews

The Scottish Government must review the Charter within five years of its publication and every five years after that. When it carries out a review, the Scottish Government must consult SCoSS and any other appropriate people. This must include people who have received social security assistance.

When it has completed a review of the Charter, the Scottish Government must decide whether or not it should be changed. It has to explain any changes to the Charter and these have to be agreed by the Scottish Parliament.

3. Requests from Scottish Parliament and Scottish Government

A third role for SCoSS under the Act is to report 'on any matter relevant to social security' when asked by either the Scottish Government or the Scottish Parliament.

The Act does not say what is meant by 'any matter relevant to social security'. SCoSS will therefore want to make sure that any request it receives from the Scottish Parliament or the Scottish Government is as clear as possible. SCoSS will also want to make sure it has enough time, and the right skills and knowledge, to respond.

SCoSS may consider human rights conventions when it is asked to produce a report by the Scottish Parliament or Scottish Government.

Where does SCoSS fit?

Various people and organisations are involved in developing and delivering Scottish social security:

The Scottish Government devises and implements policies in devolved policy areas, including for certain social security benefits.

The Cabinet Secretary for Social Security is responsible for devolved welfare policy and social security.

The Social Security Directorate within the Scottish Government develops policies and processes that enable the delivery of assistance.

The Scottish Parliament passes laws and holds the Scottish Government to account, including in relation to social security. Much of the detailed scrutiny of social security within the Scottish Parliament is carried out by the Social Security Committee.

Social Security Scotland is the agency that delivers social security assistance in a way that is consistent with Our Charter. It makes decisions on who should receive assistance in accordance with the law and related guidance.

The Scottish Commission on Social Security (SCoSS) is an independent body that provides expert scrutiny of the Scottish social security system.

External organisations and groups of different kinds, such as the Disability and Carers Benefits Expert Advisory Group (DACBEAG), and people who receive social security, also contribute. For example, by responding to Scottish Government consultations on devising new benefits, or by taking part in Scottish Parliament inquiries into social security.

SECTION TWO: SCOSS'S PERFORMANCE

The second section of this report contains information about the following:

- How does SCoSS work? This sets out its vision, values and aims.
- What has SCoSS done so far? This describes its main work to date.
- What will SCoSS do next? This considers its future priorities.

How does SCoSS work?

Everything that SCoSS does is informed by its vision and values.

SCoSS's vision

- For Scottish social security: A robust, effective and efficient Scottish social security system that meets its full potential to improve outcomes for the people of Scotland.
- For SCoSS: To help achieve the vision for Scottish social security by providing independent expert advice that adds demonstrable and significant value.

SCoSS's values

Both what SCoSS does and how it does it are underpinned by SCoSS's values:

SCoSS is **Independent** – from Scottish Ministers and the Scottish Parliament. It scrutinises impartially on the basis of evidence, while actively seeking out and carefully considering different views and perspectives.

SCoSS is **Committed** – to making sure human rights, the social security principles and the lived experience of people who use or need to use social security are at the heart of its work.

SCoSS provides **Assurance and Accountability**– by undertaking expert, thorough scrutiny and challenging constructively while remaining solution-focused. SCoSS aims to be open, transparent and accountable itself, and is committed to its own continuous improvement.

SCoSS is **Outcome-focused** – making practical recommendations for improving draft regulations and the Charter, always aiming to make a real difference to the lives of people who use devolved social security.

What has SCoSS done so far?

SCoSS will publish its annual report and accounts in late 2020, which will include a full review of its performance. Some of the highlights to date are set out below. This looks first at what SCoSS has done to carry out its roles under the Act, then at work to establish SCoSS as a new body.

