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Committee,
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02 October 2018.

Dear Graham,

I am writing in response to your letter to the Cabinet Secretary for Finance, Economy and Fair Work of 12 September relaying the Committee's enquiries about consolidating the Regulations that define the Council Tax Reduction (CTR) scheme. In the same letter, you also ask for an update on our plans to review the scheme in the light of changes to reserved benefits and new devolved benefits commencing. I am replying as I have portfolio responsibility for these matters.

Our work on reviewing the CTR scheme continues to be hindered by the ongoing uncertainty about DWP's plans to migrate those in receipt of existing (legacy) benefits to Universal Credit (UC). The Scottish Government maintains that DWP should halt the roll out of UC in Scotland until the problems that mean it is causing real hardship, stress and anxiety are resolved. However, before recess, DWP published draft Regulations concerning arrangements for the managed migration and transitional protection for those in receipt of legacy benefits. These were the subject of a formal consultation by the Social Security Advisory Committee.

This consultation has now closed, but we have not received any indication from DWP on the actual transitional protection arrangements they will establish in Regulations in the light of that consultation, or, any clear indication of where or how the managed migration exercise will begin. These factors materially impede the progress we can make in reviewing how the CTR scheme operates for those in receipt of UC. Whilst CTR is not a benefit (rather it provides relief to council tax liabilities based on means and need), entitlement to a reduction has dependencies on the income and benefits an applicant receives. So in this case, any additional payments by DWP to provide transitional relief to those migrated from legacy benefits to UC could have an impact on an applicant's entitlement to CTR. These circumstances mean that I am afraid I cannot offer a further update on our own progress in reviewing the CTR scheme.

In the meantime, we will ensure that the existing scheme is updated to reflect the new devolved benefits as they are created in legislation, although these actions might be characterised as maintenance of the existing scheme rather than a review.

Your letter repeats the Committee's views on the need for the existing Regulations to be consolidated. It remains the case that the Scottish Government has no plans to do this. I accept that there are a large number of amendments to both the Council Tax Reduction (Scotland) Regulations 2012 and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012. However, any consolidated versions of those instruments would, in all probability, need amendment before long to reflect either further maintenance to the existing scheme as, for example, various allowances are updated to account for inflation, or wider changes to ensure the scheme adapts to new devolved benefits or the actions of DWP. It also remains that those who use the Regulations – local authorities and their IT providers, the Review Panel, welfare rights practitioners – are familiar with the Regulations being subject to several amendments and the Scottish Government has not received any representations from these key stakeholders pressing for the instruments to be consolidated.

It may also be helpful for the Committee to be aware that the Government will be laying a further set of amending Regulations for the CTR scheme in the first week of October. In part, these are necessary to ensure a potentially large number of households whose Council Tax liability is presently reduced by the CTR scheme are not disadvantaged by recent court judgements that now require DWP to pay substantial arrears of Personal Independence Payments and Employment and Support Allowance.

As you note in your letter, the Committee and the Scottish Government do not concur on the issue of consolidating the CTR Regulations, but I hope this provides an appropriate update of our intentions for the scheme in the near future.

Regards



KATE FORBES