



Scottish
Commission
on Social
Security

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Shirley-Anne Somerville MSP
Cabinet Secretary for Social Justice
Scottish Parliament
Edinburgh
EH99 1SP

By email only

Dear Cabinet Secretary

The Carer's Assistance (Young Carer Grant and Carer Support Payment) (Miscellaneous Amendment and Saving Provision) (Scotland) Regulations 2025 – additional provision

Further to your letter of 4 March 2025, I am pleased to provide a copy of this letter, which we ask you to consider as the Scottish Commission on Social Security's scrutiny report, on the further amendment added to the draft Carer's Assistance (Young Carer Grant and Carer Support Payment) (Miscellaneous Amendment and Saving Provision) (Scotland) Regulations 2025 following the publication of our scrutiny report on 28 February 2025.¹

As you noted, the Scottish Government intended that the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 ('the Carer Support Payment regulations') would set the calculation of earnings to affect entitlement during the following week – rather than the same week.² We note that the Scottish Government have highlighted that this was an error in the Carer Support Payment regulations and that the additional provision aims to address this.³

We must carry out our scrutiny in line with the Scottish social security principles⁴ and relevant provisions of human rights law. Identifying and correcting an error in the regulations is in line with the efficiency and value for money principle (h). We have identified two areas in which people may have been affected by the error, which

¹ [Scottish Commission on Social Security – Scrutiny report – The Carer's Assistance \(Young Carer Grant and Carer Support Payment\) \(Miscellaneous Amendment and Saving Provision\) \(Scotland\) Regulations 2025](#)

² [The Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023](#), Section 14(1).

³ [The draft Carer's Assistance \(Young Carer Grant and Carer Support Payment\) \(Miscellaneous Amendment and Saving Provision\) \(Scotland\) Regulations 2025](#), draft Regulation 8.

⁴ [Social Security \(Scotland\) Act 2018](#), section 1.

require action to be taken by the Scottish Government.

Carers who may have lost out as result of the error

It is possible that, as part of its process to consider the impact of this error, the Scottish Government will identify carers who should have been considered to be entitled to Carer Support Payment (and Carers Allowance Supplement, if the earnings were calculated during the qualifying week).⁵

One way to address the situation where a carer has lost out as a result of the error is to make an ex-gratia payment to the carer, as per the guidance included in the Scottish Public Finance Manual⁶ and Social Security Scotland's Framework Document.⁷

Carers may have subsequently become eligible, but been put off making a further claim due to the refusal.⁸ This should be considered when calculating the amount of an ex-gratia payment that should be made.

Recommendation 1: To avoid carers being financially penalised as a result of the error which has been identified, Social Security Scotland should make good any losses, such as by an ex-gratia payment, equal to the amount to which the carer would have been entitled.

Carers who may have gained from the error

The UK Parliament's Work and Pensions Committee's inquiry heard evidence that repaying overpayments can cause carers significant distress and anxiety and recommended a case-by-case review on whether overpayments were worth pursuing given the cost.

Recommendation 2: In order to avoid the impact of such a situation for carers who may have been identified as having gained from the error, we recommend that any subsequent overpayment should be written off.

This letter has been prepared after the Commission received the additional provision to the draft regulations from you, in accordance with the procedure outlined in section 97 of the Social Security (Scotland) Act 2018. A copy of this letter has been submitted to the Convener of the Social Justice and Social Security Committee and will be published on our website.

⁵ To get Carer's Allowance Supplement you must both live in Scotland on a particular date or have a genuine and sufficient link to Scotland and be getting Carer Support Payment or Carer's Allowance payments on a particular date. [mygov.scot - Who can get Carer's Allowance Supplement](https://mygov.scot/who-can-get-carer-allowance-supplement)

⁶ [The losses and special payments section of the Scottish Government – Scottish Public Finance Manual](#) allows for such ex-gratia payments to be made in circumstances where the Scottish Government has taken "all reasonable action... to effect the recovery of losses."

⁷ The Chief Executive has authority to authorise special or ex-gratia payments of up to £5,000 per case. [Social Security Scotland - Framework Document - 1 September 2018](#)

⁸ For example, evidence from the Young Carer Grant evaluation noted that being turned down for Young Carer Grant could potentially mean that people feel less 'recognised' and could discourage future claims.

We hope you find this letter helpful and we welcome your feedback.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Ed Pybus', written in a cursive style.

Ed Pybus
Chair
Scottish Commission on Social Security