Draft regulations

Much of SCoSS's time has been spent scrutinising and reporting on the Scottish Government's draft regulations. SCoSS has published eight scrutiny reports to date:

- [The Carer's Assistance \(Young Carer Grants\) \(Scotland\) Regulations 2019](#)
- [Uprating report 2019](#)
- [The Scottish Child Payment Regulations 2020](#)
- [The Social Security Assistance \(Funeral Expense Assistance and Young Carer Grants\) \(Up-rating and Miscellaneous Provisions\) \(Scotland\) Regulations](#)
- [The Scottish Child Payment Regulations 2020: supplementary scrutiny report on draft regulations](#)
- [The Disability Assistance for Children and Young People \(Scotland\) Regulations 2020](#)
- [The Winter heating assistance for children and young people \(Scotland\) regulations 2020](#)
- [Draft Carer's Allowance Supplement \(Qualifying Persons\) and Young Carer Grant Amendment \(Scotland\) Regulations 2020.](#)

SCoSS started work on its first report, on Young Carer Grant draft regulations, as soon as it opened for business in February 2019 and published it in May 2019. SCoSS was pleased that the Scottish Government accepted most of its recommendations, for example, changing the definition of 'care' in the regulations. Members of the Social Security Committee also found SCoSS's report useful when they scrutinised the draft regulations -

"I really like the layout of your report. It is easy to read and easy to see what recommendations were adopted. I found it extremely helpful, so, like other committee members, I thank you for your work on it." ⁷

⁷ Pauline McNeill MSP, Deputy Convener, Scottish Parliament Social Security Committee, Official Report, Social Security Committee meeting, 19 September 2019.
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12268>

The Cabinet Secretary's responses to other scrutiny reports provide several examples of how SCoSS's scrutiny has led to the Scottish Government changing its approach. This is welcome as it clearly shows that SCoSS is adding value.

Another key benchmark of success concerns being able to ensure, within the often limited time available, that what SCoSS says reflects the lived experience of people with experience of the social security system and is informed by the expertise of key stakeholders. SCoSS has been exploring different ways to do this. For example, it held an event on the Scottish Government's proposed Scottish Child Payment (SCP) to help inform its views. 25 people took part, allowing SCoSS to hear from parents and organisations that provide advice on social security. SCoSS was grateful for their input and was pleased that participants found the event to be worthwhile, with 90% saying both the event and presentations were excellent or good.

“SCOSS seems genuinely interested in engaging with a wide range of organisations/individuals and hearing their views about SCP regulations.”

Reporting on the Social Security Charter

SCoSS plays an important role in holding the Scottish Government and Social Security Scotland to account for meeting expectations in the Charter. The first thing to do, therefore, has been to understand how they will monitor and evaluate their performance. SCoSS provided detailed comments on the '[Charter measurement framework](#)'⁸ and met to discuss this with officials from Scottish Government, Social Security Scotland and its Executive Advisory Board.

“Scottish Commission on Social Security have given valuable advice and input to the framework.”

Referrals from Scottish Government or Scottish Parliament

SCoSS must report 'on any matter relevant to social security' when asked by either the Scottish Government or the Scottish Parliament. To date, SCoSS has had one request from the Scottish Government. This asked SCoSS to consider its [plans for 'uprating'](#)⁹ and different

⁸ <https://www.gov.scot/publications/measuring-charter-social-security-scotland-scottish-government-delivering-charter-promised/#:~:text=The%20Charter%20Measurement%20Framework%20%28the%20framework%29%20was%20co-designed,given%20valuable%20advice%20and%20input%20to%20the%20framework.>

⁹ <https://www.gov.scot/publications/scottish-commission-on-social-security-letters-uprating-2019-2/>

approaches to it. Uprating happens every year. The aim is to make sure that the value of assistance – what it’s worth – remains the same. Otherwise inflation means that you can buy less with the same amount of money. There are different ways to calculate the impact of inflation and what that means for the amount people get paid each year. SCoSS took the opportunity to set out ideas for developing improved approaches to uprating over the longer-term. SCoSS was pleased that the Scottish Government said it would consider [the report’s recommendations](#) in the future.¹⁰

Setting-up SCoSS

Every organisation needs policies and processes to make sure it is well run and complies with the law. As SCoSS was a new body, there has been a lot to do to put these into place. For example, the board has:

- Considered possible risks to SCoSS’s ability to perform its roles, and then and agreed a plan to reduce each risk;
- Agreed its working practices and the rules that determine how it makes important decisions
- Established an approach to freedom of information so that people can fully understand the decisions it makes.
- Agreed a [Framework Document](#) with the Scottish Government which sets out the broad framework within which SCoSS operates.¹¹

One of SCoSS’s first actions was to produce a draft [Scrutiny Framework](#)¹². This sets out the issues SCoSS will consider and the questions it will ask when it scrutinises draft regulations. The Framework helps SCoSS members to check they have fully thought about how draft regulations reflect the social security principles and human rights obligations. As the principles cover things about how social security is designed and how it will be continuously improved, the Framework covers the whole process, from development through to monitoring and evaluation. SCoSS hopes the Scrutiny Framework also provides a useful checklist for others involved in developing and scrutinising draft regulations.

