

# The 2018/19 audit of Social Security Scotland



AUDITOR GENERAL 

Prepared for the Public Audit and Post-Legislative Scrutiny Committee by the Auditor General for Scotland  
Made under section 22 of the Public Finance and Accountability (Scotland) Act 2000  
September 2019



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## Introduction






1. This report is made under section 22 of Public Finance and Accountability (Scotland) Act 2000. Its purpose is to bring to Parliament's attention issues arising from the [annual audit of Social Security Scotland](#). The independent auditor's report includes:
  - an unqualified opinion on the financial statements; which means he is content they show a true and fair view, and follow relevant accounting standards and rules
  - a qualified opinion on the regularity of Carer's Allowance expenditure, due to a limitation on the scope of his audit; which means that he cannot confirm that the transactions in the accounts are in accordance with all relevant legislation, regulations and guidance. This is a result of the Scottish Government's arrangements for delivering Carer's Allowance, which place reliance on the Department of Work and Pensions (DWP).
2. Social Security Scotland (the agency) was established in September 2018. It is an executive agency of the Scottish Government and has been set up to deliver the social security benefits being devolved to Scotland from the UK Government under the Scotland Act (2016). Administrative responsibility and accountability for the benefits - executive competence - is being devolved in stages. By 31 March 2019, the Scottish Government had taken on executive competence for Carer's Allowance and started paying the Best Start Grant (BSG) Pregnancy and Baby Payment, which replaces the Sure Start Maternity Grant. Executive competence for most remaining devolved benefits is to be transferred by 1 April 2020, at which point the agency will be accountable for approximately £3.5 billion of social security expenditure.
3. The agency has adopted different delivery arrangements and processes for Carer's Allowance, Carer's Allowance Supplement (CAS) and BSG as set out in [Exhibit 1](#). The agency, along with the social security programme, has to work closely with the DWP to manage and plan for the ongoing devolution of the powers. Delivering benefits through agency agreements requires a close relationship and results in operational reliance on the DWP. The interdependence of the devolved and reserved benefits also requires close working and data sharing, for example where eligibility for a devolved benefit requires the claimant to be in receipt of a DWP administered reserved benefit.
4. In May 2019, Audit Scotland published the latest in its reports on the Scottish Government's implementation of the social security powers, *Social Security: Implementing the devolved benefits*<sup>1</sup>. This report concluded that the Scottish Government had done well to deliver on its public commitments for the last year, including establishing the new social security agency. It found that delivering the next wave of benefits will be challenging and the Scottish Government does not yet have a clear understanding of the key things needed to deliver all remaining benefits in the way that it intends. The report noted that the agency had established its core approaches and processes, but these were in the early stages of development. The report provides more detail on the current delivery arrangements for the implementation of the benefits.

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<sup>1</sup> [Social Security: Implementing the devolved benefits](#), May 2019

## Exhibit 1

### Current delivery arrangements for Carer's Allowance, Carer's Allowance Supplement and Best Start Grant

 <b>Benefit</b> (2018/19 value in £)	 <b>Delivery            arrangement</b>	 <b>Relevant            legislation</b>	 <b>Data            requirements</b>	 <b>Applications            process</b>
<b>Carer's Allowance</b> £151.7 million	DWP delivering on Scottish Government's behalf under agency agreement	Social Security Contributions and Benefits Act 1992	No change to previous delivery by DWP	Applications made to DWP with no change to previous processes
<b>Carer's Allowance Supplement</b> £34.9 million	Social Security Scotland	Social Security (Scotland) Act 2018	The agency receives a data scan from DWP which identifies Scottish Carer's Allowance recipients, based on postcode. DWP data scan also provides payment details (eg, bank account).	No application process. The agency uses data from DWP to identify those eligible and to make payments.
<b>Best Start Grant</b> £4.3 million	Social Security Scotland	Social Security (Scotland) Act 2018  The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 No. 370	The agency requires data from DWP to check applicants' receipt of a qualifying benefit. The agency can also access DWP data to verify applicant's identity.	Application made to the agency (online, telephone or paper)

Source: Audit Scotland

- There is an inherent risk of error and fraud in a social security system that is driven by individual claims. The system is complex and can be difficult to navigate as each benefit has its own individual regulations and assessment criteria. The Comptroller and Auditor General of the National Audit Office has qualified the regularity opinion on the DWP's accounts for the last 30 years due to the levels of error and fraud in them.

