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Dear Judith and Mark,

Thank you for your scrutiny report of 6 September 2022 on the [Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022](#) and subsequent correspondence dated 20 September 2022 which provided your feedback on the Ukraine amendment regulation included in the [Social Security \(Miscellaneous Amendment and Transitional Provision\) \(Scotland\) Regulations 2022](#). I would like to express my thanks to the Commission for your willingness to consider these regulations retrospectively, given the urgent need for us to lay them under the 'affirmative' expedited procedure.

Please find attached a copy of the Scottish Government's response to the Commission's recommendations and observations (set out in the accompanying annexes). As was discussed and agreed with officials, for completeness our response to your feedback across both reports has been merged in this one response. I have also issued a copy to the Convener of the Social Justice and Social Security Committee.

Thank you again for your continued co-operation and support. I am grateful to Commission Members for the helpful and constructive way in which you have engaged with officials and supported the scrutiny of these regulations under difficult circumstances.

Yours sincerely,



BEN MACPHERSON

Annex A

Response to Scrutiny Report of 6 September 2022

Scottish Commission on Social Security Recommendations

SCoSS Recommendation	Accept/ Partially accept/ Reject	Scottish Government Response
<p>1. In view of the delivery challenges across the public sector generated by significantly greater than expected take-up of the super-sponsor scheme, the Scottish Government and Social Security Scotland should place particular importance on planning for and monitoring of whether expectations in 'Our Charter' continue to be fulfilled</p>	<p>Accept</p>	<p>The human rights based approach to demonstrate dignity, fairness and respect remains a cornerstone commitment in the Social Security Scotland Charter for every client. The Scottish Government response to the invasion of Ukraine prompted a cross-government response with all areas of government working together to ensure people were welcomed to Scotland as quickly as possible, and given immediate support across all government areas upon arrival.</p> <p>Lessons learned from the Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 saw Social Security Agency staff better prepared operationally. Guidance had been updated, key contacts and processes agreed with the Department for Work and Pensions, and updates from the Home Office in relation to visa requirements saw delivery staff able to assist immediately.</p> <p>All publications were updated to being available in Ukrainian and Russian.</p> <p>This engagement led to Social Security Scotland redeploying staff to support the Welcome Hubs in Edinburgh, Glasgow, West Lothian and Aberdeen.</p> <p>Home visits are also supported alongside interpreter services where requested.</p> <p>A specific team were stood up quickly to oversee applications from people coming from Ukraine.</p> <p>Although the war in Ukraine could not have been foreseen, Social Security Scotland acted quickly, taking on board lessons learned from the Afghanistan regulations, and was a positive example of the Scottish</p>

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		<p>Government acting quickly and the principles in the Social Security Scotland Charter still being fulfilled.</p> <p>The feedback from the Commission will be passed to officials leading on reviewing the Charter for consideration.</p>
<p>2. While it may be hard to disentangle the specific impact of these draft Regulations from the provision of different kinds of support to displaced people previously resident in Ukraine, there is therefore a case for reviewing this, where possible identifying the impact on different partners and learning from experience, in preparation for any similar future occurrence, to ensure all partners have capacity to deliver.</p>	<p>Partially Accept</p>	<p>This recommendation refers to the cross-government planning for exceptional circumstances such as the invasion of Ukraine.</p> <p>In acknowledgement of the need to act quickly, Mr Neil Gray, Minister for Culture, Europe and International Development was given special responsibility for displaced Ukrainian people who were coming to Scotland. Mr Gray's team continue co-ordinate the Scottish Government response, with Social Security Scotland feeding in as part of this.</p> <p>At this point in time, the situation in Ukraine is still unstable and evolving. The priority remains to provide support. Where Mr Gray's team undertake any review/lessons learned exercise, Social Security Scotland will feed in as appropriate.</p>
<p>3. Social Security Scotland is invited to set out how it intends to monitor its ability to get information to displaced people on devolved benefits so that they can get access them quickly.</p>	<p>Accept</p>	<p>Social Security Scotland undertook a lessons learned exercise following the coming into force of the Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021.</p> <p>From this, several areas of good practice were identified and implemented immediately when the position in relation to Ukraine became evident.</p> <p>Social Security Scotland Local Delivery teams built on the previously established and ongoing relationships with all Local Authorities across Scotland and are linked into local planning for the arrival of displaced people.</p>