¹⁰ <https://www.gov.scot/publications/uprating-2019-reponse-to-report/>

¹¹ <https://www.gov.scot/publications/scottish-commission-on-social-security-framework-document/>

¹² <https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2019/11/scottish-commission-on-social-security-draft-scrutiny-framework/documents/scoss-draft-scrutiny-framework/scoss-draft-scrutiny-framework/govscot%3Adocument/SCoSS%2B-%2BDraft%2BScrutiny%2BFramework.pdf>

Based on SCoSS's experiences of scrutiny so far, it is also developing a protocol with the Scottish Government. This will set out SCoSS's roles and how it works together with the Scottish Government. The protocol will make clear the information SCoSS needs from officials to undertake effective scrutiny and help ensure there is a shared understanding of what SCoSS needs.

SCoSS appreciates that it is a part of the wider social security landscape and is developing links with other relevant organisations. This should make its work better informed, while guarding SCoSS's independence.

What will SCoSS do next?

The disruption of COVID has caused the Scottish Government to change its timetable for draft regulations. This means SCoSS does not know at the moment when draft regulations will be referred to it or how much time it will have to produce scrutiny reports. However, there are other important pieces of work that SCoSS will progress.

SCoSS also wants to consider how it can continuously improve its outputs, the processes and relationships for developing them, and how SCoSS operates as a body.

SCoSS's priorities for the next year are as follows:

Outputs that have impact

- Monitor how the Scottish Government and the Social Security Committee take account of its reports, to ensure SCoSS is being effective and influential.
- Devise an effective and inclusive approach to undertaking SCoSS's reporting duties on the Charter.
- Embed a 'lessons learned' culture, where SCoSS always reviews the effectiveness of its work to identify where improvements could be made.
- Strengthen the expertise of the SCoSS board by recruiting an additional member.

Development processes that are inclusive and strengthening relationships

- Continue developing SCoSS's relationships with the Social Security Committee and the Scottish Government to make sure SCoSS is adding value while maintaining its independence.
- Continue exploring how SCoSS can best involve people with lived experience in its scrutiny work, to help ensure that draft regulations have a positive impact on their lives.
- Implement a stakeholder engagement plan and strengthen SCoSS's relationships with other key stakeholders including Social Security Scotland, academic and third sector experts, and colleagues in the [Social Security Advisory Committee](#), which scrutinises the UK social security system.
- Consider whether to establish any sub-committees.
- Consider holding on-line stakeholder consultation events to inform SCoSS's scrutiny of draft regulations.
- Invite feedback from stakeholders on SCoSS's events and reports, and from Scottish Government officials attending board meetings.

A robust, transparent and efficient organisation

- Deliver on all of SCoSS's corporate responsibilities, ensuring that it creates a sound governance framework and demonstrates value for money through its audited accounts.
- Develop a new website that is transparent, inclusive and provides full access to SCoSS's reports and minutes.
- Work to provide information in accessible formats, and invest in accessible, inclusive communications.

Keeping in touch

SCoSS would be delighted to receive your views or questions on this report and its work in general. If the report is not easy to understand or is not fully accessible, please let SCoSS know how it could improve. There are various ways in which you can contact SCoSS, through its Secretariat, and keep up to date with what SCoSS is doing:

Email - info@socialsecuritycommission.scot

Telephone - 0131 244 2629

Temporary Webpage - <https://www.gov.scot/groups/scottish-commission-on-social-security/>

Twitter - you can follow SCoSS at: <https://twitter.com/TheSCoSS>

Post - due to COVID, staff are working from home and post is not being redirected. Please therefore use email or telephone to contact the Secretariat.



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