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## Key messages

- **The independent auditor has qualified his regularity opinion on the accounts of Social Security Scotland with respect to expenditure on Carer's Allowance. The available estimates of error and fraud levels do not provide enough evidence to determine whether this spending was in line with the relevant legislation. This is a result of the Scottish Government's arrangements for delivering Carer's Allowance, which place reliance on the DWP.**
- **The agency's approach and processes for managing error and fraud are at an early stage of development. It has established core processes and policies but there is much more to be done. Having clear and effective arrangements will become increasingly important as the scale and complexity of benefits the agency is responsible for grows.**

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## The independent auditor's opinions on the accounts

### Overall

6. Social Security Scotland has published its first Annual Report and Accounts covering the first seven months of the agency's operation to 31 March 2019. This is a key component of the agency's accountability to the Scottish Parliament and the public. The accounts include total spending of £203.7 million, including £190.9 million of social security assistance expenditure.
7. The independent auditor has audited the accounts in accordance with the Public Finance and Accountability (Scotland) Act 2000. The published accounts incorporate an audit certificate (known as the Independent Auditor's Report) setting out his conclusions, including:
  - an unqualified opinion on the financial statements; which means he is content they show a true and fair view, and follow relevant accounting standards and rules
  - a qualified opinion on the regularity of Carer's Allowance expenditure, due to a limitation on the scope of his audit; which means that he cannot confirm that the transactions in the accounts are in accordance with all relevant legislation, regulations and guidance.
8. The qualification relates specifically to Carer's Allowance expenditure, as explained below. The auditor has confirmed in his audit certificate that the other transactions in the accounts, including CAS, BSG and administration expenditure comply with all relevant legislation, regulations and guidance.

### Carer's Allowance expenditure

9. The 2018/19 accounts include Carer's Allowance expenditure of £151.7 million. The auditor has qualified his regularity opinion in relation to this because there is not enough evidence to determine whether this spending was in line with the relevant legislation.

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10. As outlined above, Carer's Allowance is being delivered by the DWP on behalf of the Scottish Government through an agency agreement. The UK and Scottish Governments have agreed that while Carer's Allowance continues to be delivered by the DWP there will be no changes made to the way it is administered. The Scottish Government has not yet put in place Scottish regulations for Carer's Allowance. The benefit therefore continues to be regulated by UK legislation, in this case section 70 of the Social Security Contributions and Benefits Act 1992.<sup>2</sup>
  11. A person is entitled to Carer's Allowance if they meet the eligibility criteria set out in section 70 of the 1992 Act and related regulations. Any payment made to a person who is not entitled to it, whether through error or fraud, does not comply with the legislation and is therefore irregular.
  12. Due to the delivery arrangement being used, Social Security Scotland cannot at present directly assess the levels of error and fraud in Carer's Allowance and is instead reliant on the DWP's published estimates. The DWP last measured the error and fraud levels for Carer's Allowance in 1996/97, at which point the overpayment rate was found to be 5.5 per cent of total Carer's Allowance expenditure. This figure was based on confirmation of the circumstances of a statistical sample of individuals in receipt of the benefit at that time and is still used in DWP estimates. The caseload and expenditure on Carer's Allowance have increased significantly since this last measurement was taken. The estimate is calculated only at the UK level and therefore does not reflect any Scottish specific influences, such as demographics or behaviours.
  13. The auditor has concluded that due to these factors the current DWP estimate does not provide a reliable estimate of the current levels of error and fraud within Carer's Allowance in Scotland. Given the underlying risk of error and fraud, the possible impact of this in the related Scottish expenditure is significant enough to require the auditor to qualify his opinion.
  14. It is the agency's responsibility to ensure it can appropriately assess the levels of error and fraud in the benefits in its accounts. At the UK level, the DWP measures error and fraud levels by examining and verifying a sample of claims. The agency is not currently able to carry out equivalent checks of Carer's Allowance cases under the terms of the agency agreement it has agreed with the DWP.
  15. The DWP is working on a new estimate and aims to publish the updated information in May 2020. This will provide an estimate of error and fraud levels in Carer's Allowance expenditure at the Great Britain level for 2019/20. It does not plan to measure these levels each year as Carer's Allowance is not a significant area of spend for the DWP and because it considers the caseload is more stable than some other benefits.
  16. This issue does not affect the other aspects of the auditor's regularity opinion that relate to Carer's Allowance. He has confirmed in his audit certificate that he is content the amounts incurred are in line with the Budget Act, relate to devolved matters and have been appropriately met from the Scottish Consolidated Fund.

