

# **Social Security**

## **A Consultation on Adult Disability Payment**

### **Scottish Government response**

**June 2021**



**Scottish Government**  
Riaghaltas na h-Alba  
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## Ministerial Foreword



This consultation builds on our commitment to designing Disability Assistance in partnership with disabled people and disabled people's organisations. Despite the considerable challenges of the Covid-19 pandemic, a significant number of disabled people and a wide variety of organisations have responded, which we are very grateful for. Together as a society we are delivering a social security system based on the principles of dignity, fairness and respect.

I am pleased that most of our proposals were supported by respondents. I also recognise that there are some areas where we have been urged to go further and I appreciate the ambition to make bigger and bolder changes to disability assistance in Scotland. However, I also recognise the over-riding need to deliver Adult Disability Payment on time and in a safe and secure manner. While we have made a number of positive changes in response to the consultation, we have also had to be mindful of our priority to ensure that people continue to receive the payments they rely on, as we introduce new forms of Scottish disability assistance.

It is important to emphasise that the regulations are only part of the story. The way that Adult Disability Payment will be delivered will be dramatically different to Personal Independence Payment. We will use the feedback from this consultation to make further changes to ensure that Adult Disability Payment delivers a better service and a better experience for disabled people in Scotland. The choices we are making will make a meaningful difference to the way people experience applying for and receiving disability assistance; our choices will create a system that trusts people, and treats them with fairness, dignity, and respect.

I am immensely grateful to everyone who participated in the consultation, whether that was online or through one of the many virtual consultation events that the Scottish Government held. Covid-19 has affected all of us and disabled people have faced particular challenges over the past year, whether that has been due to the isolation of lockdown, disruption to routine medical treatment or difficulties accessing essential services. Thank you to everyone who put in considerable time and effort to engage with our proposals for Adult Disability Payment.

I will look forward to continued engagement about the priorities for developing a disability assistance system that works for disabled people in Scotland.

**Ben Macpherson**

Minister for Social Security and Local Government

## Introduction

We are talking to and – importantly – listening to many individuals, organisations and groups with direct and personal experience of the social security system. We are designing Adult Disability Payment using evidence of what works and what does not work. We are testing everything that we do with the people who will use or interact with it to make sure we get it right, whether that is our application forms or our new client consultation service. What we deliver on day one of Adult Disability Payment will not be the limit of our aspirations. We want to establish a system that can continue to improve and to respond to feedback and the experiences of those that use it.

## About the Consultation Process

The Scottish Government sought views between 20 December 2020 and 15 March 2021 on the draft regulations for Adult Disability Payment.

The consultation built on our work to date with Experience Panels and stakeholder groups such as the Disability and Carers Benefits Expert Advisory Group. It follows our 2019 Consultation on Disability Assistance<sup>1</sup> during which we received 263 responses from individuals and stakeholder organisations. These responses have shaped our approach to the development of social security in Scotland. The purpose of this consultation is to gather views on the draft regulations and identify any gaps, issues or unintended consequences. The consultation will inform our final decisions on policy and it furthers the user involvement in the development of a new social security system based on dignity, fairness and respect.

**The Scottish Government has published an analysis of responses to the consultation and the report is available here:**  
**<https://www.gov.scot/ISBN/978-1-80201-110-4>**

The [draft regulations](#) are available to view in the supporting files alongside this publication.

When discussing the prevalence of certain views, we have used the following terms to indicate the proportion of consultation responses that raised a particular point:

- “Few”: less than 5 respondents
- “Several”: between 5-9
- “Large numbers of respondents”: more than 10

## Introductory and Interpretation (regulations 1 and 2)

This part sets out when the regulations will come into force. It also provides definitions of the key terms used throughout the regulations. Specific terms defined

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<sup>1</sup> [Social Security - A Consultation on Disability Assistance in Scotland - Scottish Government response \(www.gov.scot\)](#)

through case law have been added here to ensure that existing Personal Independence Payment case law is reflected in the interpretation of these regulations, for example, the definition of aid or appliance. Other terms and phrases used specifically in other provisions have been defined within the relevant regulation itself.

## **Respondent Feedback**

The majority of respondents (77%) agreed that regulations 1 and 2, as currently drafted, would meet their policy intent. Several who provided support overall did, however, suggest that there could be even greater clarity around some of the key terminology used, to ensure that the regulations could be understood by all. One specific suggestion was for a single clear definition of the 'Adult Disability Payment (ADP)', and another was for a clearer definition of 'determination' (i.e. as it refers to a determination of entitlement).

There were mixed views on the proposal to carry out a pilot for Adult Disability Payment. While some welcomed the pilot on the basis that it would provide essential opportunities for learning, a few respondents indicated that they felt a pilot scheme may slow down the introduction of the new payment and leave some people on Personal Independence Payment for longer. Others commented that they would like more information on the pilot scheme.

## **Scottish Government Response**

We have listened carefully to the feedback on this part of the regulations and have made changes to introduce greater clarity around some of the key terminology.

For example, we have introduced a new definition of Adult Disability Payment. We have also clarified the definition of 'determination', with reference to section 25 of the Social Security (Scotland) Act. A 'determination' refers to a determination of entitlement to Adult Disability Payment.

We are confident that a number of technical alterations to the regulations, such as the addition of interpretations and a more consistent use of key terminology, will ensure greater clarity and consistency throughout the regulations and make them more accessible.

## **Disability Assistance for Working Age People Overview (regulation 3)**

### **Eligibility – Daily Living Component and Mobility Component (regulations 4 – 9)**

Regulation 3 provided at the time of the public consultation that a client is entitled to Adult Disability Payment when they meet the following eligibility rules:

- the daily living component criteria;
- the mobility component criteria;
- the required period condition;

- the residence and presence conditions; and
- the age criteria.

It also set out the component parts of the payment and specified the application requirements.

Regulations 4 and 5 set out the Daily Living Component and Mobility Component, and outlined individuals' eligibility and entitlement to the standard and enhanced rates.

## **Respondent Feedback**

A majority of respondents (76%) who answered felt that regulation 3 was clear in its intent and agreed with the eligibility rules. Similarly, around three quarters (76%) of the respondents that provided an answer agreed that the regulations related to the Daily Living Component and Mobility Component reflected the policy intent.

Several respondents felt that the eligibility criteria were too narrow in their scope and did not adequately reflect the impact of certain disabilities and health conditions. Many responses specifically focused on the '20 metre rule', i.e. the distance in metres an individual can walk to determine eligibility for the mobility component, a rule which is used in Personal Independence Payment, and we have replicated in Adult Disability Payment.

A few responses suggested that the 20 metre measure was a significant barrier for those with neurological conditions, mental health issues, learning disabilities, and fluctuating conditions. Therefore, many of these responses suggested that this rule should be reconsidered or removed.

Another significant focus of discussion was the '50% rule' (i.e. that an individual must be impacted by their condition on at least half the days in every month to qualify for Adult Disability Payment). A few organisations, commented that they considered this as inflexible. Some comments also sought clarity over how the impact of carrying out activities would be taken into account.

A majority of respondents supported our proposal to invite clients to a consultation where it is the only practicable way of making a determination of entitlement. Some respondents raised concerns around the retention of the points scoring system and it was felt by some that the points scoring system was at odds with the social model of disability.

Ultimately, a majority respondents wanted a clear, easy to understand and transparent system. They also sought reassurance that no one would experience a loss of eligibility as a result of the introduction of Adult Disability Payment.

## **Scottish Government Response**

We have set out a number of actions to apply the eligibility criteria fairly and consistently, and to ensure that the impact of a disability or health condition on an individual, including the impact of fluctuating conditions, are fully taken into account.

We are confident that the changes we are proposing will significantly improve how decisions are made. For example, we will aim to collect one piece of supporting information from a formal source, such as from a GP or a support worker. This information only needs to determine, on the balance of probabilities, that the individual's condition is consistent with the needs detailed on their application.

This is a departure from the current system which requires formal supporting information to evidence each and every difficulty that the client reports experiencing. We also know that useful insights can be provided by a client's informal support network including family, friends, or unpaid carers. Under the Scottish Government's approach, equal consideration will be given to all sources of information.

If a practitioner makes an informal observation during a consultation, they must inform the client of this observation and any inferences drawn from it. The client, or person accompanying them, must be given the opportunity to respond to the observations. This is a significant change to the current system where an assessor can make assumptions about the client without telling them, and can do so before or after the assessment has taken place.

Actions also include the removal of all functional examinations and more consistent application of the reliability criteria, supported by fuller definitions of this criteria and comprehensive guidance for case managers. In order for a determination to be made that a client is able to undertake any of the Adult Disability Payment daily living or mobility activities, they must be able to do so reliably. The reliability criteria require consideration to be given to the client's ability to complete an activity safely, to an acceptable standard, repeatedly, and in a reasonable time. This means that when an individual is asked whether they can complete an activity, the full impact of that activity on the individual will be considered.

Since the consultation, a number of changes have been made to how the eligibility criteria will be applied and explained to clients, including:

- Further improvements to the application form to include clear guidance on how the eligibility criteria is applied. This will ensure a client is supported in providing relevant information, guided by the reliability criteria, about how they feel after completing an activity and how long the impact lasts for.
- The development of further guidance on the reliability criteria for clients and case managers.
- The introduction of bespoke consultation durations. Unlike DWP assessments, a consultation will not be a standard duration. Instead, a consultation will only cover the areas of the application form which are relevant to the client and on which the case manager has requested information to make a decision. Clients will therefore not be asked

unnecessary or repeated questions nor will they be rushed in giving an account of how completing an activity makes them feel. Practitioners will take the time necessary to fully understand the impacts of a disability and/ or health condition on the client.

- The development of a prompt tool to ensure practitioners cover the reliability criteria and to help them ask questions relevant to a particular disability or health condition. This will further enable practitioners to understand the full impact of an individual's disability and/ or health condition.
- Undertaking work to consider how better to communicate how the eligibility criteria will be applied, including the removal of functional examinations and information on the role of case managers and practitioners, to provide assurances to those in receipt of disability benefits ahead of delivery.

We have proposed changes to the way decisions are made on an application for Disability Assistance. We intend to move away from a medical model of disability. This is why we have removed all functional examinations including physical examinations and the Mental State Examination. Instead, a practitioner will discuss with the client the full impact of completing an activity and of a disability or health condition on an individual. Guidance and tools will be available to the practitioner to ensure that environmental, cultural and social factors are taken into account in a fairer and more consistent application of the eligibility criteria.

We consider that, in order to protect the entitlement of individuals as we move from Personal Independence Payment to Adult Disability Payment, we consider it necessary to largely replicate the eligibility criteria as it currently exists for Personal Independence Payment. We are confident that experience of this criteria will be improved with many of the adjustments we have made, along with improved processes and guidance for case managers

We consider that, in order to protect individual's existing entitlement, we should not make considerable changes to the eligibility criteria before delivery of Adult Disability Payment. Any changes which widen eligibility risk the Department for Work and Pensions deciding that Adult Disability Payment is not a comparable benefit to Personal Independence Payment and withdrawing automatic entitlement to reserved payments from Scottish clients. They may decide therefore that Adult Disability Payment should not provide access to passported benefits and premiums which Personal Independence Payment currently ensures entitlement to such as Housing Benefit and Jobseeker's Allowance.

We have undertaken further research to understand how the current application of the eligibility criteria by the Department for Work and Pensions impacts on individuals with particular protected characteristics, and the extent to which our proposed changes will address any negative impacts. This is further explained in our draft Equalities Impact Assessment on Adult Disability Payment.

### **The qualifying period conditions (regulations 10 – 13)**

Regulations 10-13 of the draft regulations defined the required period condition which must be satisfied to be eligible for each of the components of Adult Disability Payment.

## **Respondent Feedback**

Around three quarters (74%) of respondents who provided an answer at the closed element of this question agreed that that these regulations met the policy aim and provided necessary transparency.

Respondents' main concern was that the 13 week period to be considered before the relevant date may not be suitable for individuals with unpredictable and fluctuating conditions. There were particular concerns for those newly diagnosed with epilepsy, where the frequency of seizures may be limited, but the impact on the individual's life would be significant and immediate. It was also argued that the fluctuating effects of mental health conditions were not well suited to this timescale measure. As such, it was felt that this 'blanket policy' should not apply to all conditions.

A few respondents also felt that 13 weeks was too long for applicants to be made to wait, particularly those with severe and permanent disabilities/conditions, those that may incur significant costs over this time period as a result of their condition, and for severely inhibiting conditions that can appear suddenly (such as strokes and mental health problems).

## **Scottish Government Response**

We welcome that the majority of responses agree with our proposed approach and consider that it provides transparency. However we recognise that there were some concerns expressed about the qualifying period.

We have concluded that maintaining the 13 week required period prior to ADP eligibility is in keeping with the policy intent for Adult Disability Payment and for Disability Assistance more widely. The application of the eligibility criteria for Adult Disability Payment will account for unpredictable and fluctuating conditions and we will take a person-centred approach to decision making. A reduction in this period would potentially extend eligibility to individuals with temporary, short term disabilities whose lives are not impacted in the same way as people with long term disabilities and health conditions. For individuals with a terminal illness, there will be no qualifying period.

## **Residence and Presence Conditions (regulations 14 – 21)**

Regulations 14-21 set out the residence and presence requirements that must be satisfied for eligibility, along with the circumstances where exceptions would be made.

## **Respondent Feedback**

A large majority (79%) of respondents who answered the question agreed that these regulations met the policy intent. Many respondents provided supportive comments, suggesting that the regulations would ensure the system was 'fair', would help stop fraud, provide flexibility, and provide key exemptions to the 'past presence test' for certain groups (such as for people with terminal illness, people awarded refugee status, and where someone can 'demonstrate a genuine and sufficient link to Scotland').

A small number of respondents commented that the 'past presence test', which requires the individual to have been resident in Great Britain for 104 weeks in the last 156 weeks, would be discriminatory and unfairly exclude some individuals. It was also suggested that those impacted by COVID-19 travel restrictions could be negatively impacted.

It was suggested that the past presence test be reduced or dropped entirely with no qualifying period for eligibility required. Suggested shorter time periods included residency of 26 weeks (or six months). Alternatively, one organisation suggested that the 'habitual residence test' would provide a suitable alternative.

## **Scottish Government Response**

We welcome the majority feedback in support of these regulations. We have also listened to the feedback relating to the 'past presence test'. Since the consultation, we have made a change to the regulations to reduce the past presence test from 104 out of 156 weeks to 26 out of 52 weeks.

## **Entitlement Under Special Rules Relating to Age (regulations 22 – 25)**

Regulations 22-25 set out information in relation to eligibility and entitlement linked to age.

## **Respondent Feedback**

Over three quarters (78%) of respondents that provided a response agreeing that the regulations were clear and reflected the policy intent.

It was felt that the regulations were straightforward and would help adult applicants. The move to starting eligibility at age 16 was seen as sensible as it linked with guardianship/transition, as well as provided flexibility and choice for young people aged 16-18 where they could choose to remain on Child Disability Payment.

The main concerns were linked to the upper age limit. There was some concern that Adult Disability Payment might cease when a client reached retirement age. Meanwhile, bringing the upper age limit in line with state pension age was also welcomed by some, while the ability to retain entitlement to the mobility component beyond state pension age was seen as a helpful safeguard.

## **Scottish Government Response**

We welcome the positive feedback regarding entitlement and eligibility relating to age and have therefore not made any further changes to these specific regulations. We recognise the importance of clear communication with clients that entitlement to Adult Disability Payment will not entirely cease when they reach state pension age. We continue to work with organisations and disabled people themselves to develop inclusive communications so that the necessary assurances will be provided.

### **Entitlement Under Special Rules Related to Terminal illness (regulation 26)**

Regulation 26 outlines eligibility and entitlement criteria for individuals applying to Adult Disability Payment who are terminally ill. It also outlined that the daily living and mobility component criteria are dis-applied where this regulation applies.

### **Respondent Feedback**

A large majority (89%) of respondents agreed that the regulations reflected the policy intent with many respondents providing supportive comments. Several comments considered that these regulations would create a smoother process for people with a terminal illness and remove ongoing uncertainty in relation to eligibility. Respondents also felt that this would provide greater dignity for applicants, and create an 'improved and fairer system'.

The only common concern, which a small number of respondents noted, was that the regulations did not make reference to awards for those with terminal illnesses being life-long awards.

### **Scottish Government Response**

We are pleased that a large majority of respondents supported our approach to introduce a new definition of terminal illness. Our new definition removes the requirement that a person must reasonably be expected to die within 6 months. Instead we will rely on the clinical judgement of doctors and registered nurses involved in the individual's care.

All awards made under terminal illness rules will be 'life-long' awards and there will be no review for these clients. This will be made clear in the Chief Medical Officers' guidance and the relevant guidance for Social Security Scotland practitioners and case managers.

### **Payability when person is residing in certain accommodation or is detained in custody (regulations 27 – 32)**

Regulations 27-29 set out how time spent residing in certain accommodation such as care homes or as a hospital in-patient would impact Adult Disability Payments, as well as the related exclusionary criteria.

Regulation 30 outlined the impact of legal detention on the payments. Regulation 31-32 covered the period of residence in such accommodation (including clarification

over the start and end date of residence), and the payment of Adult Disability Payment between two periods of residence.

## **Respondent Feedback**

A majority (63%) of respondents agreed that the regulations reflected the policy intent.

Some respondents however were concerned over a potential loss of payments for individuals that needed recurring stays in hospital, and/or that the loss of Adult Disability Payments after 28 days could lead to longer-term impacts on an individual's wellbeing. Respondents noted that clients will have existing financial commitments and continuing needs whilst in a hospital/care home/in custody, and which if not met during this time would have a detrimental impact upon being discharged.

Two organisations were also concerned that the potential for Adult Disability Payments to cease could result in individuals being reluctant, or turning down certain specialist in-patient treatments because of potential financial implications.

