Cabinet Secretary for Social Justice
Rùnaire a' Chaibineit airson Ceartas Sòisealta
Shirley-Anne Somerville MSP/BPA

Scottish Government
Riaghaltas na h-Alba
gov.scot

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

Ed Pybus
Chair
Social Commision on Social Security
Area 1C South, (Mail Point 6)
Victoria Quay
Edinburgh
EH6 6QQ
By Email: info@socialsecuritycommission.scot

25 November 2025

Dear Ed

The Two Child Limit Payment (Scotland) Regulations 2026

Thank you for your scrutiny report of 1 September on the Two Child Limit Payment (Scotland) Regulations 2026 and your letter of 6 November on the amendments to paragraph 30 of these regulations. I want to extend my sincere thanks to the Commission for considering the draft regulations. I am in particular grateful to the Commission for the rapid production of its report, and its willingness to work flexibly with my officials throughout the scrutiny process, which will help these payments to reach people as soon as possible.

Eradicating child poverty is the national mission of the Scottish Government, and the two-child cap, part of the UK welfare system, has been a key driver of poverty for children and their families in Scotland. These regulations will enable us to keep thousands of children across the country out of poverty and reduce the depth of poverty faced for many more.

Your helpful recommendations on the regulations have resulted in multiple improvements, and we know the passage of the improved regulations is likely to directly help some 43,000 children in the coming financial year. I am attaching a copy of the Scottish Government's response to the Commission's recommendations, which I am also sending to the Convener of the Social Justice and Social Security Committee. I can confirm that it is my intention to lay regulations in the Scottish Parliament on 26 November.

Yours sincerely

SHIRLEY-ANNE SOMERVILLE

Scottish Commission on Social Security recommendation (received 1/9/2025)	**Accept/ partially accept/ reject**	**Scottish Government response**
Recommendation 1: To meet the policy intent of mitigating the two-child limit, the Scottish Government should consider what policy instruments would best deliver comprehensive mitigation to all groups currently affected by the two-child limit, including those who are currently ineligible.	Reject	The primary aim of the Two Child Limit Payment (TCLP) is to mitigate, as far as possible, the reduction in income that families receiving Universal Credit (UC) experience if they are affected by the two-child limit. The section 79 powers allow this aim to be fully met. The barriers to more fully mitigating the two-child limit are also operational. For example, to assess whether someone would have received UC if it were not for the application of the two-child limit, Social Security Scotland would need to have real-time income data for all applicants. They would also need to apply all the UC assessment rules except for the two-child limit. This calculation would need to be repeated each month to determine whether entitlement should continue and how much the individual should receive. Ultimately, the most efficient way to address the poverty caused by the two-child limit is for the UK Government to do the right thing and end the policy. We continue to call on them to do so.

Recommendation 2: Social Security Scotland should consider adding Two Child Limit Payment to the joint application form for the five family payments.	Partially accept	The joint application for the five family payments allows people to apply for all the payments together. It does not allow people to choose which payments they apply for. Therefore, anyone who applied for TCLP using the joint application form would also be applying for all of the five family payments – including Scottish Child Payment - at the same time. Due to high levels of Scottish Child Payment (SCP) take-up, most people who are eligible for TCLP are likely to be receiving SCP for their children already. It would therefore not be operationally efficient nor a good client journey for people to have to apply for SCP again at the same time as they apply for TCLP. Social Security Scotland is committed to undertake research post implementation to fully understand the client experience and identify potential improvements. As per the Social Security Principles, Social Security Scotland will continue to seek opportunities to improve the delivery of TCLP in ways which put the needs of those who require assistance first. This includes making it easier for those who are eligible for TCLP to access everything they are entitled to as easily as possible.

Recommendation 3: The Scottish Government should conduct detailed research to identify eligible individuals who have not applied, in order to develop an evidence-based take-up strategy that addresses any claimant gaps.	Partially Accept	Social Security is a human right and none of us know when we might need it. We are committed to protecting that right and making sure that everyone who is eligible is supported to access their entitlements. Our Benefit Take-Up Strategy sets out five benefit take-up principles which guide actions across both the Scottish Government and Social Security Scotland, shaping activities to promote take-up across all devolved entitlements. The intention of the principle-led approach applied in the current Benefit Take-Up Strategy remains relevant and applicable to all devolved entitlements, including TCLP. Due to the continuing relevance and application of these benefit take-up principles, it is not expected that publication of a TCLP specific Benefit Take-Up Strategy will be explored at this time. We plan to include analysis of take-up of TCLP as part of our broader take-up analysis programme of work once possible. Given that payments are scheduled to begin in March 2026 this would be unlikely to be published before Autumn 2027. However, internal analysis of take-up of the payment will be explored as soon as is feasible. As part of the design of TCLP, there will be signposting to the five family payments as

		part of the application form, notifications and online content. We are also adding signposting from the five family payments to TCLP, wherever possible. We have also set up a Short Life Working Group for TCLP which includes key external stakeholders. We are working with them to ensure that the communications and engagement strategy for TCLP is as inclusive as possible. The strategy will include raising awareness of the need for people to add all children and qualifying young people to their UC claim ahead of the launch of TCLP. It will also include promoting TCLP through stakeholders and in locations that are of particular relevance to groups who are more likely to benefit – including certain ethnic minority and religious groups and lone parents. Officials are also exploring options for a broader policy evaluation that could take place in the future.
Recommendation 4: Social Security Scotland should adopt a trauma-informed approach when working with individuals who are considering applying for either an exception under Universal Credit rules or the Two Child Limit Payment.	Accept	Social Security Scotland is already committed to integrating a trauma-informed approach throughout the organisation. Trauma awareness is included in the induction programme and there are staff trained to a skilled level, holding a solid foundation in trauma-informed practice.