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<sup>2</sup> [Social Security Contributions and Benefits Act 1992](#)

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## Carer's Allowance Supplement and Best Start Grant

17. Entitlement to both CAS and BSG (with the exception of cases where the applicant is under 18 years old) requires a person to be in receipt of a specific DWP administered benefit, often referred to as a qualifying benefit:
  - for CAS the person must be in receipt of Carer's Allowance
  - for BSG the person must be in receipt of at least one of a list of low-income related benefits, including for example Universal Credit or Child Tax Credits.
18. This means error and fraud levels in CAS and BSG will be affected by error and fraud in the underlying DWP administered benefits. Unlike Carer's Allowance, this does not affect the regularity of the expenditure because of differences in the way the Scottish legislation and regulations work.
19. The Social Security (Scotland) Act 2018 sets out that the payment of most forms of assistance covered by the Act will be based upon a determination of entitlement being made by the Scottish Ministers. Therefore, for BSG, a person must receive an assistance payment if a determination is made by the agency, acting on behalf of Scottish Ministers, that they meet the eligibility criteria.
20. This means that any payment made as a result of a determination of eligibility by the agency complies with the legislation and is therefore regular, irrespective of whether the determination has been based on incorrect or fraudulent information. The Social Security (Scotland) Act 2018 enables a further decision to be made if it becomes known that any information used for a determination is found to have been incorrect. Any such decision would allow recovery of the payment made in cases of client error or fraud.
21. The transitional provisions for CAS follow a different model. The Social Security (Scotland) Act 2018 sets out that a payment must be made where an individual is in receipt of Carer's Allowance on the qualifying dates and is resident in Scotland. This means that any payment made as a result of an individual meeting these conditions complies with the legislation and is therefore regular. This is irrespective of whether the payment of Carer's Allowance has been based on incorrect or fraudulent information.
22. It is nonetheless important for the agency and the Scottish Government to understand the underlying levels of error and fraud in any qualifying benefits and what this means for how it designs and delivers the Scottish social security system, as more benefits are devolved and implemented. As set out above, the last estimation of the overpayment level due to error and fraud in Carer's Allowance was 5.5 per cent of expenditure. The latest DWP estimates for error and fraud levels in the BSG qualifying benefits range from 3.9 per cent to 8.6 per cent. We discuss the agency's approach to this below at paragraphs 39-41.

## The agency's approach to managing error and fraud

23. The Scottish Government has set out a clear ambition to develop a social security system which is based on the principles of dignity, fairness and respect. It has also made the safe and



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secure delivery of the devolved benefits a priority. These commitments influence the design and delivery of policies, processes and systems within the agency. The agency aims to balance its error and fraud arrangements with minimising any barriers to people accessing the social security assistance they are entitled to.