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		<p>This allowed Social Security Scotland to ensure readiness to provide information and awareness at the earliest opportunity and continue to provide that ongoing support.</p> <p>Relationships were developed at an early stage with the Scottish Government Ukraine Resettlement Directorate to ensure Social Security Scotland were sighted at the earliest opportunity on developments across Scotland to enable staff to be in the right place at the right time and feed in information to wider publications, such as the Warm Scots Welcome packs which were distributed by Local Authority staff to everyone arriving.</p> <p>Social Security Scotland maintain close working relationships with Scottish Government policy colleagues in the Ukraine Resettlement Directorate in order to keep our external stakeholders and partners up to date with the latest information and enable us to assess and monitor how we reach the right people at the right time.</p>
<p>4. Social Security Scotland is invited to share details of action taken to ensure displaced people previously resident in Ukraine are made aware of relevant Charter expectations and how to raise concerns if Charter expectations are not being met.</p>	<p>Accept</p>	<p>Social Security Scotland Local Delivery Staff are often the first point of contact displaced persons have with the agency, either via the Welcome Hubs, or signposting from other organisations supporting arrivals.</p> <p>As with all clients whom Local Delivery Client Support Advisers support, they will put clients at ease and ensure they make them aware of the benefits they may be entitled to and signpost them to relevant support where this is beyond the support Social Security Scotland will offer, in line with our Charter commitments.</p> <p>We direct clients to the Social Security website for more details on their rights and the expectations they should have in dealing with Social Security Scotland.</p> <p>In addition Local Delivery staff engaging with Ukrainian displaced people offer translated copies of the Local Delivery service factsheet. This factsheet covers a number of</p>

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		<p>the key elements of the Charter which a client can expect through their interaction with the Agency.</p> <p>All clients who apply for a Social Security Scotland benefit also receive a copy of the Charter along with their decision letter.</p>
<p>5. In view of difficulties in identifying exact numbers of displaced people previously resident in Ukraine accessing devolved social security, and noting exact numbers may not be required, Social Security Scotland should nonetheless consider the implications for learning directly from specific communities on their experiences of accessing support and put in place systems that can support continuous improvement directed towards these communities.</p>	<p>Accept</p>	<p>Social Security Scotland used experience in supporting people who resettled from Afghanistan to inform our approach to supporting displaced Ukrainian people coming to Scotland.</p> <p>As a result we instigated early engagement with every Local Authority in Scotland, sending teams to attend local hubs to support people arriving in Scotland alongside local authorities and the Department for Work and Pensions.</p> <p>We engaged locally with refugee support groups and raised awareness across communities of the support Social Security Scotland can offer to ensure those who do not come through the super sponsor route have access to the same information and support.</p> <p>Social Security National Engagement team continue to engage with the Scottish Refugee Council to ensure awareness of devolved benefits and to take feedback and insight into our communications and delivery approach, particularly in relation to those people displaced from Ukraine</p>
<p>6. The Scottish Government undertakes an equality analysis of the impact of these Regulations.</p>	<p>Reject</p>	<p>Social Security remains committed to ensuring human rights are embedded in everything we do, and this includes impacting any new policies. Each devolved benefit has its own suite of impact assessments which are reviewed when there are any changes to the respective benefits.</p> <p>The Social Security (Miscellaneous Amendment and Transitional Provision) (Scotland) Regulations 2022 included an amendment regulation specific to Ukraine.</p>

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		<p>As it makes changes to specific benefits a full suite of accompanying impact assessments have been undertaken and published here at www.gov.scot.</p> <p>Impact assessments were not considered appropriate for the Ukraine Regulations. The purpose of the regulations was to allow people coming to Scotland from Ukraine as a result of the invasion to be able to circumvent the waiting periods in our legislation to allow access to benefits upon arrival. This was to align with the reserved Home Office immigration changes which saw people being granted visas allowing them access to public funds upon arrival, and to ensure people arriving in Scotland were being treated the same as they would if they were to arrive in any country of the UK. To have done otherwise would have led to differential treatment across the UK, and negatively impacted people coming to Scotland under the schemes.</p> <p>This is consistent with the approach taken in relation to amendment regulations for NHS Fees and Council Tax amendments to ensure parity of access to displaced people coming to Ukraine from Scotland.</p>
<p>7. Social Security Scotland is invited to set out details of action taken to ensure accessibility of information to people arriving under these schemes who have additional disability-related communication barriers.</p>	<p>Accept</p>	<p>Social Security Scotland proactively translates all client-facing benefit factsheets into 12 languages, including Ukrainian.</p> <p>We also add the “Happy to Translate” logo onto all of our marketing materials. These materials, including the translated factsheets, are publically available on our website. Happy to Translate supports organisations to engage with customers who speak little or no English, and their logo is widely recognised in informing users that language assistance is available.</p> <p>Specially trained Local Delivery staff can arrange an appointment in clients home, at a local outreach venue or via video or telephone if the client requests it. For those resettling and coming through the hubs, we have worked with Local Authorities to ensure</p>