		Social Security Scotland advisors do not provide welfare rights advice and therefore would signpost individuals considering whether or not to apply for an exception to an appropriate advice agency. The online content for TCLP will include information regarding the exceptions policy for the two-child limit and will signpost those considering applying for either an exception or the TCLP to organisations delivering welfare rights advice.
Recommendation 5: The Scottish Government should research the impact of not allowing backdating of the Two Child Limit Payment to understand who is missing out, and by how much. This will provide evidence for the future development of social security policy.	Partially Accept	The current TCLP rules do allow for backdating in circumstances where an original decision on their UC was wrongly made resulting in the individual not being given a payment of TCLP for which they were eligible. In these cases, the individual's award can be backdated to the date of their original application. Where an individual contacts Social Security Scotland to add an additional child to an existing claim, we will backdate the award for that child to the beginning of the previous assessment period, providing they meet the full eligibility criteria for that assessment period. Any changes to backdating rules would have to be considered carefully in the context of existing system design. Significant changes could impact on the wider program of delivery within Social Security Scotland.

		We are currently exploring options for a policy evaluation that could take place in the future and will continue to explore options for future improvements.
Recommendation 6: The Scottish Government should consider redrafting Paragraph 8 of Schedule 1 to better match the policy intent.	Accept	We have accepted this recommendation and revised the drafting of the regulations.
Recommendation 7: The Scottish Government should consider redrafting regulation 17 to clarify intent.	Accept	The policy intent is that TCLP entitlement should end from the date when the child element is included in the Universal Credit award. We have therefore accepted this recommendation and revised the drafting of the regulations.
Scottish Commission on Social Security recommendation (received 6/11/2025)	**Accept/ partially accept/ reject**	**Scottish Government response**
Recommendation 1: Regulation 30 should be redrafted to ensure it is limited to the recovery of overpayments that result from the Department for Work and Pensions' decision making.	Reject	TCLP is fundamentally different to other forms of Scottish social security support in that it is paid to mitigate the absence of another form of support, namely the child element of UC. If a person has the child element added to their UC award for a dependant, they no longer require TCLP. There is in effect no longer any missing Child Element to replace. If there is no liability for such overpayments, these people will in effect have received double payment – once from SG and once from UKG.

		It is primarily for that reason that we have proposed strict liability for these types of overpayments for TCLP. We are working closely with stakeholders, through our short-life working group, to ensure that it is communicated clearly to potential and actual applicants for TCLP – on forms, letters and webpages – that people can only receive one payment or the other. Crucially, a decision that someone is liable for an overpayment is separate from a decision to recover that overpayment. Scottish Ministers in general, and Social Security Scotland in particular, are guided by the principles in the Scottish Public Finance Manual (SPFM). While the SPFM states that recovery of overpayments should always be pursued, it also states that each case should be dealt with on its merits, taking into account factors such as the good or bad faith of the recipient, the length of time passed since the overpayment, and any relevant personal circumstances. The principles in the SPFM are supplemented by the statutory duty in paragraph 31 of the schedule of the draft Regulations. This requires Social Security Scotland, in making a decision as to whether to seek recovery of money owed, to have regard to the known financial circumstances of the individual who owes the money.

		Like all forms of assistance delivered by the agency, this aims to ensure nobody is placed in hardship by recovery. Social Security Scotland will always consider the circumstances of the individual, and how the overpayment arose, before making a decision to recover any overpayment.
Recommendation 2: Regulation 30 should confer a discretionary power to recover an overpayment rather than mandate recovery.	Reject	Paragraph 30 of the schedule of the draft Regulations sets out which overpayments are excluded from liability. It does not mandate recovery. As noted above, and as is the case with all overpayments of Scottish social security, when considering whether to recover Social Security Scotland will follow the principles of the Scottish Public Finance Manual. It is also bound by the statutory duty in paragraph 31 of the schedule of the Draft Regulations which requires the agency to have regard to the known financial circumstances of an individual who owes the money.
Observation 1: When the Scottish Government considers different policy options, it would be helpful if we could see the analysis used to weigh those options. This would help us understand how the balance between principles has been assessed.	Noted	We are committed to providing SCoSS with sufficient information for them to understand the intent and rationale for Scottish Government policy. We will consider how our approach to SCoSS scrutiny can be improved in future to provide the Commission with a better understanding of the policy.