Cabinet Secretary for Social Justice
Shirley-Anne Somerville MSP

F/T: 0300 244 4000
E: scottish.ministers@gov.scot

Scottish Government
Riaghaltas na h-Alba
gov.scot

Judith Paterson
Dr Mark Simpson
Scottish Commission on Social Security
c/o Secretariat
Victoria Quay
Edinburgh
EH6 6QQ

info@socialsecuritycommission.scot

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Dear Judith and Mark,

ANNUAL UP-RATING OF SOCIAL SECURITY ASSISTANCE

Thank you for your letter of 19 January 2024 and the accompanying report under section 97 of the Social Security (Scotland) Act 2018 on the draft 'The Social Security (Up-rating) (Miscellaneous Amendment) (Scotland) Regulations 2024'.

I have reviewed the recommendations and responded to each in turn in **Annex A**. I am pleased that no substantive changes to the Regulations are required before being laid in Parliament.

I am very grateful to you and your team for responding so promptly and thoroughly.

Please accept my sincere thanks for your support for helping to ensure that the Regulations could be laid in the Scottish Parliament with sufficient time for them to come into force from 1 April 2024.

Yours sincerely,

Shirley-Anne Somerville
Cabinet Secretary for Social Justice

Scottish Commission on Social Security Recommendations	**Scottish Government Response**
Recommendation 1 In the Explanatory Note to the draft Regulations the Scottish Government should refer to 'increases in the amount of' social security payments rather than referring to an increase in their value.	**Rejected** In the Explanatory Note, the use of "amount" or "value" is specifically chosen, as relevant, to align with the terms used in the principal Regulations that are being amended. Therefore, the terminology chosen in the Explanatory Note correctly follows the terminology used for the relevant principle legislation that is being amended and the language varies over those different Regulations. We understand that increasing the value and increasing the amount of a payment can have separate and distinct meanings when used in other contexts, however within the Explanatory Note the language must reflect that of the Regulations.
Recommendation 2 To inform policy following the completion of case transfer, the Scottish Government should consider different measures for up-rating earnings thresholds and consider the merits of making annual up-rating of earnings thresholds a requirement.	**Accepted** At present, there is no duty to report on the effects of inflation on earnings limits or to up-rate the earnings limits for benefits delivered under the Social Security (Scotland) Act 2018. Earnings limits do not appear in sections 86A or 86B of the 2018 Act. There is also no duty upon the Scottish Ministers to up-rate earnings limits for benefits delivered under UK wide legislation. However, as part of the agency arrangements in the delivery of certain devolved forms of assistance by the Department for Work and Pensions (DWP), we are obligated to up-rate these payments in alignment with the UK Government. This includes both the rate and the earnings limit of Carer's Allowance (CA) where the Secretary of State for Work and Pensions decides to increase the earnings limits for CA (as there is no duty to up-rate the earnings limits for CA).

	With the introduction of Carer Support Payment (CSP), to prevent a two tier system where some people in Scotland receive CA and others receive CSP, increases in the rate and earnings limit will align with CA until the completion of case transfer. We aim to complete case transfer for all disability and carer benefits by the end of 2025. The DWP has used the Office for National Statistics' Average Weekly Earnings index to increase the earnings limits for benefits delivered by the DWP. This assesses figures from May to July before a new financial year and compares the changes annually. However, this may not be the most appropriate or robust earnings measure for Scotland. In anticipation of the completion of case transfer, we will consider our approach to up-rating of earnings thresholds for Scottish benefits.
Recommendation 3 The Scottish Government should conduct a further Multi Criteria Decision Analysis to inform its approach to the up-rating of social security payments following the completion of case transfer.	**Accepted** Each year, we consider the most appropriate measure of inflation to use in the up-rating of social security assistance. This year, a full Multi Criteria Decision Analysis (MCDA) in line with HM Treasury Green Book guidance was undertaken. This analysis assessed a range of inflation metrics and periods against a carefully chosen set of criteria to determine which approach scored most highly. This analysis concluded for 2024-25, the annual September CPI rate was the highest scoring option and, therefore, the most appropriate of the available options to up-rate benefits. A further MCDA or equivalent analysis should be carried out following a substantial change in circumstances or where a significant time period has passed since the previous analysis. As the completion of case transfer could be considered a significant change, the Scottish Government commits to carrying out additional analysis on the most appropriate measure to be used to assess inflation following this.

Recommendation 4 The Scottish Government should engage stakeholders with a range of expertise (including, but not necessarily limited to, the economy, social security, equality and poverty) to inform decisions on aspects of the next up-rating Multi Criteria Decision Analysis such as criteria, weighting and options to be considered.	**Accepted** As part of any future up-rating Multi Criteria Decision Analysis, Scottish Government officials will seek advice from not only internal but a range of external stakeholders on potential criteria, weighting and options to be considered.

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