A few respondents highlighted that not all care home residents are disabled or elderly. These respondents noted that some younger people require the accessible/supported living environment, but they continue to work and maintain a level of independence. There was concern that such individuals would lose access to Adult Disability Payment, their car, and their independence under the rules set out in these regulations.

Unintended consequences were also highlighted. Some felt that the stoppage of Adult Disability Payment would impact other family members/housemates by reducing overall household income. Family members may also continue to face the costs of providing certain products for the client during their stay in hospital/a care home/prison. Meanwhile some commented that the regulations were fair.

## **Scottish Government Response**

We do not propose to make significant changes to the rules which were contained in the consultation draft, however these have since been supplemented with further provisions, including to include residential educational establishments.

Whilst we recognise that some concerns were expressed regarding the rules relating to certain accommodation, the intention of Adult Disability Payment is to provide financial assistance to mitigate the costs that individuals and their families incur as a result of a health condition or disability. Continuing to pay Adult Disability Payment where an individual's care needs are met in full otherwise from public funds, for instance in a care home, hospital or secure accommodation, would lead to a funding duplication in meeting the individual's care needs.

Although payment will stop after 28 days of an individual being in alternative accommodation, entitlement is unaffected. Therefore, if and when a client leaves, payments will resume, subject to continuing to meet the eligibility criteria for Adult Disability Payment.

Adult Disability Payment is not intended to be an income-replacement benefit. Income replacement benefits are provided in the form of UK Government administered reserved benefits such as Employment and Support Allowance (ESA) and Universal Credit (UC). If we were to deliver Adult Disability Payment as an income-replacement benefit, there is a risk that DWP would not recognise it for the purpose of assessing a client's eligibility for reserved benefits, including access to passported premiums or benefits.

The purpose of the "28 day rule" is to ensure that longer term periods in alternative accommodation are not subject to funding duplication, by receiving both ADP and the costs of that care being covered. The 28 day window ensures that people cared for in temporary respite do not lose access to payments as well as recognising that where care placements break down or periods within alternative accommodation end at an early stage, the client does not experience the additional disruption of losing access to Disability Assistance.

### **Making of Applications and Payments (regulations 33 – 37)**

Regulations 33-37 outlined the weekly payment rates for Adult Disability Payment, including the standard and enhanced rates for both the daily living and mobility components. They also outlined any deductions required as a result of people receiving the Constant Attendance Allowance.

In addition, these regulations set out the rules around who can receive the payment, the date of application/when entitlement should be taken to begin, and defines the period covered by an application. They also detailed the timing of the payments, and the need for continuing eligibility.

### **Respondent Feedback**

Most respondents (83%) who answered the question agreed that these regulations reflected the policy intent.

Respondents were particularly supportive of the Scottish Government's approach to the application process including when an application will be considered made and the lack of set review periods.

However some respondents felt that the payment rates were not high enough to cover the costs of living with a disability or health condition, or the costs of purchasing care services, with respondents suggesting that the rates needed to be increased.

Several respondents also discussed the issue of continuing eligibility, 'light touch' reviews, and indefinite awards. A few sought further information about how decisions

of continuing eligibility would be made, details on what a 'light touch' review would involve, and commitments for Social Security Scotland to provide clear justifications for reducing awards following 'light touch' reviews.

Indefinite awards were welcomed with respondents expecting this proposal to provide stability and financial certainty for individuals with degenerative conditions or conditions that will not improve.

Indeed, several comments were provided throughout the consultation which stressed the importance of implementing long-term/life-long awards and 'light touch' review periods, and sought reassurances that these would be included in the regulations in order to protect such provision.

For the most part, stakeholders felt that routine reviews would give applicants and their families/carers more stability knowing roughly when their review would take place. It was expressed by some that five to ten years was a reasonable time period to accommodate changing conditions and that having a shorter review date may cause unnecessary concern and anxiety.

Like some of the consultation respondents, event delegates also felt that those with life-long conditions/disabilities should not be reviewed or reassessed (and should also not be subject to 'light touch' reviews), and that indefinite awards were appropriate in these cases.

## **Scottish Government Response**

Payment level has been set at the same level as Personal Independence Payment. This is to ensure a safe and secure transition and to avoid a situation where some clients with the same needs are in receipt of a different award because of when their award happened to have been transferred to Social Security Scotland.

All awards will be made on a rolling basis, with no set date for an award ending. In cases where it is unlikely that a client's condition will improve, there will be at least five years between Light-Touch reviews. Work remains underway to establish parameters that could be put in place for the provision of indefinite awards for certain clients whose needs are very unlikely to change. All awards made under the Special Rules for Terminal Illness (SRTI) will be 'life-long' awards with no review.

We recognise that feedback has emphasised the importance of clearly communicating what 'Light-Touch reviews' will look like in practice in order to provide assurances to people. We have previously been clear that we will not needlessly reassess clients and that there will be a straightforward process for clients to report a change of circumstance should their needs change.

### **Qualifications and Experience Necessary to Carry out Assessments (regulation 38)**

Regulation 38 in the draft Regulations set out the requirement for practitioners to have been employed for a cumulative period of at least two years, in the direct

provision to individuals of health care or social care services. It also set out the specific experience required in cases that require consideration of the individual's mental health condition or conditions, and/or individual's learning disability or disabilities.

## **Respondent Feedback**

Just over two thirds (69%) of respondents who answered the question believed that the regulations relating to qualifications and experiences reflected the policy intent.

However, a number of organisations expressed concerns over the proposal that practitioners will be required to have 2 years' experience in a health or social care role. This feedback appeared to be focused on concerns that practitioners from the health and social care sector, with limited experience of working with disabled people, could carry out consultations. It was therefore suggested that this requirement was increased or changed from 'cumulative' to 'continuous'.

A further concern was raised by some respondents about whether training for practitioners took into account different expertise and experience and whether such training would be suitable. Moreover, it was suggested that practitioners employed by Social Security Scotland should receive training and support on health conditions affecting their clients as well as on dying, death and bereavement, including specifically relating to people who are terminally ill, as well as those receiving palliative care support.

## **Scottish Government Response**

We have previously committed that consultations will be carried out by people who are 'suitably qualified' to do so and employed by Social Security Scotland. In response to concerns raised during the public consultation, the regulations have been amended to stipulate that people who are suitably qualified to carry out consultations will be required to have at least two years' post qualification experience. This means that Social Security practitioners will now need to have two years' work experience after having obtained their qualification. In many cases practitioners will therefore have three years of experience while completing their qualification in addition to the two years required after that.

The respondents concerns regarding the experience required to undertake consultations appear to relate to the negative impacts of how DWP assessments are carried out. In particular, they relate to not being heard, listened to, or believed by an assessor. We are making a number of changes to how decisions are made on an application which are aimed at directly addressing these concerns, including:

- Consultations will not follow the standard duration length of DWP assessments meaning practitioners will have meaningful time to work with case managers and clients.
- Practitioners will not work in a commercial environment such as that which DWP assessors work in. Instead, Social Security Scotland practitioners' role

will be underpinned by the values of dignity, fairness and respect. Furthermore, practitioners will not have targets to meet related to award rates and quality grades for example, which can cause adverse outcomes in the current system.

- The role of a practitioner will be substantially different to the role of a DWP assessor. Practitioners will not be trained to 'assess' clients. Instead they will be trained to gather information from clients by having conversations with them, and to support case managers with information and advice.
- Where a client has a mental health condition or a learning disability or difficulty, a consultation will be carried out by a practitioner with relevant experience. This is intended to address concerns with the current DWP service around clinicians without a relevant background being involved in undertaking the medical assessments, and that individuals with a mental health condition were not properly listened to or understood.
- Specific training and guidance will be provided to practitioners and case managers on the Special Rules for Terminal Illness.

### **Determinations of entitlement to Adult Disability Payment without application (regulations 39 – 43)**

#### **Liability for Overpayment (regulation 46 and 47)**

Regulation 39 in the draft Regulations set out that the Scottish Ministers must make a determination of an individual's entitlement to Adult Disability Payment, without receiving an application, after the end of the period specified (if any) in the individual's notice of determination under section 40 of the Social Security (Scotland) Act 2018.

Regulations 40-43 set out other situations requiring a determination without an application including determinations following under and over-payment errors. The timescales relating to when changes in entitlement take effect are also set out.

Regulations 46 and 47 outlined arrangements relating to liability for assistance given in error and arrangements to recover overpayments. In addition, factors influencing the determination to affect a deduction decision are outlined.

### **Respondent Feedback**

Overall, 72% of respondents believed that the regulations relating to entitlement without application reflected the policy intent.

Additional clarification was sought on the process following over- or under-payment made in error. It was recommended that underpayments be backdated to the date of application rather than the date the error became apparent. Any overpayment sought by the Department for Work and Pensions should be undertaken in a fair and dignified way. It was recommended that a person be given considerable notice of a

requirement to repay an overpayment made in error and clear information if their account was going to be automatically debited.

A number of respondents suggested that if the award had been made in error, it was inappropriate and unethical for it to be necessary to repay these monies as this caused additional stress to people who already had considerable challenges to overcome and were at higher risk of experiencing material deprivation.

Another concern raised by some respondents related to the timeframe of reporting a change of circumstances. Some respondents commented that only having 4 weeks to report changes could disadvantage individuals who had experienced a gradual deterioration or change that could affect their eligibility.

## **Scottish Government Response**

We understand concerns around overpayments and we agree that no-one should be placed into hardship as result of repaying a debt to Social Security Scotland. Any repayments or deductions should be made on a sustainable basis. Instead of setting an arbitrary maximum and minimum which would then be enshrined in legislation, where an over-payment has occurred, we will take a case by case approach to ensure we take into account the financial circumstances of individuals.

The regulations have been further developed since the public consultation was launched, and provision has now been made for a change in entitlement due to over or under payment to take effect from the same date that the earlier determination took effect- so, entitlement will be corrected for the full period affected by the over or underpayment.

We understand that there were concerns over a 4 week timeframe to report a change of circumstance. The regulations make provision that if an individual reports a change more than 1 month after it occurs, but within 13 months of its occurrence, then their entitlement will commence at the same time as someone who reported within 1 month, so long as there is good reason for delay. Guidance will detail circumstances which may be considered to be good reason for reporting beyond 1 month. For example, it will set out the scenarios where a gradual deterioration in a health condition and/or a disability constitutes a good reason.

### **Periods in respect of a re-determination request**

Regulation 44 outlined the periods in respect of a re-determination request. Periods in respect of a re-determination request and reviews were outlined as 42 days and 56 day respectively.

## **Respondent Feedback**

A majority (77%) of respondents believed that the regulations relating to re-determination requests reflected their policy intent.

Many respondents commented that it was helpful to provide transparent timeframes. A number of organisations highlighted that the timescales proposed were an improvement from the Personal Independence Payment arrangements and that the availability of a clear timeframe for Social Security Scotland to respond to re-determination requests would provide clarity to advice agencies about when their clients/service users may need support to go to appeal.

In contrast, some indicated that the proposed time periods may be excessively long, particular if people were left without the help and assistance they require. It was highlighted by one individual that support, as previously awarded, should be paid for the period of time waiting for reassessment, as payment in arrears is insufficient to prevent hardship in the interim period.

Flexibility in the proposed permitted period for re-determination requests was considered important by many of the respondents. Gathering necessary information to support the re-determination may require a longer period of time.

It was not felt by some that those engaged to undertake the re-determination should require 8 weeks as this delay could significantly impact on people's lives. It was highlighted that waiting for re-determination was incredibly stressful for clients. However, the proposed introduction of 'Short-Term Assistance' was welcomed as this ensures that individuals continue to receive their previous payment amount until the outcome of a re-determination has concluded.

## **Scottish Government Response**

We do not propose to make a change to these specific regulations. However, we recognise concerns around the need to provide flexibility for clients requesting a re-determination. The Social Security (Scotland) Act 2018 provides an extension of up to a year for late re-determination requests where there is good reason, to ensure that flexibility is built into the process. Guidance is being developed to ensure that, where a client requests a late redetermination, their request is considered in a holistic manner, taking account both their individual circumstances and their disability.

Where a late request for re-determination is not accepted by Social Security Scotland the individual will have the right to appeal.

### **Provision of vehicles (regulation 45)**

Regulation 45 set out the mechanisms for the provision of vehicles and other equipment (such as accessible cars, scooters and powered wheelchairs) linked to the Motability scheme, which will help to meet the mobility needs of eligible individuals.

## **Respondent Feedback**

Most respondents (85%) who provided a response to the closed question, agreed that the regulations reflected the policy intent and this was one of the most widely supported regulations. The Motability scheme was considered by several

organisations and individuals as a vital form of support for disabled people to enable a sense of independence.

A few, however, felt that greater clarity was needed in relation to the management and mechanics of the scheme. In particular, respondents expressed an eagerness to know which organisation(s) would deliver the scheme, where garages/suppliers would be located, whether standard cars would be included or only 'accessible' or 'adapted' cars, what the insurance arrangements and excesses would be, and if payments could be made to adapt applicants' standard cars rather than purchasing new adapted ones.

## **Scottish Government Response**

We welcome the support of respondents to these regulations and understand the importance of the Motability Scheme to disabled people. Further information around the details of the Accessible Vehicles Scheme will be made publicly available in the relevant guidance.

### **Transfer from Child Disability Payment to Adult Disability Payment**

This part will make provision for transfer of individuals from receiving Child Disability Payment to Adult Disability Payment. Policy is not yet settled on this matter and no draft provisions were included for the purposes of this consultation.

### **Transfer of Cases between Scotland and the rest of the United Kingdom**

This part will make provision for transfer of cases between Scotland and the rest of the United Kingdom. Policy is not yet settled on this matter and no draft provisions were included for the purposes of this consultation.

### **Independent review of Adult Disability Payment and monitoring**

We plan to establish a group to undertake a review of Adult Disability Payment to commence in summer 2023. The members and chair of the group will be drawn from outside the Scottish Government. The group will also secure input from people with lived experience.

Holding the review in summer 2023 will provide the opportunity for Social Security Scotland to administer Adult Disability Payment for a full year so the necessary data and feedback from individuals can influence the recommendations.

The review will be wide ranging to allow consideration of the suitability all of the activities, descriptors and supporting criteria. For example, the review will enable an understanding of the impacts of how the eligibility criteria is being applied, including the reliability criteria, and whether there are any disproportionate impacts on those with certain disabilities or health conditions, or other protected characteristics.

We will then make the independent report and recommendations publically available to allow for transparency, scrutiny and visibility.

## **Next Steps**

We will use this consultation to inform and refine our regulations and policy proposals for Adult Disability Payment.

In addition, the Scottish Commission on Social Security (SCoSS) will scrutinise the Regulations before they are laid in the Scottish Parliament.

We will continue to engage on Adult Disability Payment using the Experience Panels, as well as key groups including the Disability and Carers Benefits Expert Advisory Group (DACBEAG) and the Ill Health and Disability Stakeholder Reference Group (IHDSRG).

We are also continuing to carry out user research to ensure every aspect of Adult Disability Payment has been tested with people who have experience of the social security system.

A summary of actions that we've taken in response to the consultation is provided here:

<b>You said:</b>	<b>We listened:</b>
<p><i>Eligibility Criteria</i></p> <p>Some respondents answered that the eligibility criteria did not consistently reflect the policy intent. Several of these respondents stated that the eligibility criteria were too narrow in their scope and that they did not adequately reflect the impact of certain conditions. This was particularly relevant for individuals with mental health conditions and variable/fluctuating conditions such as epilepsy, Parkinson's, and Multiple sclerosis.</p> <p>Much of the concern focused on the maintenance of the '20 metre rule'. Some responses suggested that the 20 metre measure was a significant barrier for those with neurological conditions, mental health issues, learning disabilities, and fluctuating conditions. Therefore, many of these responses suggested that this rule should be reconsidered or removed.</p> <p>Another significant area of discontent was with the '50% rule' which specifies that an individual must be impacted by their condition on at least half the days in every month. A small number of organisations stressed that they viewed this as inflexible and reflective of an overly medical/ functional approach.</p>	<p>We recognise concerns that people have around the way the eligibility criteria is applied and we have set out a number of actions that we are taking to apply the eligibility criteria more fairly and consistently and to ensure that the impact of a disability or health condition on an individual, including the impact of fluctuating conditions, are fully taken into account.</p> <p>We consider that in order to protect the entitlement of claimants as we move from Personal Independence Payment to Adult Disability Payment, it is favourable to largely replicate the eligibility criteria as it currently exists in PIP, and that experience of this criteria will be improved with some of the adjustments we have made, along with improved processes and guidance for practitioners and case managers.</p> <p>We consider that it is too risky to make considerable changes to the eligibility criteria before delivery of Adult Disability Payment. Any changes which widen eligibility risk the Department for Work and Pensions deciding that Adult Disability Payment is not a comparable benefit to Personal Independence Payment and withdrawing automatic entitlement to reserved payments from Scottish clients. They may decide therefore that Adult Disability Payment should not provide access to passported benefits and premiums which Personal Independence Payment currently ensures entitlement to such as Housing Benefit and Jobseeker's Allowance.</p> <p>We have made a number of commitments to change the way which we decisions are made</p>