## Overall arrangements

24. The social security system is complex and relies on accurate information about the circumstances of individuals and how these change through time. Mistakes can be made that lead to errors in the amounts paid to individuals, both underpayments and overpayments. Errors can include both claimant and official error:
  - Claimant error: unintentional error made by the client when applying for assistance or in keeping a claim up to date, which may result in benefit awards being paid incorrectly
  - Official error: mistakes made by the agency when administering claims for assistance, including human error by staff, technical issues with IT systems, or erroneous data shared by another government department.
25. Under the Social Security (Scotland) Act 2018 the agency can seek to recover overpayments made as a result of claimant error. The Act also contains provisions for offences and investigations in relation to fraud. The Scottish Government defines fraud as when someone has applied for, or is getting, a benefit they know they are not entitled to. These arrangements applied to BSG during 2018/19. Pre-existing arrangements have continued in relation to Carer's Allowance payment. The agency's accounts include historic benefit overpayments of £12 million relating to Carer's Allowance repayments due from Scottish residents.
26. The agency has established a dedicated error and fraud team. The team has a broad remit to prevent error and fraud and is staffed by 17 FTE officers. The agency plans to increase this to 47 FTE by the end of March 2020 and to 190 FTE when fully established, reflecting the increasing scale and complexity of the agency's remit. The team has responsibility for:
  - risk analysis and control
  - external investigations of potential benefit fraud
  - internal investigations and controls
  - adjudications and recovery.
27. The agency has several key policies and strategies in place:
  - Error Control Strategy 2018-2022 – which sets out the agency's approach to minimising error and meeting its strategic objective to protect its budget.
  - Counter Fraud Strategy 2018-2022 – which sets out the agency's five key strategy objectives which are to deter, prevent, detect, investigate and enforce against fraudulent activity.
  - Non-Statutory Code of Practice – which aims to ensure that the agency meets all legal requirements for an investigation, that investigators follow best practice, and that there

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are assurances over the training and accountability of staff carrying out investigations, and the processes that they will be required to follow.

- Annual Fraud Action Plan 2019-2020 – which sets out the key actions for the error and fraud team and its key priorities for 2018/19. Key actions are to put systems in place, to test and refine processes, and to ensure that there are appropriately upskilled people in place in preparation for the introduction of the higher risk, recurring benefits.

28. Full arrangements are not yet in place to allow the agency to undertake investigation activity in the way it aims to. The Scottish Government has produced draft regulations and code of practice on investigations, which it has consulted on. Further work is being carried out to address views raised through the consultation process, which relate mainly to the proposed scope of the agency's investigation powers. The regulations and code are not expected to be in place, with relevant parliamentary approval, until at least the end of 2019.
29. As an interim solution the agency has published a non-statutory code of practice on investigations, which outlines how it intends to use existing data-sharing arrangements to undertake some investigatory activity. The agency needs to understand and manage the risks arising from not yet being able to undertake investigation activity in the way it had planned. This will become increasingly important as the agency takes on responsibility for more benefits and those with more complex entitlement decisions.
30. To date the focus of the error and fraud team has been on prevention activity, including developing staff awareness and providing support to client advisors. It has also carried out some case review work, which has led to systems improvements. The agency plans to carry out more substantial case sampling over 2019 and then to carry out quarterly analysis to develop its understanding of the trends and profile of error and fraud in the system.

## Specific risk areas

### Initial system design

31. The agency has identified some operational weaknesses in its core case management system which raised the risk of error and fraud in how some specific processes operated. A range of manual processes have been put in place to mitigate the identified issues. Manual processes are not as robust as system controls as they rely on consistent application by staff and add to staff workloads. Testing carried out as part of the audit process did not identify any concerns with how individual applications had been processed.
32. The case management system is being developed in an incremental way, which means that improvements and changes can be made as it is developed. The social security programme has a process of prioritising the areas for development of the system. Agency staff are involved in this process, as members of the multi-disciplinary teams responsible for progressing the work and through representation on relevant governance boards. The programme is already working at a high pace, and work to improve and adapt current functions of the system will need to be balanced with the work required to develop the system to administer the remaining benefits. The Scottish Government and the agency need to

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ensure that operational impacts are sufficiently understood when prioritising future development of the case management system.