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		<p>we have staff placed in these venues to provide support as part of the holistic support on offer to minimise the impact on clients. Translators can be arranged for all appointment types where this is required</p>
<p>8. Scottish Government carries out active, ongoing engagement with displaced people previously resident in Ukraine, not just in order to improve their awareness of devolved benefits, Charter expectations and advocacy support available but to monitor, evaluate and apply learning to future communications, take-up and delivery strategies.</p>	<p>Accept</p>	<p>Local Delivery Relationship Leads are key members of the Financial Inclusion and Community Planning Partnership groups across every Local Authority area in Scotland, feeding into and influencing local strategies to support displaced people.</p> <p>Lessons learned from working with those resettled from Afghanistan have been impacted and incorporated into our processes and systems for supporting displaced Ukrainians.</p> <p>Weekly internal checkpoints with all key business areas captures feedback and provide a single point of escalation for issues as they arise and ensure that we are working in a coordinated approach across all business areas.</p>

Annex B

Response to Scrutiny Report of 6 September 2022

Scottish Commission on Social Security Observations

SCoSS Observation	Accept/ Partially accept/ Reject	Scottish Government Response
<p>1. While time may well not permit the drawing up of impact assessments in advance of the laying of regulations of this kind, there may be a case for doing so retrospectively, as a means of drawing on learning as a preparatory measure should similar regulations be required in future</p>	<p>Partially Accept</p>	<p>Please refer to response noted in recommendation 6 above.</p> <p>The Commission acknowledges the constraints of time requiring Scottish Ministers to act in tandem with the administrations of England and Wales, and Northern Ireland, all of which were prompted by the Home Office schemes, in order to ensure people coming to settle in Scotland from Ukraine were treated the same as those settling in all other UK countries.</p> <p>As the Policy Note to the regulations stated, the impact of not introducing these regulations would create inequality between people settling in Scotland and the rest of the UK, where people in Scotland would be required to satisfy habitual residence and past presence tests which can take up to 6 months, whilst those in the rest of the UK would have access to benefits and services immediately upon arrival.</p>
<p>2. Independent, accessible and rapidly available advocacy on devolved social security may well be of particular importance to displaced people previously resident in Ukraine coming to Scotland.</p>	<p>Accept</p>	<p>Scottish Ministers launched the independent advocacy service in January 2022 to support disabled people applying for any of the Social Security Scotland benefits. The service is delivered by the charity VoiceAbility, who are independent of the Scottish Government and Social Security Scotland.</p> <p>Social Security delivery agency have been given guidance and training on signposting clients for the independent service. VoiceAbility also reached out to the Ukrainian Embassy to offer any support and assistance when people</p>

SCoSS Observation	Accept/ Partially accept/ Reject	Scottish Government Response
		started coming to Scotland. Policy officials who lead on advocacy and benefit take-up have been involved in ongoing conversations in relation to displaced Ukrainian people coming to Scotland and will take this feedback into account with future plans.

Annex C

Response to letter dated 20 September 2022 which provided feedback on the Ukraine amendments included in the [Social Security \(Miscellaneous Amendment and Transitional Provision\) \(Scotland\) Regulations 2022](#).

Scottish Commission on Social Security Recommendations/Observations

SCoSS Recommendation/Observation	Accept/ Partially accept/ Reject	Scottish Government Response
<p>Letter makes no recommendation but contains helpful observations.</p> <p>The Commission acknowledges that the Ukraine amendment to the Miscellaneous Amendment Regulations was necessary to correct an oversight in the original regulations and not doing so would, in the Commission’s view, lead <i>“to the Scottish Government being considered in violation of Article 14 (read in conjunction with Article 1 of Protocol No.1) of the European Convention of Human Rights on the grounds of nationality/citizenship”</i>.</p> <p>The Commission also acknowledges the requirement to act on addressing the oversight quickly.</p>	Accept	This letter is very helpful, and thank you to the Commission for the continued support and understanding in our endeavours to address this oversight as a matter of urgency.