	<p>about entitlement. This includes the removal of all functional examinations and the consistent application of the reliability criteria. In order for a determination to be made that a client is able to undertake any of the Adult Disability Payment daily living or mobility activities, they must be able to do so reliably. The reliability criteria require consideration to be given to the client's ability to complete an activity safely, to an acceptable standard, repeatedly, and in a reasonable time. Since the consultation, a number of changes have been made to how the eligibility criteria will be applied and explained to clients, including:</p> <p>Further improvements to the application form to include clear guidance on how the eligibility criteria is applied. This will ensure a client is supported in providing relevant information, guided by the reliability criteria, about how they feel after completing an activity and how long the impact lasts for.</p> <ul style="list-style-type: none"><li>• The development of further guidance on the reliability criteria for clients and case managers.</li><li>• The introduction of bespoke consultation durations. Unlike DWP assessments, a consultation will not be a standard duration. Instead, a consultation will only cover the areas of the application form which are relevant to the client and on which the case manager has requested information to make a decision. Clients will therefore not be asked unnecessary or repeated questions nor will they be rushed in giving an account of how completing an activity makes them feel. Practitioners will take the time necessary to fully understand the impacts of a disability and/ or health condition on the client.</li><li>• The development of a prompt tool to ensure practitioners cover the reliability</li></ul>
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	<p>criteria and to help them ask questions relevant to a particular disability or health condition. This will further enable practitioners to understand the full impact of an individual's disability and/ or health condition.</p> <ul style="list-style-type: none"> <li>• Undertaking work to consider how better to communicate how the eligibility criteria will be applied, including the removal of functional examinations and information on the role of case managers and practitioners, to provide assurances to those in receipt of disability benefits ahead of delivery.</li> </ul> <p>We have committed to an independent review of Adult Disability Payment. The review will take place one year following national roll-out and will consider further changes to the eligibility criteria.</p>
<p><i>Client consultations</i></p> <p>A large majority of respondents supported the proposal to invite clients to a consultation where it is the only practicable way of making a decision on entitlement.</p>	<p>Client consultations will only be used where it is necessary in order to make a determination of the individual's entitlement to ADP, and we have taken on board feedback as to how to improve assessments for clients, compared to those which have been received to date from DWP.</p> <p>Unlike DWP assessments, an ADP consultations will not be a standard duration, and will only be used where necessary for the client's entitlement to be determined. An assessment will only cover the areas of the application form which are relevant to the client and on which the case manager has requested information to make a decision. Clients will therefore not be asked unnecessary or repeated questions nor will they be rushed in giving an account of how completing an activity makes them feel.</p>

	<p>Practitioners will take the time necessary to fully understand the impacts of a disability and/ or health condition on the client.</p> <p>If a practitioner makes an informal observation during an ADP assessment, they must inform the client of this observation and any inferences drawn from it. The client, or person accompanying them, must be given the opportunity to respond to the observations. This is a significant change to the current system where a DWP assessor can make assumptions about the client without telling them, and can do so before or after the assessment has taken place.</p>
<p><i>Eligibility Criteria and Scoring System</i></p> <p>Some respondents raised concerns around the retention of the points scoring system and commented on the medical focus of this approach.</p> <p>It was felt by some respondents that the points scoring system was at odds with the social model of disability and does not account for wider environmental and cultural factors relevant to many disabled people and individuals with long term health conditions, particularly progressive and fluctuating conditions.</p>	<p>As has been set out above, we consider that in order to protect the entitlement of clients as we move from Personal Independence Payment to Adult Disability Payment, it is favourable to largely replicate the eligibility criteria as it currently exists in PIP, and that experience of this criteria will be improved with some of the adjustments we have made, along with improved processes and guidance for staff. We are, however, making a number of changes to the way decisions are made on an application, including the fairer and more consistent application of the eligibility criteria, to ensure that the full impact of a disability or health condition on an individual is understood and taken into account.</p> <p>The Scottish Government intends to move away from a medical model of disability. This is why we have removed all functional examinations including physical examinations and the Mental State Examination. Instead, where an assessment is considered to be necessary, a practitioner will discuss with the client the full impact of completing an activity. Guidance and tools will be available to the assessor to ensure that environmental,</p>

	<p>cultural and social factors are taken into account</p>
<p><i>Practitioners</i></p> <p>Some respondents expressed concerns about the proposed 2 years' experience that will be required of Social Security Scotland practitioners before they can carry out a consultation. Some commented that practitioners should have more than 2 years' experience of working in a relevant profession.</p> <p>A further concern was raised by some respondents about whether training for practitioners took into account different expertise and experience and whether such training would be suitable. It was pointed out by one stakeholder that a social care assistant with 2 years' experience of working in a care home, where formal qualifications may not be required, did not have comparable expertise with a trained and qualified nurse or occupational therapist with 2 years' experience.</p> <p>Moreover, it was suggested that practitioners employed by Social Security Scotland should receive training and support on health conditions affecting their clients as well as on dying, death and bereavement, including specifically relating to people who are terminally ill, as well as those receiving palliative care support.</p>	<p>We have previously committed that consultations will be carried out by people who are 'suitably qualified' to do so and employed by Social Security Scotland. In response to concerns raised during the consultation, we have amended the regulations to stipulate that practitioners will be required to have at least two years' post qualification experience. This means that practitioners will now need to have two years' work experience after having obtained their qualification. In many cases practitioners will therefore have three years of experience while completing their qualification in addition to the two years required after that.</p> <p>Furthermore, we are taking actions to address the negative impacts of how Department for Work and Pensions assessments are carried out. We have heard from people with experience of assessments that often they are not heard, listened to, or believed by an assessor. We are making a number of changes to how decisions are made on an application which are aimed at directly addressing these concerns, including:</p> <ul style="list-style-type: none"> <li>• Consultations will not follow the standard duration length of PIP assessments meaning practitioners will have meaningful time to work with case managers and clients.</li> <li>• Practitioners will not work in a commercial environment such as that which DWP assessors work in. Instead, Social Security Scotland</li> </ul>

	<p>practitioners' role will be underpinned by the values of dignity, fairness and respect. Furthermore, practitioners will not have targets to meet related to award rates and quality grades for example, which can cause adverse outcomes in the current system.</p> <ul style="list-style-type: none"> <li>• The role of a practitioner will be substantially different to the role of a DWP assessor. Practitioners will not be trained to 'assess' clients. Instead they will be trained to gather information from clients by having conversations with them, and to support case managers with information and advice.</li> <li>• Where a client has a mental health condition or a learning disability or difficulty, a consultation will be carried out by a practitioner with relevant experience. This is intended to address concerns with the current DWP service around clinicians without a relevant background being involved in undertaking the medical assessments, and that individuals with a mental health condition were not properly listened to or understood.</li> <li>• Specific training and guidance will be provided to practitioners and case managers on the Special Rules for Terminal Illness.</li> </ul>
<p><i>Awards and changes of circumstances</i></p> <p>A majority of respondents agreed with the proposal to have no set award duration for Adult Disability Payment and to set an award review date when a decision on an application is made, for example, setting an award review date 5-10 years in the future for a person with a condition that is unlikely to change.</p> <p>However, several respondents felt that light-touch reviews are not appropriate or necessary at any point. A significant</p>	<p>All awards will be made on a rolling basis, with no set date for an award ending. In cases where it is unlikely that a client's condition will improve, there will be at least five years between Light-Touch reviews. Work remains underway to establish parameters that could be put in place for the provision of indefinite awards for certain clients whose needs are very unlikely to change. All awards made under the Special Rules for Terminal Illness (SRTI) will be 'life-long' awards with no review.</p>

<p>number of organisations and individuals expressed support for life-long awards and the removal of reviews where the individual's condition will not change.</p> <p>Some respondents commented that only having 4 weeks to report changes could disadvantage individuals who had experienced a gradual deterioration or change that could affect their eligibility.</p>	<p>We recognise the importance of communicating what 'Light-Touch reviews' will look like in practice. We are working with stakeholders and disabled people themselves to develop inclusive communications which will provide the assurances that people have asked for.</p> <p>In terms of the concerns that a 4 week timeframe to report a change of circumstance, the regulations make provision that if an individual reports a change more than 1 month after it occurs, but within 13 months of its occurrence, then their entitlement will commence at the same time as someone who reported within 1 month, so long as there is good reason for delay. Guidance will detail circumstances which may be considered to be good reason for reporting beyond 1 month. For example, it will set out the scenarios where a gradual deterioration in a health condition and/or a disability constitutes a good reason.</p>
<p><i>Re-determinations and appeals</i></p> <p>Whilst a majority of respondents agreed with the proposal that clients have a maximum 42 days to request a redetermination, we received feedback that there was a need for flexibility, particularly since support services may be difficult to access.</p> <p>We have also proposed that when they are requested, re-determinations should be completed within 56 days of the request being made. A small number of respondents felt that 56 days is too long for people to deal with the uncertainty of a re-determination. A couple of respondents stated a preference for a 28 day period to undertake a re-determination.</p> <p>All respondents agreed that there was a need to provide transparent timeframes for the period of re-determination</p>	<p>We will ensure that flexibility is embedded within the service. For example, Social Security Scotland will be able to accept requests for re-determinations after the period of 42 days has passed if the individual has a good reason for not requesting the re-determination sooner. A consideration will be made on a case by case basis taking the specific circumstances of each case into account.</p> <p>Where a late request for re-determination is not accepted by Social Security Scotland, individuals will be able to appeal directly to the First tier Tribunal.</p> <p>We will work with stakeholders, including disabled people themselves and people with experience of the social security system, to</p>

<p>requests, and to communicate this information in an accessible and inclusive way.</p>	<p>ensure that communications are inclusive and accessible to those they are aimed at.</p>
<p><i>Residency and Presence Rules</i></p> <p>A majority of respondents provided supportive comments, suggesting that the regulations would ensure the system was 'fair', would help stop fraud, provide flexibility, and provide key exemptions to the 'past presence test' for certain groups.</p> <p>A small number of respondents commented that the 'past presence test', which requires the individual to have been resident in Great Britain for 104 weeks in the last 156 weeks, would be discriminatory and unfairly exclude some individuals.</p> <p>It was suggested that the past presence test be reduced or dropped entirely with no qualifying period for eligibility required. Suggested shorter time periods included residency of 26 weeks (or six months). Alternatively, one organisation suggested that the 'habitual residence test' would provide a suitable alternative.</p>	<p>We have listened to the feedback regarding residency and presence rules, in particular around the 'past presence test'. Since the consultation was launched, a change has been made to the regulations to reduce the past presence test from 104 out of 156 weeks to 26 out of 52 weeks.</p>
<p><i>Case transfer</i></p> <p>While a majority of respondents appreciated the need for a smooth transition between reserved and devolved benefits, there was widespread concern that this meant many of the inadequacies and unfairness associated with eligibility for Personal Independence Payment would be transferred to the new system, and</p>	<p>Individuals already in receipt of DWP administered disability benefits will not need to complete a new application to Adult Disability Payment when it launches.</p> <p>We will consider how best to communicate with such individuals in advance of delivery. We recognise the pressing need to provide</p>

<p>therefore would not represent a significant improvement. A majority of the respondents expressed some kind of concern about the transfer from DWP to Social Security Scotland.</p> <p>Some respondents suggested that robust promotion would be required to ensure that those eligible for Adult Disability Payment were made aware that they would not have to apply for it and given reassurances that they would not see a reduction in their award.</p> <p>Several respondents were concerned that people would ‘lose out’ as a result of case transfer. In particular, there were concerns that some might lose the enhanced mobility benefit from Disability Living Allowance.</p>	<p>assurance to people who are worried about their award.</p>
<p><i>Terminal Illness</i></p> <p>The majority of respondents supported that the proposed regulation on terminal illness</p> <p>Some respondents emphasised their support for awards for individuals with a terminal illnesses being life-long awards whereas others requested further information on the guidance for practitioners.</p>	<p>We have made a commitment that all awards made under terminal illness rules will be ‘life-long’ awards. There will be no review dates for these awards</p> <p>The Chief Medical Officers’ guidance and relevant guidance for Social Security practitioners and case managers will set out the process and the rules that they should follow. This guidance has been developed with the input of clinicians and stakeholder organisations.</p>

## Equalities Impact Assessment (EQIA)

<b>Title of Policy</b>	Disability Assistance for Working Age People (Scotland) Regulations
<b>Summary of aims and desired outcomes of Policy</b>	<p>The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance for Children, Attendance Allowance and Personal Independence Payment.</p> <p>These benefits will continue to be delivered during a transition period by the Department for Work and Pensions under the terms of an Agency Agreement with the Scottish Government to ensure the safe and secure devolution of disability benefits.</p> <p>The Scottish Government intends to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers.</p> <p>The Disability Assistance for Working Age People (Scotland) Regulations set out how we will</p>

	<p>deliver Adult Disability Payment. This was formerly known as Disability Assistance for Working Age People. It will replace Personal Independence Payment for people living in Scotland, accepting new applications from individuals between the ages of 16 and state pension age.</p> <p>The regulations set out the detailed rules surrounding entitlement to Adult Disability Payment.</p> <p>This policy is closely aligned with the Healthier, Wealthier and Fairer Strategic Objectives, and contributes to the following National Outcomes:</p> <ul style="list-style-type: none"> <li>•We respect, protect and fulfil human rights and live free from discrimination;</li> <li>•We tackle poverty by sharing opportunities, wealth, and power more equally;</li> <li>•We live in communities that are inclusive, empowered, resilient and safe; and</li> <li>•We grow up loved, safe and respected so that we realise our full potential.</li> </ul>
<p><b>Directorate:</b>  <b>Division:</b>  <b>Team:</b></p>	<p>Social Security Directorate  Social Security Policy Division  Disability Benefits Policy Unit</p>

## **Executive summary**

The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance for Children, Attendance Allowance and Personal Independence Payment.

These benefits continue to be delivered during a transition period by the Department for Work and Pensions under the terms of an Agency Agreement with the Scottish Government, to ensure the safe and secure devolution of disability benefits.

The Scottish Government intends to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers with determinations carrying a right of appeal to the First-Tier Tribunal for Scotland's Social Security Chamber.

The Scottish Government intends to launch disability assistance for new applicants first. This includes individuals who are not in receipt of a United Kingdom or Scottish Government disability benefit. Transfer of existing Department for Work and Pensions clients to Social Security Scotland will take place at a later point without clients needing to make a new application. Clients will be no worse off at the point of transfer, and Social Security Scotland will honour the client's award review date.

The Disability Assistance for Working Age People (Scotland) Regulations set out how we will deliver our replacement for Personal Independence Payment, Adult Disability Payment. This was formerly known as Disability Assistance for Working Age People.

The public sector equality duty is a legislative requirement which states that the Scottish Government must assess the impact of applying a proposed new or revised policy or practice on groups with protected characteristics. Policies should reflect that different people have different needs. Equality legislation covers the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

This Equality Impact Assessment has identified potential impacts on disabled people in Scotland as a result of replacing Personal Independence Payment with Adult Disability Payment. It was found that, overall, our policy would have a positive impact on people in Scotland with protected characteristics. Where areas of improvement have been identified, we have made changes to better meet the needs of people living in Scotland.

These changes build on the 2018 Act's framework of a new system that is underpinned by dignity, respect and a human rights based approach to delivering social security for the people of Scotland. This impact assessment is one of a package to accompany the regulations. The others are: Business and Regulatory Impact Assessment (BRIA); Island Community Impact Assessment (ICIA) Children's Rights and Wellbeing Impact Assessment (CRWIA); and the Fairer Scotland Duty Assessment.

## **Background**

As part of the Scottish Government's commitment to a safe and secure transition, we do not propose to make significant changes to the existing Personal Independence Payment eligibility criteria for Adult Disability Payment. Social Security Scotland must commence delivering Adult Disability Payment before wider changes are made, to enable full consideration of the impact of any possible changes to eligibility criteria and to ensure that any such changes do not inadvertently disentitle clients who are currently in receipt of an award or other benefits delivered by DWP. We must ensure that people's payments are protected during this transition period as we commence delivery.

However, we have set out several differences between Adult Disability Payment and Personal Independence Payment which we expect to have a positive impact on disabled people in Scotland. We also plan to establish a group to undertake a review of Adult Disability Payment to commence in summer 2023. The review will allow consideration of the suitability all of the activities, descriptors and supporting criteria while not jeopardising the safe and secure transition.

## **Who was involved in this EQIA?**

In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social

Security (Scotland) Bill. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses. In particular comments were invited on a partial Equality Impact Assessment which represented the Scottish Government's work on the impact of social security policy on people with protected characteristics prior to the consultation.

There were 521 formal written responses submitted, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions, and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 May 2017<sup>2</sup>. In addition, the Equality Impact Assessment that was published alongside the Social Security (Scotland) Bill was used to inform the partial Equality Impact Assessment for these Regulations.

The Scottish Government has set up Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017. The Panels involve people with lived experience of the benefits that are coming to Scotland. In July 2019 recruitment to the Experience Panels was reopened. We have been working with relevant stakeholders to specifically target disabled people from seldom heard groups as part of our engagement.

Two surveys regarding the case transfer process were sent out to Experience Panel members in January and February 2019. 404 and 559 responses were received respectively. A series of individual and group interviews were also conducted. Results from both surveys and the interviews were published in 2019.<sup>3</sup> These surveys confirmed that of most importance to panel members was that they continue to receive the correct payment at the correct time.

The Consultation on Disability Assistance built on the work on the Experience Panels and was published on 5 March 2019. In line with the principles of dignity, fairness and respect, the Scottish Government sought the views of the people of Scotland on the three proposed disability assistance benefits. The consultation closed on 28 May 2019, having received 263 replies, of which 74 were from stakeholder organisations and 189 were from individuals.

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<sup>2</sup> <https://www.gov.scot/publications/analysis-written-responses-consultation-social-security-scotland/>  
<sup>3</sup> See <https://www.gov.scot/publications/social-security-experience-panels-case-transfer-survey-findings/> and <https://www.gov.scot/publications/social-security-experience-panels-designing-case-transfer-process-main-report/>

Regarding disability assistance, an initial framing exercise for the partial Equalities Impact Assessment was carried out in 2017 involving a range of internal Scottish Government stakeholders. In addition to highlighting a number of positive impacts and potential barriers, the exercise enabled significant data gaps to be identified. This in turn led to the targeted consultation with stakeholders representing people with protected characteristics which was undertaken during the Consultation on Disability Assistance between 5 March and 28 May 2019.