### **Determining residency**

33. Being resident in Scotland is one of the core criteria an individual must satisfy to be eligible for the benefits currently being administered by the agency. The Scottish Government has defined this residency requirement as a person being 'ordinarily resident' in Scotland and this is reflected in the regulations implemented for BSG. It is important that individuals considering making a benefit application and the officials who make determinations are clear how the overall residency requirements are translated into specific decision rules. There is currently no clear guidance on this. This definition is used in other policy areas, such as for higher education course fees and access to NHS treatment, where substantial guidance has been developed to support its use.
34. In practice, the agency uses a person's current postcode as the main determinant of residency. For Carer's Allowance, the DWP identifies Scottish recipients by postcodes as directed by the agency, which in turn also identifies people who are entitled to CAS. The agency and DWP have carried out work to check addresses within postcodes along the Scottish-English border to ensure these are being accounted for correctly. For BSG applications, the agency uses the DWP's customer information system to help verify the address information submitted.
35. Being able to accurately define and identify people who are entitled to Scottish forms of social security assistance is critical to ensuring that the agency's expenditure is in line with the relevant regulations. This will become more significant as more benefits are devolved, caseloads and expenditure increase, and the Scottish and UK systems continue to diverge. The agency needs to make sure that it fully understands any implications and risks for how it is determining residency, and that people are aware of how the rules are being applied.

### **Supporting evidence**

36. In developing application processes, the social security programme and agency have tried to balance ease of access for people with the need to have a secure system. To reduce the burden on people making applications, the processes put in place try where possible to use existing data to reduce the amount of evidence people need to provide to support their application. For example, for BSG Pregnancy and Baby Payments, the agency uses information already collected through the Baby Box scheme.
37. To support ease of access, less stringent evidence requirements have been adopted by the agency than required by other organisations, for example to claim Housing Benefit from a council. The agency does not require the same types of documentation to be provided to evidence core aspects of applications such as a person's identity and residency. It also accepts photocopies of some core documentation in contrast to standards applied by councils, where original copies are required.

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38. These approaches place a clear focus on making the social security system easy to access and on supporting people to apply for assistance. The agency needs to understand any impact of its evidence standards on error and fraud and consider its ability to respond.

## Monitoring error and fraud

39. The agency does not yet have an approach to estimating error and fraud levels for the benefits it delivers and for those it will become responsible for over the next few years. It is in the early stages of setting out how it intends to produce these estimates. Estimating the levels of fraud and error helps to support decision-making on what actions the agency can take to ensure the appropriate and effective use of the public money it is accountable for. Monitoring and publishing these estimates should also become an important element of the agency's performance reporting.
40. It is currently using the DWP's fraud estimates as a base to start creating potential ranges of error and fraud within the Scottish system. There are challenges in using the DWP estimates, including their age and GB-wide coverage. These limitations will affect other low-income benefits still to be implemented, including the recently announced Scottish Child Payment, which the Scottish Government has estimated will cost £180 million each year. This is substantially higher than the other low-income benefits, increasing the potential impact of any error and fraud. The agency needs to develop its understanding of how these underlying levels of error and fraud affect the Scottish benefits and factor this into its own estimates of error and fraud for the Scottish system. This will be key to ensuring that error and fraud is managed effectively.
41. The DWP examines and verifies samples of benefit cases as part of developing its error and fraud estimates. The agency doesn't yet have its intended investigation powers in place and will need to consider what this means for its approach to producing estimates.

## Further development

42. The agency is in the early stages of developing its approaches and processes for managing error and fraud. There remain key areas that will need to be further developed, including arrangements for carrying out investigations and producing estimates of error and fraud levels within the Scottish system. Further work is also needed to develop core digital systems and guidance for staff and people who may be entitled to assistance.
43. Having effective and well understood arrangements will become increasingly important as the range and scale of benefits for which the agency is responsible grow over the next few years. The value of assistance expenditure will increase substantially, and the agency will be using an increasing range of delivery methods as more benefits are devolved and existing cases transferred. The risks of error and fraud will also increase as the agency becomes responsible for benefits that are paid on a regular basis and depend on much more complex determinations of eligibility than those it is currently administering.

# The 2018/19 audit of Social Security Scotland

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