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Dear Sally,

Thank you for your scrutiny report of 15 November 2021 on the [Social Security \(Residence Requirements\) \(Afghanistan\) \(Scotland\) Regulations 2021](#). I would like to express my thanks to SCoSS Members willingness to consider these regulations retrospectively, given the urgency around our need to lay them under the 'super-affirmative' expedited procedure.

Please find attached a copy of the Scottish Government's response to SCoSS' recommendations and observations (set out in the accompanying annexes). I have also issued a copy to the Convener of the Social Justice and Social Security Committee.

Thank you again for your continued co-operation and support. I am grateful to SCoSS Members for the helpful and constructive way in which they have engaged with officials and supported the scrutiny of these regulations under unusual circumstances.

Best regards,

**BEN MACPHERSON**



## Response to Scrutiny Report of 15 November 2021

### Annex A: Recommendations

SCoSS Recommendation	Accept/ Partially accept/ Reject	Scottish Government Response
<p>1. Scottish Government is invited to consider whether there is a need to provide an exemption for others coming to the UK from Afghanistan who are not covered by the Home Office resettlement schemes.</p>	<p>Reject</p>	<p>The Scottish Government has considered this recommendation and does not consider it is appropriate to pursue the exemption the Commission describes.</p> <p>The Commission noted at point 4 of their report that the exemption for individuals not covered by the Home Office schemes in relation to Afghanistan applies only to income-related benefits, which are reserved to UK Government.</p> <p>As the income-related benefits in question each require individuals to have a valid immigration status in order to establish eligibility, the individuals who are most likely to benefit from this provision will be UK nationals or, less frequently, those with comparable existing immigration status which allows access to benefits and services.</p> <p>We understand the UK Government's intention in creating the settlement schemes was to align the position of those coming to the UK under the resettlement schemes with that of refugees or those with humanitarian protection status as, whilst these people have been awarded indefinite leave to remain, they are coming here for humanitarian reasons. The absence of the exemption described by the Commission is consistent with application of the Past Presence Test (PPT) both generally and also specifically with its application in other crisis situations, including similar situations in Yemen, Lebanon and Syria.</p> <p>The Scottish Government considers that the regulations are compliant with the European Convention on Human Rights.</p>

<b>SCoSS Recommendation</b>	<b>Accept/ Partially accept/ Reject</b>	<b>Scottish Government Response</b>
<p>2. Scottish Government is invited to clarify how it plans to evidence eligibility requirements, other than habitual residence and past presence tests, in order to enable people covered by these Regulations to access payments quickly, in line with the policy goal.</p>	<p>Accept</p>	<p>Social Security Scotland remains committed to the principles in our Charter to ensure a human rights based approach to demonstrate dignity, fairness and respect. Every application is dealt with on its individual set of circumstances and we have factored in flexibility for cases where the individual may not have supporting information requested at the point of application.</p> <p>Importantly, this applies to all individuals (as many individuals who are vulnerable may not have a complete paper trail as evidence), but particularly to individuals coming to Scotland under the Afghan Resettlement Scheme, acknowledging the urgency of the response to an emergency situation.</p> <p>Our policy empowers case managers to make a decision on entitlement to benefits on the balance of probability in the absence of supporting information, which is factored into staff training and guidance material. We remain committed to starting from a position of trust with the delivery of disability benefits in particular, acknowledging parents/guardians/carers are essential in providing a comprehensive picture of the individual's needs.</p> <p>Social Security Scotland is committed, again in line with our Charter, to support clients through their application process, and has worked closely with the Home Office and DWP in relation to paperwork issued by the former upon the individuals arriving in the UK and their onward settlement in Scotland.</p>

## Annex B: Observations

SCoSS Observation	Accept/ Partially accept/ Reject	Scottish Government Response
<p>1. We note that the needs of refugees, such as for language support, may have a particular bearing on Social Security Charter expectations including those on adapting processes and ways of communication, independent advocacy provision for disabled people, and ensuring staff understand the needs of different people and the barriers they face so that no-one experiences discrimination</p>	<p>Accept</p>	<p>Social Security Scotland, in line with our Charter, has processes in place for any individual reporting a requirement for additional communication needs, such as translation services.</p> <p>Key publications are also available in several languages (including Arabic) on the Social Security Scotland website, including the recent Child Disability Payment <a href="#">factsheets</a> published 22 November.</p> <p>Customer service to ensure a people-focussed approach remains the key focus for Social Security Scotland, and training for all staff reflects this commitment.</p> <p>Specifically for people who moved to Scotland under the Afghan Citizens Resettlement Scheme, Social Security Scotland provided tailored support:</p> <ul style="list-style-type: none"> <li>• Face-to-face support for application completion for devolved benefits;</li> <li>• Check and verification of Home Office documentation;</li> <li>• Joint working with Local Authorities to access interpreters when needed;</li> <li>• Joint working with Local Authorities, Department for Work and Pensions and Barclays Bank to timetable our face-to-face support that ensured all information was captured one time only;</li> <li>• Single point of contact in Social Security Scotland for receipt of applications;</li> <li>• Team to process the applications.</li> </ul> <p>For refugees who move to Scotland out with any specific Resettlement Scheme, Social Security Scotland's Local Delivery service can provide additional support by:</p> <ul style="list-style-type: none"> <li>• providing information on all our benefits including eligibility, how to apply and where and how to access support;</li> <li>• helping to complete paper or online application forms;</li> <li>• carrying out identity or document checks;</li> <li>• helping people submit change of circumstances information;</li> </ul>

SCoSS Observation	Accept/ Partially accept/ Reject	Scottish Government Response
		<ul style="list-style-type: none"> <li>• helping people to submit a compliment, a complaint or feedback;</li> <li>• offering information on the process and timescales of redetermination and appeals;</li> <li>• meeting with appointees who are acting on a client's behalf;</li> <li>• referring people or provide information on other relevant services who can provide advice and representation including the Scottish Government's Independent Advocacy service.</li> </ul> <p>Social Security Scotland is conducting a lessons learned exercise to formalise this tailored support for future Afghan refugees relocating to Scotland under the Afghan Citizens Resettlement Scheme.</p>
<p>2. Social Security Scotland may in some cases be well-placed to play a facilitative role when it comes to referring refugees to wider support and wrap-around services, consistent with Charter expectations on referring people to other organisations, services or forms of help and working with other organisations to ensure services and policy are joined up.</p>	Accept	<p>Social Security Scotland takes a human rights based approach to what we do and how we will demonstrate dignity, fairness and respect in all our actions. We are committed in the Social Security Charter to ensure our staff are knowledgeable about the wider social security system, so they can help clients avail the support they are entitled to and be able to refer clients to independent advice and support, for example where it could help them with an application or appeal.</p> <p>Social Security Scotland's Local Delivery service supports clients who are vulnerable, or who might need extra support to ensure that clients can access our service fairly and safely.</p>
<p>3. Scottish Government may wish to consider if and how the experience of refugees in accessing devolved Social Security could contribute to progressing the outcomes of the New Scot Refugee Integration strategy 2018-2022 and the development of future strategy for refugees and how this is integrated into delivery plans.</p>	Accept	<p>This is a very helpful suggestion. Social Security Directorate policy officials have reached out to their counterparts at the Directorate for Equality, Inclusion and Human Rights in respect of a joined up approach for future integration and strategies for delivery.</p>