The Scottish Government has also undertaken ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG) as well as the Ill Health and Disability Benefits Stakeholder Reference Group. DACBEAG is chaired by Dr Jim McCormick and comprises individuals with significant practical experience of the UK social security system, from a range of professional backgrounds. It is independent of the Scottish Government. The Group's role is to advise Scottish Ministers on specific policy options for disability assistance and carers benefits due to be delivered in Scotland.

The Ill Health and Disability Benefits Stakeholder Reference Group was set up in March 2016 to inform and influence the development of policy options relating to devolved Disability Assistance. This group has advised on the potential impact of policy decisions as well as stakeholder engagement.

On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on drafts of the accompanying impact assessments. The consultation ran until 15 March 2021 and received 127 responses from individuals and stakeholder organisations. A number of changes to this Equality Impact Assessment have been made in response to this feedback including:

- Undertaking further analysis of the impact of proposed changes to the application of the eligibility criteria, specifically looking at potential impacts on women and on people with one or more mental health condition and people with a learning disability and/or learning difficulty, and on people with varying health conditions.

- The introduction of measures to ensure that a Social Security Scotland practitioner gains an understanding of the full needs and experiences of a client where a consultation takes place.
- Actions to further ensure that the application of the reliability criteria mitigates the negative impacts of how the PIP eligibility criteria is currently applied by the Department for Work and Pensions.

Despite the continuing impact of coronavirus, work with Experience Panels has continued, with user testing on digital material that will be available on the Social Security Scotland website. Specifically with regards to case transfer, framing exercises have been taking place in 2020 and will continue to take place with a range of internal Scottish Government stakeholders.

## **The Scope of the Equality Impact Assessment**

This Equality Impact Assessment considers the impact of the introduction of Adult Disability Payment on disabled people who have one or more protected characteristics.

## **Data Sources**

A variety of information sources were used in compiling this EQIA, including:

- Scottish Health Survey 2018<sup>4</sup>;
- Scotland's Census 2011<sup>5</sup>;
- NRS Scotland Mid-year Population Estimates<sup>6</sup>;
- Social Security Experience Panel findings;
- responses to our Consultation on Disability Assistance in Scotland<sup>7</sup>;
- advice from our Disability and Carer Benefits Expert Advisory Group<sup>8</sup>; and
- the Department for Work and Pensions stat Xplore statistics.

<sup>4</sup> <https://www.gov.scot/publications/scottish-health-survey-2018-summary-key-findings/>

<sup>5</sup> <https://www.nrscotland.gov.uk/statistics-and-data/census>

<sup>6</sup> <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2019>

<sup>7</sup> <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/pages/3/>

<sup>8</sup> <https://www.gov.scot/groups/disability-carers-benefits-expert-advisory-group/#:~:text=The%20Disability%20and%20Carers%20Benefits,on%20disability%20and%20carers%20benefits.>



Child Disability Payment assistance for an additional two years before they will be required to apply for Adult Disability Payment. That does not however stop clients moving from Child Disability Payment to Adult Disability Payment before age 18 should they wish to. It will be important for clients to be aware that as Child Disability Payment and Adult Disability Payment are two different forms of assistance with different criteria, they may not be entitled to Adult Disability Payment, in spite of being in receipt of Child Disability Payment. Further, if in making a determination in relation to Adult Disability Payment, information comes to light which suggests the client may have experienced a change of circumstances, an unscheduled review of their Child Disability Payment entitlement may be commenced. Clients may therefore decide to remain on Child Disability Payment until they are 18.

Individuals applying for disability assistance for the first time who are 16 and above will apply for Adult Disability Payment. This will ensure that clients will not be required to apply for another benefit a short time after being awarded Child Disability Payment.

We have also made changes to the application process for all forms of disability assistance, including Adult Disability Payment, which will help to reduce stress and anxiety for clients. Firstly, we are utilising a new approach to gathering supporting information. Case managers within Social Security Scotland will, if requested, help clients gather existing supporting information from public sector sources. This could include professional sources (such as confirmation of a diagnosis from a GP) or informal sources (accounts of the needs of the client from a family member or carer). In many cases, a case manager will only seek one source of formal supporting information to make a decision regarding an individual's entitlement to Adult Disability Payment.

Case managers will also have access to Social Security Scotland practitioners who, alongside conducting client consultations, will be able to provide specialist advice if required during case discussions. This might include side-effects of a particular medication, how a disability or health condition will typically affect someone, or the way in which two conditions may interact. This approach will allow case managers to make an informed decision regarding an individual's entitlement to Adult Disability Payment. It will also help to ensure that it is only when there is no other practicable way to gather accurate information about a client's needs that they will be invited to attend a client consultation.

This will reduce the stress and anxiety young people have reported experiencing in the current system as, in the majority of cases, consultations will not be required to make a determination of entitlement. Where a consultation is required, we have worked to improve the process and make sure that practitioners who carry out consultations are suitably qualified to do so, reducing the risk of clients experiencing stress and anxiety.

9.6% of all working age and older people described having a condition which limited their day-to-day activities "a lot" in the 2011 census. We know that the older population is more likely to be affected by disabling conditions: 7% of those aged 16-64 describe having a condition which limits their day-to-day activities a lot but this rose to 27.6% of those aged 65 and above.

Adult Disability Payment will continue to be available to individuals over state pension age where they are in receipt of Adult Disability Payment when they reach that age or where no more than one year has lapsed since their award ended. Individuals over state pension age who have not had a previous award of Personal Independence Payment or Adult Disability Payment, will apply for Attendance Allowance, or Pension Age Disability Payment when that is introduced in Scotland to replace Attendance Allowance.

## **Disability**

We have made many changes which we believe will have a positive impact on disabled people in Scotland.

By the end of October 2019 more than 1.4 million Disability Living Allowance reassessment applications for Personal Independence Payment had been cleared in Great Britain with 39% (556,000) leading to award increases, 14% (200,000) remaining unchanged, and 47% leading to a reduction or disallowance (603,000).

Detailed research by the Scottish Government in 2017<sup>9</sup> showed that the biggest impact was felt by individuals receiving the highest rate for both care and mobility components. Between 2013 and 2016, 6,400 people lost financial support of up to £7,000 per year as a result of the transfer from Disability Living Allowance to Personal Independence Payment. Since Personal Independence Payment was introduced, figures show

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<sup>9</sup> [UK welfare policy: impact on disabled people - gov.scot \(www.gov.scot\)](http://www.gov.scot/welfare-policy/impact-on-disabled-people)

that 25% undergoing the transfer in Scotland have lost entitlement to disability benefits entirely according to a report published by the Scottish Government in 2020.<sup>10</sup> The most recent figures from the Department for Work and Pensions estimate that, in Scotland, 22% of cases are disallowed.

New applications for Personal Independence Payment make up roughly 57% of Personal Independence Payment awards in Scotland and have a 46% success rate. These new applications make up 67% of assessments carried out in Scotland. Despite this, new applications are less likely to result in entitlement, with more than half of all applications (at the time of the report, this accounted for 160,000 cases in Scotland) being 'disallowed'. This accounted for 81% of all instances of disallowed cases in Scotland.

According to participants in our Experience Panels, the most negative part of applying for Personal Independence Payment was attending face-to-face assessments with one participant stating that it was "honestly one of the most traumatic experiences of my adult life".

For many, the experience of undergoing a face-to-face assessment was extremely stressful and anxiety inducing with some participants stating that it had an impact on their health. Additionally, when we engaged with parents to discuss their children moving from child to adult disability benefits, many told us that their teenage children refused to attend a Department for Work and Pensions face-to-face assessment entirely because of this fear and anxiety, resulting in a loss to the household income.

### **When consultations will take place**

We have previously committed to reducing the number of face-to-face assessments that will be carried out by Social Security Scotland. We are doing this by improving the process of gathering supporting information and decision making. Face-to-face assessments will be replaced with client consultations. Clients will only be invited to participate in a consultation if it is the only practicable way to gather information about their needs.

Before inviting a client to a consultation, case managers within Social Security Scotland will work with clients to gather supporting information,

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<sup>10</sup> [Welfare reform: impact report on benefits for disabled people - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultations/web_publications/welfare-reform-impact-report-on-benefits-for-disabled-people)

including doing so on their behalf, with the client's consent. Case managers will seek only one source of formal supporting information (for example provided by a GP, social worker, nurse or support worker). They will also use informal sources of information such as accounts from carers or family members who are able to give an accurate account of the needs of the client. This way, we will help to ensure that people are not disadvantaged by a lack of formal supporting information. It is only when there is no other way to gather sufficient information about the needs of a client that they will be invited to attend a consultation. This will help to ensure that individuals are not invited to attend a consultation unnecessarily which will reduce potential stress and anxiety.

### **Social Security Scotland Practitioners**

A key theme throughout our consultation on Adult Disability Payment and engagement with our Experience Panels was that there was no trust in the assessment process, assessors or the contractors that are responsible for carrying out assessments. It was generally felt that more knowledgeable assessors would lead to more accurate reports, higher quality assessments and fairer outcomes for clients.

Consultations will be carried out by health and social care practitioners of Social Security Scotland who will be suitably qualified to do so as required by the 2018 Act. Practitioners will have experience in the provision of health and social care and be able to evidence experience working in a relevant role for at least two years. A proportion of practitioners will also have particular experience in mental health and learning disabilities as recommended by the Disability and Carers Benefits Expert Advisory Group.

This is particularly important given that, according to Department for Work and Pensions data, a large proportion of clients, some 108,081 in Scotland, have mental health conditions such as anxiety or depression, or global learning disabilities and difficulties. We have listened to feedback from individuals who report their mental health condition not being properly taken into account during an assessment because the assessor did not appear to have a sufficient understanding of mental health. People have also shared their experiences of assessors displaying a lack of empathy for a mental health condition or learning disability.

Suitably qualified practitioners will help address the negative impact on individuals that experiences such as these have. They will ensure that,

when a client is invited to attend a consultation, they are able to engage in the discussion with someone who has an appropriate understanding of their disability or health condition.

## **The consultation process**

A significant change we are making is to take a multi-channel approach to how consultations take place, such as by phone or video call, removing the need for clients to travel to unfamiliar assessment centres in the majority of cases. While we expect it will be helpful for many clients, we understand that a telephone consultation will not be the best option for everyone and we know that clients have valid concerns over the way telephone assessments have been carried out by Department for Work and Pensions in recent months because of COVID-19.

Where a client is not able to express themselves over the phone or is uncomfortable doing so, we will work with the client to find alternative ways of carrying out a consultation. Clients will also be able to request a face to face consultation if they feel it is the best way of articulating the impact of their condition or disability. Social Security Scotland will continue to provide in-person consultations when required to meet a client's access needs, either by a practitioner attending the client's home, or at a local partnership location, such as a GP surgery.

Social Security Scotland will discuss with clients invited for a consultation the most suitable way for it to be carried out, to ensure their particular needs are met. This will help to address some of the difficulties outlined by our Experience Panels members who highlighted how difficult traveling to a Department for Work and Pensions face-to-face assessment could be, particularly if they had to travel a large distance or had a disability which made attending a Department for Work and Pensions assessment difficult or impossible which, consequently, made an already stressful experience worse.

A telephone consultation carried out by a practitioner from Social Security Scotland will be substantially different from Department for Work and Pensions telephone assessments. For example, clients will not face the same pressures to explain or 'prove' their disability or condition, as exemplified by our commitment to abolish functional examinations which is further explained below.

We will also audio record consultations as standard to promote transparency and trust in the process. The proposal to record consultations was approved of by 72% of participants in our Experience Panels. When asked why, many cited the lack of trust in the Department for Work and Pensions assessment process. A large majority of respondents to our Consultation on Disability Assistance were also in favour of consultations being recorded.

Recording consultations will help to improve trust in our system by ensuring that decision making is transparent. Having a record of what was said during the consultation was seen as beneficial for individuals by Experience Panel participants as it allows individuals whose disability or health condition has an effect on their memory to have a record of what was said. We also recognise that some people may not wish for their consultation to be recorded. Individuals will be able to opt out should this be the case.

### **Removal of functional examinations**

There are many reasons for our decision to not carry out functional examinations during a consultation. Firstly, Adult Disability Payment supports disabled people or those with long term health conditions that can vary over days, weeks or months, while an examination can only offer a view at a single point in time. Obtaining an informed understanding of the impact of a condition or disability on a client will always involve several sources of information. The additional value of an examination will, for many people such as those living with Multiple sclerosis or epilepsy for example, not provide an accurate reflection of their potential level of need. There are other ways of understanding the nature of a client's needs such as confirmation of a diagnosis or the level of support they require.

Where the client has provided information in the course of a discussion, we believe it is undignified to then ask the client to prove a lack of function through a test. In the Scottish Government system, the consultation will allow the time needed for a client to give the additional information required. Practitioners will come from a position of trust in the client when discussing how the client's health conditions or disability affect their daily life.

We will also not carry out any examinations to determine needs related to mental health such as the Mental State Examinations carried out by the Department for Work and Pensions. We are aware that, during a PIP

assessment, a significant amount of weighting is placed on the Mental State Examination. This provides a snapshot of findings which does not take account of the variable nature of many clients' experience of their mental health condition.

There are also many conditions which do not have associated functional examinations within the Personal Independence Payment assessment. These include epilepsy, any conditions affecting internal organs such as Crohn's Disease, heart failure, kidney failure, tinnitus, cluster headaches, and cystic fibrosis. Removing the functional examinations from our consultations will promote a consistent service where no client is disproportionately scrutinised simply because they have a disability which is easier to examine than others. This consistency will contribute to our commitment that clients with varying disabilities or health conditions will be treated equally.

The consultation will be an objective discussion between a client and a practitioner, based on a position of trust. A case manager may not require information about every descriptor and will indicate to the practitioner which descriptors they are unclear on so the practitioner will not ask unnecessary questions by rote. This will lessen the likelihood of clients feeling as if the consultation is designed to "catch them out" and further help to reduce stress and anxiety.

### **Informal observations**

We are also changing how informal observations will be handled during consultations. The consultation on Adult Disability Payment and engagement with our Experience Panels highlighted that, while many found the assessment better than they expected, this changed when they received a copy of the report. This is because they felt assessors had not accurately reported the conversation or felt that the observations they had made were inaccurate. They were also not given a chance to contest these observations. Respondents to our 2019 Consultation on Disability Assistance went on to say that informal observations could be 'inappropriate' for certain conditions such as autism or mental health conditions.

Consideration of responses and advice from the Disability and Carer Benefits Expert Advisory Group has informed our approach to informal observations. Firstly, practitioners will be provided with specific guidance, training and resources regarding informal observations. Clients must also be made aware of what informal observations are, why

they are being made, and the impact they will have. All informal observations will also be made known to the client so that they have the opportunity to respond. This will be beneficial as it will allow us to be as transparent as possible during the consultation process by ensuring that clients are aware of what is going on and reduce the likelihood of practitioners making inaccurate assumptions.

### **How we will apply the eligibility criteria**

We have listened to feedback from our public consultation on Adult Disability Payment regarding the proposed eligibility criteria. In particular, the consultation highlighted how clients with mental health conditions, autism, learning disabilities and those with variable health conditions for example, do not feel treated fairly by the assessment process or the application of the PIP eligibility criteria.

In response, we are taking steps to apply the criteria differently to how it is currently applied by the Department for Work and Pensions to ensure that all clients are treated equally and fairly. The above sections set out how the application process and new client consultation service will reduce the negative impacts on individuals with these health conditions. The way in which eligibility and entitlement will be decided for Adult Disability Payment will be fundamentally different to how it is decided for Personal Independence Payment.

Unlike the Department of Work and Pensions, we will not require evidence of every impact that the client reports. We recognise that the current approach presents particular challenges for individuals with limited mobility, or with variable health conditions such as Multiple sclerosis. This is because a GP is often not able to describe the impact of someone's health condition on their day to day mobility needs. Instead, the supporting information we require to make a decision on entitlement need only be consistent with the needs detailed by a client on their application.

Furthermore, we will properly apply the reliability criteria. This means that someone can only be considered able to complete an activity if they can do so safely, repeatedly, in a reasonable time, and to an acceptable standard. Instead of this simply being a tick box exercise, this criteria will be enshrined in law and it will be used to ensure a full account of how a client experiences an activity such as moving around is produced.

In the current system, PIP assessments last for a standard amount of time. Assessors are given one hour to complete an assessment regardless of how much time may be required. Individuals have reported both feeling rushed and not being properly listened to during a PIP assessment. During our public consultation, we heard how individuals have been asked questions repeatedly or have been asked questions that seemingly bear little relevance to their health condition or disability.

Where a client participates in a consultation for Adult Disability Payment, they will be given a bespoke appointment duration based on the needs identified by the case manager. Social Security Scotland practitioners will be given the time they need to fully understand the impact of a client's condition or disability.

To support practitioners and clients during a client consultation, we are developing a consultation tool which will prompt the practitioner to fully explore the reliability criteria with the client. In doing so, the practitioner will get a better understanding of the full impact that completing an activity has on an individual, rather than simply establishing whether they are capable of completing the activity.

Therefore the information obtained during a consultation will be detailed and more representative of the clients' needs and experiences. This will prevent snap-shot judgements and limit the negative impacts of the way that the eligibility criteria is applied for determining eligibility for PIP. Not only will this improve the overall experience of applying for disability benefits, giving client's sufficient time to discuss their needs during a consultation and ensuring the eligibility criteria is applied consistently and fairly will also improve the consistency and accuracy of decision making.

### **Our new definition of terminal illness**

As of July 2020, there were 3,134 individuals in Scotland accessing Personal Independence Payment under Special Rules for Terminal Illness.

It is anticipated that the new definition of terminal illness will support recognition of a wider number of illnesses and conditions than can be accounted for under the current definition in the reserved system. Engagement with stakeholders has indicated that this is because the current time limited definition of terminal illness is able to recognise individuals with malignant illnesses or neoplasms (cancers) at the end of

life, but is weaker in recognising individuals with other degenerative conditions, as it can be harder to predict length of life for these illnesses. In these circumstances, individuals with such conditions do not meet the definition of terminal illness in the reserved system.

We can see this comparing cause of death among adults in Scotland from 2018. From the Department for Work and Pensions data available, around 80% of individuals applying for Personal Independence Payment who have a terminal illness in 2018 in Scotland identified their main disabling condition as malignant diseases. However, when we compare this with deaths in Scotland that could be due to terminal illness (i.e. excluding accidental and intentional deaths), malignant illnesses only accounted for around 40% of deaths of working age people. These figures indicate that it is reasonable to deduce that a much smaller percentage of people with a non-malignant terminal illness are currently accessing reserved disability benefits through special rules than those with malignant diseases.

Our new definition will allow medical professionals, including registered nurses, to use their clinical judgement when determining whether an individual has a condition which can reasonably be expected to result in their death. This means that individuals who would otherwise not be entitled to Adult Disability Payment through Special Rules Terminal Illness will be able to do so under our new definition, thereby having a positive impact on the protected characteristic of disabled people in Scotland.

### **Award duration and reviews**

Between June 2016 and July 2020, 17% of awards reviewed led to increases, 15% to decreases, 44% remained the same, and 24% were disallowed. This does not include instances where a client has requested a mandatory reconsideration or appealed a decision. Including all instances of mandatory reconsiderations (involving reviews, change of circumstances, new applications and reassessments from Disability Living Allowance), it is estimated that mandatory reconsiderations take place in a fifth of cases in Scotland. Around 10% of the aforementioned appealable decisions result in appeals. United Kingdom-wide, 76% of appeals received a decision in favour of the client in 19-20.

We know that, for many people in the current system, the end of their award for disability benefits can be extremely stressful, particularly for

individuals whose conditions are unlikely to change over time and who are consequently subject to unnecessary reassessments of entitlement.

Making awards rolling, subject to reviews, will help to reduce stress and anxiety associated with coming to the end of entitlement to assistance by removing the perception of reaching a financial cliff edge. By continuing entitlement while a review is taking place, we will ensure that disabled individuals continue to receive the assistance they are entitled to until a case manager has made a new determination.

The process for reviewing awards will be light-touch, providing a balance between respecting the needs of the individual and robust decision-making. Having a light-touch review process is more appropriate, particularly where a client's needs are unlikely to have changed significantly. 66% of respondents to our Consultation on Disability Assistance agreed with this approach alongside general agreement from our Experience Panels.

Additionally, when asked if awards should be between 5-10 years for individuals with conditions unlikely to change, 58% of respondents to the consultation agreed. This will help to cut down on the number of unnecessary reviews of awards disabled people will need to go through and as a result, the stress and anxiety, thereby having a positive impact on individuals who fall under this protected characteristic.

### **Re-determinations, appeals and short-term assistance**

The Consultation on Disability Assistance set out the rights already provided to individuals through the Social Security (Scotland) Act 2018 with regards to requesting a re-determination or appeal. When asked to comment on our proposals, a majority of respondents (58%) agreed. However, some organisations held differing views.

When asked if 31 days was long enough to request a re-determination, some of the feedback provided suggested that accessing support or advice on challenging a decision can be time consuming and individuals may need longer than 31 days to do so. There was an emphasis on the need to take into account individual circumstances. We also noted concerns raised by a small number of respondents that a short timescale may deter individuals from challenging a decision. Similar concerns were raised in our Experience Panels.

We want to ensure that no one is disadvantaged by time limits for challenging a decision. In response to the feedback from the consultation and our Experience Panels, we have extended the time limit for requesting a re-determination to 42 calendar days. Key stakeholders have agreed with this change. This will provide individuals with additional time to seek advice or gather supporting information which might be required before requesting a re-determination. This is likely to be particularly beneficial for disabled people who live in remote or rural areas which make gathering such advice and information more difficult.

We proposed to give Social Security Scotland 40-60 days to reconsider a decision, as it may be necessary to collect supporting information on behalf of the individual, and this information may take some time to obtain. A majority (60%) agreed with this proposed approach. However, some stakeholders felt that this was an excessive period for someone to be left without clarity over their award level or eligibility.

Given concerns raised in the consultation, and subsequent stakeholder engagement, we have decided that Social Security Scotland will have 56 calendar days (8 weeks) to undertake a re-determination. If a re-determination is not completed by the end of this period, an individual can appeal directly to the First-Tier Tribunal (FtT) for Scotland.

This will be beneficial as it will ensure that disabled people and their families or carers will have certainty about how long Social Security Scotland has to complete a re-determination. Similarly, by enabling individuals to appeal directly to the FtT should Social Security Scotland be unable to complete the re-determination process within the timescale, this will further reduce any uncertainty and, consequently, make people feel more confident in challenging a decision they do not agree with.

During this time, individuals will continue to be entitled to the new rate of Adult Disability Payment, where an award has been made. This will help to alleviate some of the worry expressed by participants in our Experience Panels who raised the point that challenging a decision can have a financial impact, particularly in cases where mandatory reconsiderations in the current system have taken a long time.

We are also introducing support for individuals during the re-determinations and appeals processes through Short Term Assistance. The purpose of Short Term Assistance is to ensure that an individual is not discouraged from challenging a decision or accessing administrative justice by having to manage, for a period, with a reduced income.

It will do this by ensuring that, if a mistake has been made by Social Security Scotland, disabled people will continue to receive the payments they would have been entitled to should the mistake not have been made. This will allow individuals and their families and carers to continue to meet the additional costs of having a disability while their award of Adult Disability Payment undergoes a re-determination or appeal.

During the Parliamentary passage of the Social Security (Scotland) Act 2018, the inclusion of Short Term Assistance was welcomed by stakeholders and supported by Parliament. When asked for views on Short Term Assistance in the Consultation on Disability Assistance in Scotland, respondents were overall in favour of our proposals with some concerns raised that, originally, Short Term Assistance was not intended to be available for individuals residing outside of Scotland. This has since been changed, allowing individuals living outside of the United Kingdom to apply for Short Term Assistance if they are in receipt of a qualifying benefit such as Adult Disability Payment. We recognise the complexities involved in this and will carry out further work to understand the impacts.

Our proposal that Short Term Assistance should not be recoverable was also met with approval (87%). This will ensure that, should a re-determination or appeal be unsuccessful, there will not be any overpayments that individuals will need to worry about repaying. This will help to prevent a further reduction in household income should the re-determination or appeal be unsuccessful, something which was stressed by respondents.

When engaging on the topic with our Experience Panels, Short Term Assistance was seen as beneficial as it would make it more likely for people to challenge a decision by Social Security Scotland with particular emphasis on Short Term Assistance reducing financial pressure and giving people more confidence in challenging a decision. This will help to ensure that disabled people continue to access the assistance they are entitled to and feel confident in accessing administrative justice.

## **Marriage and civil partnership**

Although the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example Human Resource policies and practices, we have not identified any particular barriers resulting from our policy approach which

may affect people with the protected characteristic of marriage or civil partnership.

## **Pregnancy and maternity**

We do not currently have any data on the number of disabled people that fall under this protected characteristic. Joint research carried out by Engender and Inclusion Scotland looked at the issues facing disabled women. Part of this research highlighted perceptions of disabled women regarding their ability to parent or whether they should become pregnant. Respondents also discussed the fear of having their children removed from their care due to the perception that they were not able to adequately care for them.

Engender proceeded to discuss instances where a disabled woman was able to carry out tasks relating to caring for children which resulted in them being judged as not entitled to disability benefits. The example provided detailed how a mother was able to prepare a meal for her child but not herself, requiring another person to do it. Because she was able to make a meal for her child, she was deemed not to be entitled to assistance. When asked what improvements could be made, key amongst them was a need for equalities training.

People employed by Social Security Scotland will be required to undertake equality training in-line with our commitment to delivering a service based on the values of dignity, fairness and respect. We will also trust what clients tell us about their needs during the application process and during consultations where they take place. This will help to ensure that individuals who fall within the protected characteristics, including pregnancy and maternity, do not experience discrimination when making an application for assistance or engaging with Social Security Scotland more broadly.

## **Race**

Just under 4% of Scotland's population belong to minority ethnic groups, and 7% of our total population communicate in home languages other than English. Although we do not have statistics showing the number of people within Scotland who are in receipt of disability benefits and who belong to minority ethnic groups, we know that they generally make up 3.7% of those with a reported learning disability or developmental disorder.

The 2011 census found that, for the general population, “White” people are more likely to say their day to day activities are limited “a lot” or “a little” by their long-term health conditions, compared to their share in the population. This is not true for any of the other ethnic categories apart from “Caribbean or Black” respondents aged 0-24 who are slightly more likely to say their day-to-day activity is limited “a little”.

There was a wide variation between men and women in different ethnic groups. Women from the three groups Bangladeshi, Pakistani and Gypsy/Traveller recorded higher rates of 'health problem or disability' than women from the “White: Scottish” ethnic group, while men from only two ethnic groups, “Pakistani” and “Gypsy/Traveller”, recorded higher rates of “health problem or disability” than men from the “White: Scottish” ethnic group. Additionally, findings from the UK Government’s race disparity audit<sup>11</sup> found that Black women (29%) were more likely to have experienced anxiety or depression than White women (21%) and were less likely to seek treatment. This is the same regardless of gender with 7% of Black adults in the United Kingdom compared to 14% of White adults reporting receiving treatment at the time of the report.

We are aware that there are particular barriers for individuals from minority ethnic groups in applying for disability benefits, especially those with English as a second language, as there may be difficulties in accessing or understanding their entitlements due to language or other communication barriers. In particular, participants in our Experience Panels stated that they were not confident in using online resources or other materials because, while they felt they could speak English conversationally, they did not feel comfortable making sense of the complicated and technical language often used by authorities. To address this, work has been undertaken with ethnic minority groups alongside the main Experience Panels as part of our Benefit Take-up Strategy.

Experience Panel engagements with people who use English as a second language also showed that there is often an assumption around the most commonly translated languages. There is an expectation that Social Security Scotland will mirror provision by other public sector organisations, and speakers of less common languages have told us that they will generally opt for letters in English, on the assumption that there are no materials available in their home language. This removes individual agency, forcing some individuals to rely on support to apply,

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11 [Race Disparity Audit - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

and creating a barrier to take-up. Additionally, many participants also expressed concern that they would misinterpret information and, as a result, they would be sanctioned or prosecuted because of language barriers.

The ethnic minority population also includes refugees. Scotland has resettled 3,180 people under the Vulnerable Persons Resettlement Scheme and Vulnerable Children Resettlement Scheme since the start of 2014. Refugees are eligible for benefits such as disability benefits, but typically experience additional barriers to the general population in accessing them. We have undertaken specific engagement with this group to understand better some of the barriers to applying disability benefits.

The issue of language presented a very real challenge for the Syrian refugees in our focus groups who could speak or understand very little English. This was exacerbated by lack of (Syrian) Arabic interpreters at advocacy and/or third sector organisations within their geographical area.

We were told during our engagements with Vulnerable Person Resettlement Scheme Syrian refugees that accurate information about eligibility to disability benefits was difficult to access, with some being told that refugees are not entitled to benefits at all. All spoke of a lack of knowledge of the benefit system, a fear of government officials and insurmountable challenges presented by language and dialect.

Many reported having their initial disability applications rejected, or receiving a lower rate than they expected. Some indicated that embarking on the appeal process might have been to their financial detriment, with the significant threat of no award presenting an insurmountable risk.

There is also evidence that attending an assessment may be particularly stressful for people with experience of the asylum system. Some people have traumatic experiences of being required to travel to an official government location for an appointment and are therefore reluctant to attend an assessment.

## **Our approach**

Social Security Scotland will create a range of Adult Disability Payment stakeholder resources and content in accessible formats that will be proactively supplied to relevant stakeholder organisations through the National Stakeholder Engagement team, for organisations to distribute to people in local communities. The languages we proactively translate materials into were selected through stakeholder consultation. These are: British Sign Language, Farsi, Mandarin, Cantonese, Urdu, Gaelic, Polish, Arabic, braille and easy read formats, and materials in other languages are available on request.

Social Security Scotland communications will work with community radio and foreign language press to provide messaging on Adult Disability Payment to communities. In some circumstances printed marketing materials may not be the right way to engage with these communities and where this is the case we will provide an engagement approach through work carried out by the National Stakeholder Engagement and Local Delivery functions.

Replacing face-to-face assessments with client consultations only where they are needed will mitigate the particular negative impacts we have heard that assessments have on people from ethnic minority groups. Most consultations will happen over the phone or they may happen in-person, at a location local to the client or at the client's home, where it is appropriate or requested by the client.

We were also informed anecdotally that Gypsy/Travellers operate within the 'cash economy' and that they are more likely to have a post office account than a bank account. This can be problematic in terms of receiving payments. We recognise that the payment method will be important for some people and in particular Gypsy/Traveller communities. In addition to Post Office and Credit Union accounts, payments can be made using iMovo which is a secure digital voucher system that can be delivered to individuals in several media (SMS, email). These can be redeemed at one of 2850 PayPoint outlets in Scotland. This has also been found to be useful for young adults who have not yet opened a bank account.

Social Security Scotland will continue to work with experts who have experience of benefit take-up in specific communities, such as Black Asian Minority Ethnic women and Gypsy/Travellers. The purpose will be to monitor and provide management information to effectively target

take-up activity, produce take-up resources for Social Security Scotland staff and stakeholders, and liaise with and support stakeholders and frontline staff with take-up activities. Our specific approach will draw on best practice from take-up initiatives and campaigns undertaken across Scotland and elsewhere in the United Kingdom.

## **Terminal illness**

It is known that there is a low uptake of palliative and end of life care services for British and Minority Ethnic groups. This was found to be a 'common theme' in the 45 studies included in 'Palliative and end of life care for BAME groups in the United Kingdom'.<sup>12</sup> Potential explanatory factors for the low uptake included lack of referrals, lack of knowledge about services or about what palliative care involves and religious traditions and family values in conflict with the idea of palliative/ hospice care. It is likely that some of the reasons for low uptake of palliative care could also lead to low uptake of disability assistance when terminally ill.

There is some evidence that ethnic groups can vary in the extent to which individuals would wish to know about their terminal diagnosis. This issue is discussed in relation to Chinese families and also in a cross a cultural study involving some East Asian countries.<sup>13</sup>

Our approach to terminal illness has been developed in a way that is supportive of clients from minority ethnic groups where explicit knowledge of a terminal diagnosis may be considered not to be in the best interests of the patient. The Chief Medical Officer Guidance contains important information for practitioners to support sensitive communication with individuals relating to their diagnosis. It also makes allowance for situations where sharing the terminal diagnosis with the patient would be harmful to them. To support terminally ill clients it will also be possible for a third party to complete the application form and this will similarly be supportive of clients where explicit knowledge of a terminal diagnosis is deemed not in their best interests. In these ways, the terminal illness policy is supportive of clients from minority ethnic groups.

We do not have data for individuals who are terminally ill disaggregated by ethnic group. As the numbers are small, caution would be needed to prevent the identification of individuals. To mitigate this, although the

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<sup>12</sup> [Report: Palliative and end of life care for Black, Asian and Minority Ethnic \(BAME\) groups in the UK \(mariecurie.org.uk\)](https://mariecurie.org.uk/reports/palliative-and-end-of-life-care-for-black-asian-and-minority-ethnic-bame-groups-in-the-uk)

<sup>13</sup> [A Cross-Cultural Study on Behaviors When Death Is Approaching in East Asian Countries: What Are the Physician-Perceived Common Beliefs and Practices? - PubMed \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov/28111111/)

provision of diversity information is not compulsory it will form part of the application process. This should lead to collection of better data which can be used to inform future work on Adult Disability Payment and, where relevant, our overall approach to terminal illness.

## **Religion and belief**

According to latest data published by Scottish Surveys Core Question in 2019,<sup>14</sup> 50% of respondents identified as having “no religion” while 47% identified as Christian (“Church of Scotland”, “Roman Catholic” or “other Christian”), 2% as Muslim, and 2% as an “other religion”.

Once age was taken into account, in comparison to those with no religious affiliation, a lower proportion of “other” religious groups reported good/very good general health and a higher proportion reported having a limiting long-term condition. “Other Christians” reported a higher level of good/very good general health than the “no religion” reference group.

We have not identified any particular barriers resulting from our policy approach which may affect people with the protected characteristic of religion and belief.

## **Sex**

Data from the Paperworth Trust<sup>15</sup> found that women are slightly more likely than men to be disabled in the United Kingdom (23% of females compared to 19% of males). A report by the Women’s Budget Group<sup>16</sup> has also found that, overall, women are twice as likely to rely on social security as men. The higher percentage of female compared to male disabled people can also be seen when examining data from Department for Work and Pensions who, as of July 2020, reported 124,186 male and 149,717 female clients entitled to Personal Independence Payment in Scotland.

Within these groups, the largest proportion of clients entitled to Personal Independence Payment had a ‘psychiatric disorder’, totalling 108,081. There were slightly more male (56,559) than female (51,521) clients though this was not always the case when looking at individual conditions. Within the category of ‘psychiatric disorders’, there were significantly more male clients with a behavioural or learning disability

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<sup>14</sup> [Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](http://www.gov.scot/Scottish-Surveys-Core-Questions-2019)

<sup>15</sup> [papworth-trust-disability-facts-and-figures-2018.pdf](http://www.paperworth-trust.org.uk/papworth-trust-disability-facts-and-figures-2018.pdf)

<sup>16</sup> [Social Security, Gender and Covid-19 - Womens Budget Group \(wbg.org.uk\)](http://www.womensbudgetgroup.org.uk/Social-Security-Gender-and-Covid-19)

such as autistic spectrum disorders (7,324 male compared to 2,128 female), Attention Deficit Hyperactivity Disorder/Attention Deficit Disorder (1,813 male compared to 412 female) while female clients were significantly more likely to report a mental health condition with the largest proportion experiencing mixed anxiety and depression (21,675 female compared to 15,698 male).

There is evidence that gender inequalities are likely to have become even more pronounced in light of the COVID-19 pandemic. healthcare systems come under pressure it becomes increasingly likely that women will take on further caring responsibilities.<sup>17</sup> Responses to our public consultation on Adult Disability Payment highlighted that many disabled women have caring responsibilities themselves and have taken on increased responsibilities as a result of the pandemic.

We also know from engagement with stakeholders that there are specific issues which arise for disabled women. This was also a key theme in feedback received through our recent consultation. For example, Engender have highlighted that women are far more likely to experience domestic violence and abuse and that this is compounded for disabled women.

Engender also highlighted that, for many women who attend Department for Work and Pensions face-to-face assessments, they face specific barriers due to assessors making assumptions based on stereotypical gendered roles. They noted that there has not been enough research conducted on the topic to provide a detailed analysis. This was linked to research<sup>18</sup> examining the gendered history of 'incapacity benefits' which asserts that awards tended to punish women who engaged in household labour because it was viewed as potential work activity for women, while men undertaking similar activities did not face such scrutiny at an assessment. The research further linked this to Department for Work and Pensions data which shows that men are more likely to be awarded the enhanced rate of the daily living component (52%) compared to women (46%).

As has been set out above, we will not carry out functional examinations of clients in order to decide eligibility for Adult Disability Payment. By removing functional examinations in all circumstances, there is less opportunity for gendered assumptions to affect expectations around

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17 <https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/03/GiHA-WG-Advocacy-Brief-Gender-Impact-COVID19.pdf>

18 [What do we want from the Government at Holyrood \(engender.org.uk\)](https://www.engender.org.uk/what-do-we-want-from-the-government-at-holyrood/)

daily living activities and mobility in a consultation. The consistent application of the 'reliability criteria' to ensure that clients' full range of needs are taken into account should also ensure consistency and fairness and limit the possibility of women being penalised for undertaking certain activities such as household labour.

Practitioners will be required to discuss any informal observations made during a consultation with the client. This will ensure that assumptions based on stereotypical gender roles made must either be discussed, giving the client the opportunity to disagree, or not taken into account. In practice this will enable a practitioner to gain an accurate understanding of the client's needs rather than making assumptions about the client.

Our approach to making decisions will be person-centred and based on the values of dignity, fairness and respect. People employed by Social Security Scotland will be required to undertake equalities training which will help to ensure that clients do not face discrimination, including discrimination on the basis of sex.

## **Sexual orientation and gender reassignment**

In 2017, 2.4% of people in Scotland identified their sexual orientation as "Lesbian, Gay, Bisexual or other." A report by the Equality Network<sup>19</sup> found that Lesbian, Gay, Bisexual, Transgender/Transexual (LGBT+) disabled people were more likely to experience discrimination than LGBT+ non-disabled people with 59% reporting experiencing prejudice or discrimination within the last month at the time of the report compared to 47% of non-disabled LGBT+ individuals.

There is no robust data relating to the proportion of people in Scotland to whom the gender reassignment protected characteristic applies. However, we recognise that a potential barrier to trans and non-binary people accessing disability assistance is a requirement for individuals to provide their gender when making an application. This is often discriminatory as individuals are asked to tick a box to indicate their gender. This often involves a male-female binary which does not apply to individuals whose gender does not fit neatly into one of these boxes such as individuals who are non-binary, agender or genderfluid.

During our engagement with individuals, those who had undergone gender reassignment discussed feelings of being 'outed' by this process

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<sup>19</sup> [The Scottish LGBT Equality Report — Equality Network \(equality-network.org\)](https://www.equality-network.org/)

as they had to reiterate that they had changed gender and often felt disparaged by assessment staff. They also expressed frustration that the system could not cope with their attempts to amend their existing identity information, such as name and gender, within the current system.

Some people we engaged with who had undergone a Personal Independence Payment assessment in the current system reported experiencing homophobia/ transphobia by assessors. They also spoke of dismissive and disrespectful attitudes towards their shared living arrangements with same-sex partners.

Our application form has been designed to allow for individuals to identify as 'male', 'female' or 'other'. Agency staff will be recruited who embody values of dignity and respect and all training for new staff will include LGBT+ awareness and be underpinned by human rights principles. It is anticipated that these measures will have a positive effect on people applying for Adult Disability Payment with these protected characteristics.

### **Independent review of Adult Disability Payment and monitoring**

We plan to establish a group to undertake a review of Adult Disability Payment to commence in summer 2023. The members and chair of the group will be drawn from outside the Scottish Government. The group will also secure input from people with lived experience.

Holding the review in summer 2023 will provide the opportunity for Social Security Scotland to administer Adult Disability Payment for a full year so the necessary data and feedback from individuals can influence the recommendations.

The review will be wide ranging to allow consideration of the suitability all of the activities, descriptors and supporting criteria. For example, the review will enable an understanding of the impacts of how the eligibility criteria is being applied, including the reliability criteria, and whether there are any disproportionate impacts on those with protected characteristics. The review will allow a measurement of the extent to which Adult Disability Payment has reduced the negative impacts identified in this Equality Impact Assessment.

We will then make the independent report and recommendations publically available to allow for transparency, scrutiny and visibility.

## Recommendations and Conclusion

This Equality Impact Assessment process has identified that overall, the introduction of Adult Disability Payment to replace Personal Independence Payment has the potential to have a positive impact for people in Scotland with protected characteristics.

The potential positive impacts identified include:

- replacing Department for Work and Pensions private sector health assessments with client consultations undertaken by practitioners of Social Security Scotland with experience in the provision of health and social care, including a proportion with specific experience in mental health and learning disabilities;
- significantly reducing the number of face-to-face consultations that will need to be carried out due to our improved approach to gathering supporting information, decision making and, where a consultation is necessary, undertaking the majority of these by phone;
- making it easier for individuals with a terminal illness to be entitled to Adult Disability Payment through Special Rules Terminal Illness by allowing medical practitioners to use their clinical judgement and removing the six month time limit from our definition of terminal illness;
- helping to reduce the stress and anxiety experienced due to the perception of reaching a financial cliff edge by making rolling awards;
- improving the accuracy and consistency of decision making by properly applying the reliability criteria;
- alleviating some of the worry that can be caused in the review process by making longer awards and using a light-touch review process when client's conditions are unlikely to have changed;

- reducing stress and anxiety as a result of requesting a re-determination by providing certainty around how long a re-determination will take alongside providing a way to appeal directly to the FtT should Social Security Scotland be unable to do so within the specified timescale; and
- helping to encourage individuals to seek administrative justice should they believe Social Security Scotland has made a mistake through Short Term Assistance, mitigating a drop in the level of household income while also protecting people by making Short Term Assistance non-recoverable.

<p><b>Name and job title of Policy Lead:</b>  Matthew Duff  Disability Benefits Policy  Social Security Policy Division</p> <p><b>Name and job title of a Deputy Director or equivalent:</b>  Ian Davidson  Deputy Director  Social Security Policy Division</p>	<p><b>Date this version authorised:</b>  05 August 2021</p>
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## **Children's Rights and Wellbeing Impact Assessment (CRWIA) summary**

### **Introduction**

1. The Social Security (Scotland) Act 2018<sup>20</sup> (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for non-means tested disability benefits, including Disability Living Allowance for Children, Attendance Allowance and Personal Independence Payment.
2. These benefits will continue to be delivered during a transition period by the Department for Work and Pensions under the terms of an Agency Agreement with the Scottish Government to ensure the safe and secure transfer of United Kingdom disability benefits to Scotland.
3. The Scottish Government intends to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers with determinations carrying a right of appeal to the First-Tier Tribunal for Scotland's Social Security Chamber.
4. The Disability Assistance for Working Age People (Scotland) Regulations set out how we will deliver our replacement for Personal Independence Payment; Adult Disability Payment. It will replace Personal Independence Payment for people living in Scotland between the ages of 16 and state pension age.
5. This Child Rights and Wellbeing Assessment sets out the Scottish Government's analysis of the impact of the the regulations on children and young people's wellbeing who may be affected by the implementation of Adult Disability Payment. In this context it is considering the impact of Adult Disability Payment on 16-18 year olds. It also considers the wider impact on children living in families where an adult receives Adult Disability Payment.

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<sup>20</sup> <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

6. The delivery of Adult Disability Payment in Scotland is anticipated to have a broadly positive impact on children's rights and welfare. We are delivering person centred disability assistance rooted in the values of providing disabled people and their families with dignity, fairness and respect.

7. The Scottish Government has developed policy related to Adult Disability Payment through engagement with people with lived experience of accessing disability benefits, third sector stakeholders, and other interested parties. This consultation will seek feedback on how the policy intent has been reflected in the draft Disability Assistance for Working Age People (Scotland) regulations.

### **Who was involved in assessing the Child Rights and Wellbeing impact?**

8. The Ill Health and Disability Benefits Stakeholder Reference Group was set up in March 2016 to inform and influence the development of policy options relating to devolved Disability Assistance. This group has advised on the potential impact of policy decisions as well as user and stakeholder engagement.

9. In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the 2018 Act. The questions relating to disability benefits received over 200 responses with an even split between organisational and individual respondents.

10. The Scottish Government has set up Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017. The Panels involve people with lived experience of the benefits that are coming to Scotland. In July 2019 recruitment to the Experience Panels was reopened. We have been working with relevant stakeholders to specifically target groups which were previously underrepresented, including young people.

11. The Consultation on Disability Assistance built on the work of the Experience Panels and was published on 5 March 2019. It sought the views of the people of Scotland on the three proposed disability assistance benefits, including Adult Disability Payment.<sup>21</sup> The consultation closed on 28 May 2019, having received 263 replies, of which 74 were from stakeholder organisations and 189 from individuals.

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<sup>21</sup> <https://www.gov.scot/publications/social-security-consultation-disability-assistance-scotland/>

12. The Scottish Government has also undertaken ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG) as well as the Ill Health and Disability Benefits Stakeholder Reference Group. DACBEAG is chaired by Dr Jim McCormick and comprises individuals with significant practical experience of the United Kingdom social security system, from a range of professional backgrounds. It is independent of the Scottish Government.

13. On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on the draft impact assessments. The consultation ran until 15 March 2021. The consultation received 127 responses from individuals and stakeholder organisations.

14. In addition to the above, the views of people with lived experience have been captured through a range of user research and stakeholder engagement activities held throughout Scotland. These events have provided stakeholders the opportunity to feed into the early development of policy discussions, raising awareness of the consultation and further exploring their views.

15. The stakeholder engagements, expert advisory groups and events held with people with lived experience as well as the public consultations have helped to identify the potential impact of Adult Disability Payment on other Scottish Government policy areas as well as on children and young people's wellbeing.

## Data

16. The latest Scottish Health Survey covering the calendar year 2019 reports that among young people aged 16-24, around 22% have a limiting longstanding illness<sup>22</sup>.

17. The mid-year population estimates showed that as of 30 June 2019 there were almost 108,000 people aged 16 or 17 in Scotland<sup>23</sup>. At the same time there were around 3,700 16-17 year olds receiving Personal Independence Payment<sup>24</sup>, accounting for 3.4% of this demographic. For context, there were almost 201,000 working age

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<sup>22</sup> <https://www.gov.scot/publications/scottish-health-survey-2019-supplementary-tables/>

<sup>23</sup> NRS Scotland Mid-Year Population Estimates (2019) <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2019>

<sup>24</sup> Department for Work and Pensions Stat-Xplore (accessed 07 October 2020)

Personal Independence Payment recipients among over 3.5 million people of working age (including 16 and 17 year olds). Personal Independence Payment recipients account for 5.7% of this wider group.

18. In the financial year 2019-20 there were around 2,800 applications to Personal Independence Payment for 16 or 17 year olds in Scotland. Given that Child Disability Payment will extend to 16 and 17 year olds there will no longer be automatic reassessment at these ages. However, new clients will be able to apply for Adult Disability Payment from 16. Of the aforementioned 2,800, 650 were new applications to Personal Independence Payment, and a similar number can expect to be received when Adult Disability Payment opens to new applications<sup>25</sup>. Additionally, Child Disability Payment clients may elect to apply for Adult Disability Payment once they reach 16.

19. In the latest Personal Independence Payment caseload information to the end of July 2020, there are around 3,200 people in Scotland of all ages that have received a Personal Independence Payment award under the Terminal Illness Special Rules<sup>26</sup>. A very small number of these are aged 16 or 17 (figures suggest there are around 20 young people at GB level).

### **United Nations Convention on the Rights of the Child ( UNCRC)**

20. The policy intent has been assessed against the relevant UNCRC articles:

**Article 3 - Best Interests of the Child:** Social Security Scotland has been developed around the principles of dignity, fairness and respect, transparent decision making, a person centred approach and rooted in the belief that social security is a human right. Adult Disability Payment will have these principles embedded both in the policy and in the way in which the assistance is delivered. This will help to ensure that all decisions made by Social Security Scotland are made with consideration of the best interests of the young person, both when they are the recipient and where the recipient is a family member of the young person.

**Article 6 - Life, Survival and Development:** Adult Disability Payment is intended to mitigate the additional costs disabled people, including disabled young people, incur in meeting their care and mobility needs.

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<sup>25</sup> Department for Work and Pensions Stat-Xplore (accessed 20 November 2020)

<sup>26</sup> Department for Work and Pensions Stat-Xplore (accessed 20 November 2020)

Mitigation of these additional costs is anticipated to provide young people with funding to access community resources, education and social activities, develop skills and new experiences and to have a good quality of life. Once young people are in receipt of Adult Disability Payment they have the security of the continuity that comes with a form of assistance available, as long as they remain eligible, for the rest of their adult lives. This is particularly valuable at a time when young people are experiencing many other transitions which can be the source of a great deal of stress and anxiety for them and their families.

**Article 12 - Respect for the views of the child:** Adult Disability Payment has been developed through consultation with and input from people with lived experience of the current social security system, including young people, their families and carers through our Social Security Experience Panels. This policy will impact the lives of disabled people including young people and their contribution is crucial in shaping a successful policy.

**Article 23 - Children with a Disability:** Adult Disability Payment will ensure that individuals, including young people, who receive it are more likely to be able to live a full life, to be as independent as possible and to be able to engage in the community. By ensuring that some of the additional costs incurred as a result of additional care or mobility requirements are mitigated, eligible disabled young people will have the option to engage in more activities of their choosing.

**Article 26 - Social Security:** Adult Disability Payment has been developed for adults in Scotland. This includes young people aged 16 and 17 years old. We have engaged with individuals and stakeholders to make changes that improve both the rules and the client experience of applying for, and receiving, Adult Disability Payment. These changes will ensure that the application process is easily accessed by those who are eligible, that take up amongst eligible individuals, including young people increases, and that, throughout engagement with Social Security Scotland, individuals are treated with dignity, fairness and respect.

**Article 27 - Adequate Standard of Living:** The key policy intent of Adult Disability Payment is to provide individuals with payments to help mitigate the costs they incur as a result of a disability or long term condition. Adult Disability Payment will not be means-tested. Young people in receipt of Adult Disability Payment will be able to use it to pay for things such as care, access to community resources, transport, social activities, and any other goods or services of their choosing.

## **Getting it right for every child (GIRFEC) wellbeing indicators**

The Children and Young People (Scotland) Act 2014 introduced a range of indicators used to measure children and young peoples' wellbeing. Our assessment of Adult Disability Payment against this framework is:

**Healthy:** Adult Disability Payment will improve the health of disabled adults, including young people, by ensuring that increased financial support is provided to them, contributing towards the additional costs of care and transport.

**Achieving:** The provision of the mobility and daily living components of Adult Disability Payment directly contribute to enabling disabled individuals including young people to engage in activities of their choosing including education, development opportunities and social activities.

**Active:** As outlined above, the provision of daily living and mobility components of Adult Disability Payment will provide the funds to enable individuals including young people to engage in community activities of their choosing, ensuring that they have the option to choose to engage in community based activities and resources.

**Respected:** The principle of respect for the dignity of individuals is at the heart of the new Scottish social security system and specified in the Social Security (Scotland) Act 2018. Adult Disability Payment will further embed these principles, recognising that disabled individuals, including young people, have the right to engage in activities of their choosing and providing funds to enable them to purchase the services or equipment they need to help them do so. The administration of the assistance has been designed to ensure that people are treated with dignity and respect and provided with a service that takes account of, and meets, their needs.

**Responsible:** Social Security Scotland will pay Adult Disability Payment directly to young people aged 16 and 17, where they are able to manage their own affairs. The young person will decide on how this money should be used with support from their parents or carers where appropriate. Where there is a requirement for an appointee, or a young person is subject to a guardianship order, Social Security Scotland can pay Adult Disability Payment to the relevant person acting on the young person's behalf.

## **Specific policy impacts**

21. As part of the implementation of Child Disability Payment we are increasing eligibility from age 16 to 18 for young people in receipt of Child Disability Payment prior to their 16<sup>th</sup> birthday. This will ensure that young people and their families do not have to undergo a stressful and anxiety provoking reassessment process at age 16, a time when many young people undergo a transition to adult services. This policy measure is likely to have a broadly positive impact and is supported by stakeholders as a desirable permanent change to the eligibility rules for the Child Disability Payment.

22. By enabling applications for Adult Disability Payment from age 16, young people who are not already receiving disability assistance are able to access this through a route which offers continuity into adulthood. This prevents 16 or 17 year olds applying for Child Disability Payment and then, after a short period, requiring them to apply for Adult Disability Payment. This would add a further transition for young people to navigate which is what we are seeking to avoid by extending eligibility of Child Disability Payment to age 18. This avoidance of a further transition is particularly important as young people aged 16 and 17 are already undergoing a period of significant change transferring from child to adult services. This policy measure is likely to have a positive impact on young people and is supported by stakeholders.

## **Other policy divergences that will support individuals including children and young people.**

23. As part of the Scottish Government's commitment to a safe and secure transition of powers, we do not propose to make significant changes to the eligibility criteria of Adult Disability Payment.<sup>27</sup> However, we have set out several points of divergence between Adult Disability Payment and Personal Independence Payment which we expect to have a positive impact on disabled people in Scotland.

## **Conclusion**

24. The development of Adult Disability Payment and how it will be delivered has been informed by engagement with a range of stakeholders and people with lived experience of the current benefit

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<sup>27</sup> <https://www.gov.scot/publications/social-security-case-transfer-policy-position-paper/>

system. The policy intent of Adult Disability Payment is to provide payments to contribute to the additional care and mobility costs resulting from a disability or long term condition. The provision of this assistance is intended to enable people to mitigate these costs, and to mitigate societal barriers to ensure they are able to live a life of their own choosing.

25. Policy measures outlined above are anticipated to be broadly positive in relation to the impact on children's rights and wellbeing. This is both directly where a young person is an Adult Disability Payment client and also for the children of parents who are an Adult Disability Payment client.

26. Based on the evidence gathered, previous consultative engagement with users and stakeholders, and assessment of the demographic makeup of current Personal Independence Payment recipients, the Scottish Government does not consider that Adult Disability Payment infringes upon the rights of the child as set out in the articles of the UNCRC. The assessed impacts of the policy make a positive contribution to the rights and wellbeing of young people who are eligible to receive Adult Disability Payment as set out in the assessment of the policy against UNCRC articles outlined above.

27. The Scottish Government has assessed Adult Disability Payment against the indicators of wellbeing as set out by the Children and Young People (Scotland) Act 2014 and has concluded that the policy is likely to have a positive impact against each of the indicators, for young people who meet the eligibility rules and for the children of adults who are awarded Adult Disability Payment.

### **Independent review of Adult Disability Payment and monitoring**

28. We plan to establish a group to undertake a review of Adult Disability Payment to commence in summer 2023. The members and chair of the group will be drawn from outside the Scottish Government. The group will also secure input from people with lived experience.

29. Holding the review in summer 2023 will provide the opportunity for Social Security Scotland to administer Adult Disability Payment for a full year so the necessary data and feedback from individuals can influence the recommendations.

30. The review will be wide ranging to allow consideration of the suitability all of the activities, descriptors and supporting criteria. For example, the review will enable an understanding of the impacts of how the eligibility criteria is being applied, including the reliability criteria, and whether there are any disproportionate impacts on young people. The review will allow a measurement of the extent to which Adult Disability Payment has reduced the negative impacts identified in this impact assessment.

31. We will then make the independent report and recommendations publically available to allow for transparency, scrutiny and visibility.

<p><b>Name and job title of Policy Lead:</b>  Matthew Duff  Disability Benefits Policy  Social Security Policy Division</p> <p><b>Name and job title of a Deputy Director or equivalent:</b>  Ian Davidson  Deputy Director  Social Security Policy Division</p>	<p><b>Date this version authorised:</b>  05 August 2021</p>
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## Island Communities Impact Assessment (ICIA): Disability Assistance for Working Age People (Scotland) regulations

### Introduction

1. The importance of island-proofing was recognised in the "Empowering Scotland's Island Communities prospectus" published in June 2014. The principle of island-proofing is one of building a broad-based islands awareness into the decision making process of all parts of the public sector.

2. The Islands (Scotland) Act 2018<sup>28</sup> places a duty on the Scottish Ministers and other relevant authorities, including a number of public authorities, to have regard to island communities in exercising their functions, and for the Scottish Ministers this will also include the development of legislation. This duty is often referred to as 'island-proofing'.

3. The Scottish Government recognises the importance of island-proofing and committed to island-proofing the Social Security (Scotland) Act 2018<sup>29</sup> (the 2018 Act), in advance of the Islands Act placing a formal requirement to do so. The Scottish Government is also committed to island-proofing the legislation required in support of the devolution of social security powers to Scotland.

4. If the Scottish Ministers are of the opinion that any piece of proposed legislation is likely to have an effect on an island community which is significantly different from its effect on other communities, then the duty to island-proof legislation requires the Scottish Ministers to:

- describe the likely significantly different effect of the legislation;
- assess the extent to which the Scottish Ministers consider that the legislation can be developed in such a manner as to improve or mitigate, for island communities, the outcomes resulting from the legislation; and
- set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.

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<sup>28</sup> <http://www.legislation.gov.uk/asp/2018/12/enacted>

<sup>29</sup> <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

## Executive Summary

5. This ICIA has considered the potential effects of the Disability Assistance for Working Age People (Scotland) regulations and how they impact on people living in island communities, presented below in the **Key findings** section. The findings here are based on desk research, engagement with and feedback from disabled people with lived experience of the current social security system<sup>30</sup>, and the Consultation on Disability Assistance.<sup>31</sup> This ran between 5 March and 28 May 2019 and received 263 replies, of which 74 were from stakeholder organisations and 189 were from individuals.

6. This in turn led to targeted consultation with stakeholders representing people with protected characteristics which was undertaken during the consultation period in 2019, including disabled people from island and remote communities.

7. On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on the draft impact assessments. The consultation ran until 15 March 2021. The consultation received 127 responses from individuals and stakeholder organisations. We have taken a number of actions as a result of these responses including:

- Undertaking further in depth analysis of the impact of proposed changes to the application of the eligibility criteria, specifically looking at potential impacts on women and on people with one or more mental health condition and people with a learning disability and/ or learning difficulty, and on people with varying health conditions.
- The introduction of measures to ensure that a Social Security Scotland practitioner gains an understanding of the full needs and experiences of a client where a consultation takes place.
- Actions to further ensure that the application of the reliability criteria mitigates the negative impacts of how the PIP eligibility criteria is currently applied by the Department for Work and Pensions.

8. We are extending the ICIA by considering rurality and remoteness in the same spirit of the Act to gauge evidence of whether the policy and

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<sup>30</sup> <https://www.gov.scot/collections/social-security-experience-panels-publications/>

<sup>31</sup> <http://consult.gov.scot/social-security/improving-disability-assistance/>

regulations will impact rural/remote communities differently to other communities.

9. We have concluded that there will not be any new unique impacts on islands communities as a result of the provisions in these regulations, and nor will there be a specific financial impact for island communities in isolation resulting from the provisions.

## **Policy Background**

10. The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance for Children, Attendance Allowance and Personal Independence Payment.

11. The Scottish Government intends to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers with determinations carrying a right of appeal to the First-Tier Tribunal for Scotland's Social Security Chamber.

12. The Scottish Government intends to launch disability assistance for new applicants first. This includes individuals who are not in receipt of a United Kingdom or Scottish Government disability benefit. Transfer of existing Department for Work and Pensions clients to Social Security Scotland will take place at a later point without clients needing to make a new application. Clients will be no worse off at the point of transfer, and Social Security Scotland will honour the client's award review date.

13. The Disability Assistance for Working Age People (Scotland) Regulations sets out how we will deliver our replacement for Personal Independence Payment; Adult Disability Payment. This was formerly known as Disability Assistance for Working Age People. It will replace Personal Independence Payment in Scotland and accept new applications from people between the ages of 16 and state pension age.

14. As part of the Scottish Government's commitment to a safe and secure transition of powers, we do not propose to make significant changes to the existing Personal Independence Payment eligibility criteria for Adult Disability Payment. However, we have set out several

differences between Adult Disability Payment and Personal Independence Payment which we expect to have a positive impact on disabled people in Scotland who live in rural and island locations.

15. This impact assessment is one of a package to accompany the regulations. The others are: Business and Regulatory Impact Assessment (BRIA); Equality Impact Assessment (EQIA); Children's Rights and Wellbeing Impact Assessment (CRWIA); and the Fairer Scotland Duty Assessment.

### **Scope of the ICIA**

16. The scope of this ICIA is the impact of replacing Personal Independence Payment with the Adult Disability Payment on disabled people between the ages of 16 and state pension age and their families, who live in remote and island communities.

### **Key Findings**

17. This section provides an overview of issues for Scottish rural/remote and island communities that are relevant for these regulations.

18. Island stakeholders have emphasised the importance of understanding the island experience. Each island has its own specific considerations and constraints.

19. Rural Scotland accounts for 98% of the land mass of Scotland and 17% of the population are resident there.<sup>32</sup>

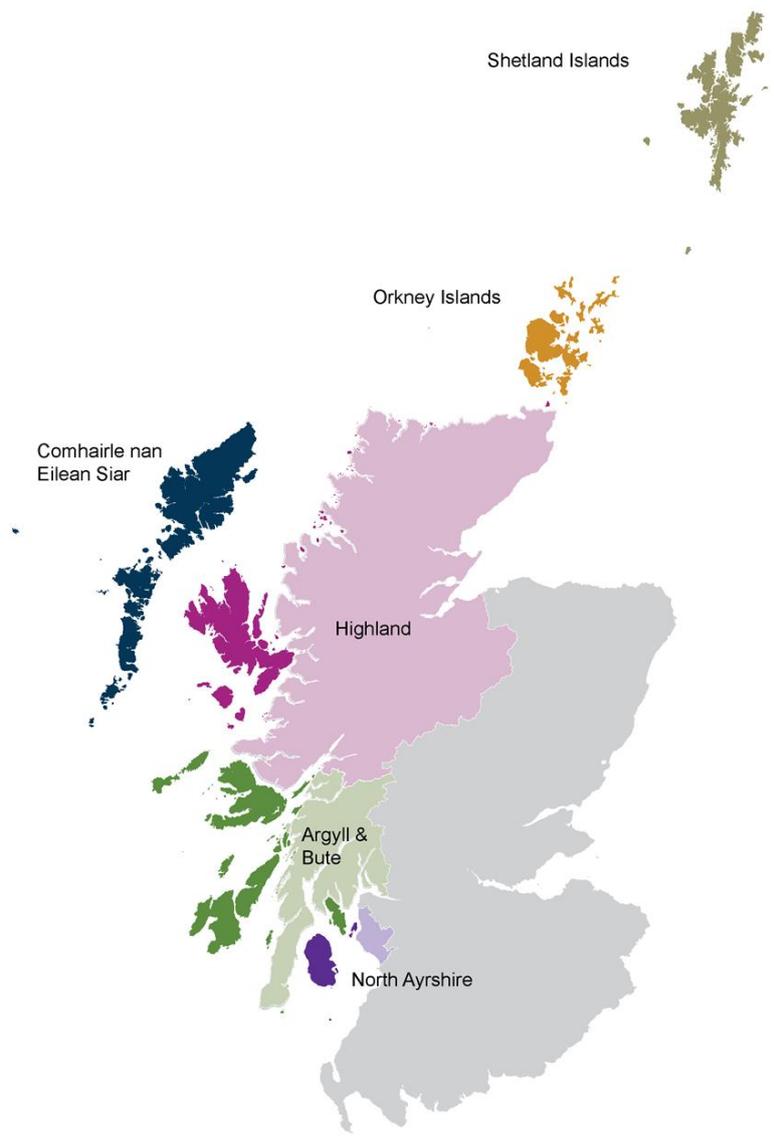
20. At the time of the 2011 Census, Scotland had 93 inhabited islands with a total population of 103,700 (which was 2% of Scotland's population).<sup>33</sup> Of these islands, only five are connected to the Scottish mainland by bridge or causeway.

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<sup>32</sup> Scottish Government (2018) [Rural Scotland: key facts 2018](#)

<sup>33</sup> NRS (2015) [Scotland's Census 2011: Inhabited Islands report](#)

21. The Islands Act identifies six local authorities representing island communities in Part 4 of the Act (Section 20 (2)), which are Argyll and Bute Council; Comhairle nan Eilean Siar/Western Isles; Highland Council; North Ayrshire Council; Orkney Islands Council; and Shetland Islands Council. Amongst them, Orkney, Shetland and Western Isles are entirely island authorities, while Highland, Argyll and Bute and North Ayrshire local authorities cover island regions as well as mainland regions.



**Figure 1:** Map highlighting all 6 local authorities representing Island Communities (islands in darker shades where islands are part of mainland Local Authorities)<sup>34</sup>

<sup>34</sup> <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

## Demography and Health

22. According to the 2011 Census, 83% of island residents reported their health as being 'Very good' or 'Good' compared with 82% for Scotland as a whole.<sup>35</sup> The proportion of island residents with a long-term (lasting 12 months or more) health problem or disability that limited their day-to-day activities was just under 20%, including 9% who reported their daily activities were limited a lot.<sup>36</sup> The corresponding proportions for Scotland as a whole were very similar.

23. 62% of island residents are aged between 16-65 with the median age being 45 which is higher than the average across Scotland as a whole (41).<sup>37</sup>

24. United Kingdom wide, disabled people have higher poverty rates than the general population. Disabled people make up 28% of people in poverty. A further 20% of people who are in poverty live in a household with a disabled child. Data related to disability specific to island communities on disability is not available.

25. In Scotland 410,000 households in poverty (42%) include a disabled person. Disabled young adults in the United Kingdom aged 16-24 years have a particularly high poverty rate of 44%.<sup>38</sup>

26. Nearly 9.5% of people in receipt of Personal Independence Payment in Scotland live in remote and island communities across the six local authority areas as of July 2020.<sup>39</sup> This accounts for 25,959 people.

27. There are higher rates of food insecurity among disabled people (18%) compared to non-disabled people (5%). There is also a higher likelihood of living in relative poverty after housing costs with a disabled person in the household (24% of families with a disabled person compared to 17% of families with no disabled members).<sup>40</sup> If disability benefits are not counted towards household income, this rises to 30%. 'Family' in these circumstances refers to the core family in a household, comprising one or two adults and children, if any.

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<sup>35</sup> NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

<sup>36</sup> NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

<sup>37</sup> [https://www.scotlandscensus.gov.uk/documents/analytical\\_reports/Inhabited\\_islands\\_report.pdf](https://www.scotlandscensus.gov.uk/documents/analytical_reports/Inhabited_islands_report.pdf)

<sup>38</sup> <https://www.jrf.org.uk/income-and-benefits>

<sup>39</sup> Department for Work and Pensions Stat Xplore

<sup>40</sup> <http://www.gov.scot/isbn/9781787816909>

28. 35% of ‘workless families’ (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have an adult with a disability or long-term illness. A further 25% of ‘struggling to get by’ families (unemployed or working part-time, half of which are single-parent families) have one or more adults with a disability or long-term illness.<sup>41</sup> In households without children, 50% of ‘insecure singles’ (defined as workless, primarily single individuals living in social housing) had a disability or long-term health condition.<sup>42</sup> This rises to 68% for ‘detached singles’. This group is similar to the ‘insecure singles’ group with the addition that they are less likely to have internet access or to participate in cultural activities, making them more disconnected.

29. Research undertaken by the Scottish Government<sup>43</sup> and by stakeholders in 2020 have found that a lack of connectivity in rural or remote communities has been compounded by the impacts of the Covid-19 pandemic. An absence of good quality internet connection can significantly impact on an individual’s ability to socialise and partake in cultural activities, particularly where people already have mobility restrictions as a result of a disability or health condition.

30. Even where one or more individual in the household is in employment, the same level of income secures a lower standard of living than it would for a household without someone with a disability or long-term health condition. This is because disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition.<sup>44</sup> Sometimes, these costs are greater for disabled people living in island and rural communities. For example, travel costs, may be higher as individuals may have to pay the cost of taxis, for example if they need to travel to and from hospital where it is not possible to use public transport (and/or public transport may not be available).

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41 <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/5/>

42 <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/6/>

43 [Covid+and+Inequalities+Final+Report+For+Publication+-+PDF.pdf](#) ([www.gov.scot](http://www.gov.scot))

44 <https://www.jrf.org.uk/income-and-benefits/>

## Cost of Living

31. The cost of many amenities and activities are higher for people living in island communities than those living on the mainland. A lack of choice and accessibility means that shopping, mobile phone services and broadband can be more expensive for people living in island communities compared to those on the mainland. The greater distances and remoteness means that day to day travel, postage, fuel, day-trips and holidays are also more expensive for people in remote communities.

32. Citizens Advice Scotland<sup>45</sup> have identified issues of grid, utilities, digital and travel as key barriers for people in accessible rural, remote rural and remote small towns. Furthermore, a typical food basket can cost as much as 50% more on island communities in Scotland, while transport can be up to £40 a week more expensive due to longer distances for commuting and a higher price for petrol.<sup>46</sup>

33. According to Highlands and Islands Enterprise (HIE), household budgets in remote rural Scotland are typically 10-40% higher than elsewhere in the United Kingdom.<sup>47</sup> For households in the most remote parts of Scotland, additional costs can be greater than 40%. HIE attribute these extra costs to three principal sources:

- the higher prices that households must pay for food, clothes and household goods;
- much higher household fuel bills, influenced by climate and fuel sources;
- the longer distances that people have to routinely travel, particularly to work.

34. The Joseph Rowntree Foundation reported that levels of poverty among disabled people are generally underestimated.<sup>48</sup> Because disabled people's needs are often greater than for those without a disability, the cost of living for disabled people is frequently higher. These costs are higher in island and remote communities due to an environment that is less accessible, with higher costs for reasonable adjustments to technology, housing and transport.

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<sup>45</sup> Sutherland, F (2015) Remotely excluded: barriers facing Scotland's rural consumers  
CAS, Edinburgh, 36 pp

<sup>46</sup> A Minimum Income Standard: For Remote rural Scotland; Loughborough University, UHI & Highlands and Islands Enterprise; 2013

<sup>47</sup> [A Minimum Income Standard for Remote Rural Scotland, 2013](#)

<sup>48</sup> [https://www.npi.org.uk/files/7814/0490/1005/Disability\\_long\\_term\\_conditions\\_and\\_poverty.pdf](https://www.npi.org.uk/files/7814/0490/1005/Disability_long_term_conditions_and_poverty.pdf)

35. A range of work is being undertaken by the Scottish Government to address the challenges that people in island and rural communities face. For example the Islands Strategic Group was established in August 2016. The group considers strategic issues affecting the island communities of Scotland, and to ensure greater involvement of the relevant councils in helping to identify and design solutions to the unique needs and challenges these communities face.

36. While Adult Disability Payment is not intended to be an income-replacement benefit, it is intended to provide support with helping to meet the extra costs associated with having a disability, such as paying for care and mobility needs. For some disabled people, it will bring additional entitlement to other benefits.

### **Connectivity and accessibility**

37. Citizens Advice Scotland have identified issues of grid, utilities, digital and travel as key barriers for people in accessible rural, remote rural and remote small towns.<sup>49</sup>

38. According to the research briefings<sup>50</sup> from 2017 about the Islands (Scotland) Bill, residents of islands rely on ferry crossings and air travel to reach the mainland and larger islands, and key services such as secondary and higher education, care, and medical services.

39. In 2011, the proportion of island households with at least one car or van available was 79%, compared with just over two-thirds (69%) nationally.

40. In rural remote areas and island communities, disabled people face a lack of access to opportunities that are more readily and frequently available to those on the mainland or in urban areas. Furthermore, a lack of accessibility to employment, education and leisure opportunities can be made more difficult for someone with mobility issues, especially when transport options are limited.

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<sup>49</sup> Sutherland, F (2015) Remotely excluded: barriers facing Scotland's rural consumers CAS, Edinburgh, 36pp  
<sup>50</sup> <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

41. Bus services in remote and island communities can be unreliable and are often community run. Even where buses are available, they often run rarely and timetables do not always meet the needs of people living in the community. Furthermore, if there is already someone with a wheelchair or pram on the bus it is not always possible for a wheelchair user to board.

42. Not all islands are served by buses and there are not always taxis available. We heard how disabled people on islands rely heavily on neighbours, friends and families driving them as a primary means of transport.

43. The needs of wheelchair users can be different in island and rural communities than the needs of wheelchair users in an urban environment due to more challenging terrain.

#### Our approach

44. Social Security Scotland local delivery officers will share locations with other services so that they are based where clients currently go to ensure that clients can access advice and support in existing island locations. Social Security Scotland will also offer a multi-channel approach, including telephone, paper-based and face-to-face applications to ensure that people are not isolated through a lack of access to technology.

45. We will also support individuals to gather supporting information. This includes, if authorised by the client, gathering information on the individual's behalf. For individuals living in rural or island communities, this will be beneficial as it may be difficult for them to contact relevant sources given the remoteness and lack of connectivity.

46. We have also introduced client consultations to replace the current Department for Work and Pensions assessments provision. If a consultation is required, it will take place at a time and place that suits the needs of the individual. Consultations will take place primarily over the phone with individuals having the option to request that it take place in person at a time and place that suits them, including at home or a separate location of their choosing.

47. We will be taking a multi-channel approach to how consultations take place, including telephone and video calls. This will allow individuals to access these services who are unable to travel easily to attend consultations and without them having to travel to unfamiliar locations. On the other hand, we know that this will not work for everyone which is why individuals will have the option of the consultation taking place face-to-face at a partner location, such as a GP, or the individual's home.

48. For individuals entitled to the highest rate of the mobility component of Adult Disability Payment, they will also have the option of accessing the Accessible Vehicles and Equipment (AVE) scheme. This is our devolved equivalent of the United Kingdom's Motability scheme which will provide a range of vehicles (including cars, wheelchair accessible vehicles, powered wheelchairs and scooters) and will help to meet the mobility needs of eligible individuals. All leases include insurance, breakdown cover, servicing and road tax.

49. We will also ensure that individuals currently leasing a vehicle, wheelchair or scooter from Motability are able to continue to access that vehicle when their case is transferred to Social Security Scotland so that their mobility needs will continue to be met.

## **Culture**

50. Stakeholders have identified potential cultural barriers to applying for Adult Disability Payment. This is because of the close-knit nature of island communities. Although there is research that evidences the positive impact of the support provided by close-knit communities, certain barriers may also be present.

51. The need for privacy and dignity is emphasised by disabled people in remote and island communities, for example, by ensuring that consultations take place in locations that do not identify them as a disabled person or in receipt of benefits.

52. Dignity, fairness and respect underpins how Social Security Scotland will deliver Adult Disability Payment including protecting the privacy of clients.

## **Choice and representation**

53. We have heard how there are limited options for people living in island and remote communities with regard to leisure activities, support services and support groups, with the importance of choice being a key theme in previous social security and disability assistance consultations. However such choices are often diminished or non-existent in rural areas.

54. Social Security Scotland local delivery officers will share locations with other services so that they are based where clients currently go to ensure that clients can access advice and support in existing island locations. As previously discussed, Social Security Scotland will also offer a multi-channel approach, including telephone, paper-based and face-to-face applications to ensure that people are not isolated through a lack of access to technology.

## **Implementation**

55. A communications strategy and comprehensive guidance are being developed in advance of the launch of Adult Disability Payment. This will ensure that individuals who are eligible and their families, the third sector, local authorities, the education sector and advice providers are aware of Adult Disability Payment, know how to apply and understand the eligibility criteria.

56. The communications strategy will be linked in with wider Scottish Government initiatives for improving outcomes for disabled people and for remote and island communities. This will ensure that Adult Disability Payment is part of wider efforts to meet the needs of people living in island communities.

## **Monitoring and Review**

57. We plan to establish a group to undertake a review of Adult Disability Payment to commence in summer 2023. The members and chair of the group will be drawn from outside the Scottish Government. The group will also secure input from people with lived experience.

58. Holding the review in summer 2023 will provide the opportunity for Social Security Scotland to administer Adult Disability Payment for a full year so the necessary data and feedback from individuals can influence the recommendations.

59. The review will be wide ranging to allow consideration of the suitability all of the activities, descriptors and supporting criteria. For example, the review will enable an understanding of the impacts of how the eligibility criteria is being applied, including the reliability criteria, and whether there are any disproportionate impacts on island and rural communities. The review will allow a measurement of the extent to which Adult Disability Payment has reduced the negative impacts identified in this impact assessment.

60. We will then make the independent report and recommendations publically available to allow for transparency, scrutiny and visibility.

61. Monitoring the impact of Adult Disability Payment in island and remote rural communities will be a continuous process and where any unintended consequences are identified, steps will be taken to improve the service. The Scottish Government will put in place a monitoring and evaluation plan for Adult Disability Payment prior to implementation which takes account of the issues identified within this impact assessment.

62. On-going stakeholder engagement with key organisations will also provide the Scottish Government with an opportunity to monitor the impact of the policy.

63. Scottish Ministers have also committed to engaging with, and reporting regular progress to, the Islands Strategic Group to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.

## **Conclusion**

64. Scottish Ministers are aware of the duty to consult island communities before making a material change to any policy, strategy or service which, in the Scottish Ministers' opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities.

65. This impact assessment has highlighted that living in island and remote communities present unique challenges for disabled people.

66. We have not identified any evidence that the introduction of Adult Disability Payment will directly or indirectly discriminate against remote and island communities.

67. The introduction of Adult Disability Payment is expected to have a positive impact on disabled people across Scotland, regardless of location, with a secondary positive impact on their families and carers.

68. Adult Disability Payment will help to address a number of issues raised in this ICIA such as the higher cost of living in remote and island communities, and challenges faced in relation to connectivity and accessibility.

69. This ICIA has identified the need to ensure that Adult Disability Payment is promoted appropriately and sensitively in remote rural areas.

70. The Scottish Government is committed to designing the devolved social security system with people in Scotland. On-going engagement with disabled people, external stakeholders and advisory groups will ensure that the impact of the regulations remain under continuous review.

71. The Scottish Government has concluded that no further changes to the Adult Disability Payment regulations are necessary as a result of the ICIA.

## Authorisation

<b>Name and job title of Policy Lead:</b> Matthew Duff Disability Benefits Policy Social Security Policy Division	<b>Date this version authorised:</b> 05 August 2021
<b>Name and job title of a Deputy Director or equivalent:</b> Ian Davidson Deputy Director Social Security Policy Division	

## Business and Regulatory Impact Assessment (BRIA) summary

### Title of Proposal

Disability Assistance for Working Age People (Scotland) regulations

### Purpose and intended effect

#### Background

The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance for Children, Attendance Allowance and Personal Independence Payment.

These benefits will continue to be delivered during a transition period by the Department for Work and Pensions under the terms of an Agency Agreement agreed with the Scottish Government to ensure the safe and secure devolution of disability benefits.

The Scottish Government intends to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers with determinations carrying a right of appeal to the First-Tier Tribunal for Scotland's Social Security Chamber.

The Scottish Government intends to launch disability assistance for new applicants first. This includes individuals who are not in receipt of a United Kingdom or Scottish Government disability benefit. Transfer of existing Department for Work and Pensions clients to Social Security Scotland will take place at a later point without clients needing to make a new application. Clients will be no worse off at the point of transfer, and Social Security Scotland will honour the client's award review date.

The Disability Assistance for Working Age People (Scotland) regulations sets out how we will deliver our replacement for Personal

Independence Payment; Adult Disability Payment. This was formerly known as Disability Assistance for Working Age People. It will replace Personal Independence Payment in Scotland for people between the ages of 16 and state pension age.

### **Policy Objectives**

Adult Disability Payment is intended to improve outcomes for disabled adults, by providing financial assistance to help meet the additional costs of living with a disability or health condition. This includes physical or mental disabilities and health conditions which have a significant adverse effect on an individual's daily activities.

This impact assessment is one of a package to accompany the regulations. The others are: Equality Impact Assessment (EQIA); Children's Rights and Wellbeing Impact Assessment; Island Communities Impact Assessment; and the Fairer Scotland Duty Assessment.

### **Rationale for Government intervention**

The assessment of the Disability Assistance for Working Age People (Scotland) regulations and Adult Disability Payment overall in relation to Business and Regulatory impact was undertaken using the five principles of Better Regulation, as follows:

**Proportionate:** The Scottish Government will look to identify and minimise any indirect impacts, for example administrative burdens, on local government, private businesses or third sector organisations as a result of the introduction of Adult Disability Payment.

The equivalent United Kingdom benefit, Personal Independence Payment, will reduce in caseload as Adult Disability Payment is delivered by the Scottish Government and cases are later transferred to Social Security Scotland. This will likely lead to a neutral impact in the longer term on the administrative burdens on other public agencies, private businesses and third sector organisations.

In the short term, there may be additional work for public agencies and some third sector organisations as they make arrangements for their staff to incorporate knowledge of the replacement benefit into their current systems. Social Security Scotland has committed to undertaking much of the administrative responsibility, as far as

possible, on behalf of people accessing disability assistance, including Adult Disability Payment, and intends to create data sharing processes with relevant public bodies.

It is anticipated that this will reduce the burden of providing information to individuals that public agencies currently undertake when applying for disability benefits, by creating formal data sharing agreements and processes with one Agency, Social Security Scotland.

There is also expected to be a neutral impact on medical professionals as a result of our new definition of terminal illness. They will still be expected to use their clinical judgement to determine whether an individual has a terminal illness with the primary difference being that, instead of a DS1500 form, they will be required to fill out a Benefits Assistance Under Special Rules in Scotland (BASRiS) form as evidence. There may be some short-term effects as medical professionals adjust to using the BASRiS form and taking a different approach but, overall, this should not place additional burdens on medical staff.

**Consistent:** Adult Disability Payment builds on the Social Security (Scotland) Act 2018 framework of a new system that is underpinned by dignity, fairness and respect.

Adult Disability Payment will be delivered on an entitlement basis to eligible people. Decision-making will be person-centred and operational guidance for case managers within Social Security Scotland will be created in line with the rules within the regulations which will provide a framework for consistent decision making across all applications. This includes guidance provided to practitioners of Social Security Scotland which will be utilised should a client be invited to attend a consultation.

Where possible the Disability Assistance for Working Age People regulations and the associated policies have been aligned with those for Child Disability Payment to provide a consistent approach for clients, and services who will support them, to make applications for disability assistance and navigate Scotland's social security system.

**Accountable:** All decisions made relating to an application for disability assistance will be provided to clients in a communication method that meets their needs. All information used, and rationale for the decision, will be included within this communication to ensure that

clients are informed of how the decision relating to their application was assessed.

The Social Security Charter sets out, in plain and clear English, what people are entitled to expect from the Scottish social security system, including how they should be treated and how their application will be processed. Complaints regarding Social Security Scotland can be directed to the Scottish Public Services Ombudsman.

We will ensure that clients understand their right to have their decision re-determined by Social Security Scotland and to request an appeal to the First Tier Tribunal (FtT) if they are unsatisfied with the outcome of the re-determination. This includes their right to appeal directly to the FtT if Social Security Scotland is unable to complete the re-determination process before 56 days have elapsed.

Individuals will also be made aware of the existence of Short-Term Assistance (STA) which can be applied for during re-determinations and appeals on ongoing awards of Adult Disability Payment. This will help to ensure that individuals are not discouraged from challenging a decision they do not agree with or seeking administrative justice by having to manage, for a time, with reduced income.

**Transparent:** We will develop a communications strategy for each form of disability assistance, including Adult Disability Payment. This will aim to ensure that clients and their families or carers, the third sector, local government, education and health sectors and advice providers are aware of the benefit, know how to apply and understand the eligibility criteria. Where a decision is made that a client is not entitled to assistance, Social Security Scotland will provide a reason why, as set out in the Social Security (Scotland) Act 2018, to ensure that decisions are understood and that our processes are as transparent as possible.

We will publish guidance on Adult Disability Payment in a way that takes account of differing communication needs, so that entitlement is clearly understandable. Social Security Scotland will create a bank of Adult Disability Payment stakeholder resources and content in accessible formats that will be proactively supplied to relevant stakeholder organisations through the National Stakeholder Engagement team, for organisations to distribute to people in local communities. The languages we proactively translate materials into were selected through stakeholder consultation. These are: BSL,

Farsi, Mandarin, Cantonese, Urdu, Gaelic, Polish, Arabic, braille and easy read formats.

Social Security Scotland will produce communication materials in other languages on request. Social Security Scotland communications will work with community radio and foreign language press to provide messaging on Adult Disability Payment to communities. In some circumstances printed marketing materials may not be the right way to engage with communities and where this is the case we will provide an engagement approach through work carried out by the National Stakeholder Engagement and Local Delivery functions.

We published the first Benefit Take-Up Strategy (October 2019) under the provision of the Social Security (Scotland) Act 2018. The strategy sets out Scottish Ministers' work supporting benefit take-up to date. It also introduced a series of new activities and initiatives aimed at increasing awareness of and access to Scottish benefits and supporting those who are eligible to apply.

These include new funding streams for benefit take-up and income maximisation, establishing a Take-up Stakeholder Reference Group to provide advice and support in the implementation of this strategy, developing a Take-up Stakeholder Toolkit, and two roundtable events held in 2020 which were co-designed with key stakeholders to explore solutions to issues such as stigma, barriers to access, and the human rights-based approach.

We are also working to ensure that client consultations are as transparent as possible. This includes recording consultations as standard (with the client having the ability to opt out should they choose) so that a record of the conversation is kept.

We have also considered how informal observations should be applied in client consultations. Practitioners will be provided with specific guidance, training and resources regarding informal observations. Clients must also be made aware of what informal observations are, why they are being made, and the impact they will have. All informal observations will also be made known to the client so that they have the opportunity to challenge or comment on the observation. This will provide a transparent consultation service by ensuring that clients are aware of what is being reported and recorded.

**Targeted only where needed:** Adult Disability Payment is intended to help mitigate the additional costs of having a disability. The rules for the benefit will be set out in these regulations and each new application will undergo an application process which will assess eligibility for Adult Disability Payment in a way that is consistent with the principles of dignity, fairness and respect.

As of July 2020, there were 273,901 people in Scotland entitled to Personal Independence Payment. This accounts for roughly 7.8% of the population between the ages of 16 and 65.

We have not previously published forecasts for new applications to Adult Disability Payment but Department for Work and Pensions outturn information shows that new applications for Personal Independence Payment have been relatively stable at around 58,000 cases per year, amounting to 4,800 applications per month on average, although there is variation from month to month. It should be noted that this will not account for any differences resulting from Covid-19 which suppressed applications and decision making, particularly in April 2020.

Case managers will, where authorised, help clients gather supporting information through the previously mentioned data-sharing agreements. We are not looking to gather an exhaustive list of sources of formal information. It need only be sufficient to determine, on the basis of probabilities, that an individual meets the eligibility criteria for Adult Disability Payment. It is only when there is no other way to gather accurate information about the needs of a client that they will be invited to attend a client consultation.

As set out above, the Social Security (Scotland) Act 2018 sets out the duty on Scottish Ministers to promote uptake of benefits. Increased benefit uptake is likely to have a positive impact on businesses and the economy because more individuals will be in receipt of benefits which will be used to purchase a range of goods and services.

It is expected that the introduction of Adult Disability Payment could cause additional requests for information and support from existing advice services. However, it is anticipated that by introducing a system that has been designed in partnership with advice agencies, key stakeholders and individuals with experience of the current system, Social Security Scotland will be equipped to support individuals. This

should lessen the impact on advice services in their provision of complex welfare rights casework support for individuals.

## **Consultation**

In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses. In particular comments were invited on a partial Business and Regulatory Impact Assessment.

There were 521 formal written responses submitted, of which 241 were from organisations and 280 from individual respondents. The 241 organisational responses included stakeholder groups representing human rights, disability and long term conditions organisations covering a variety of disabilities and conditions, and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 February 2017<sup>51</sup> in addition to the Business and Regulatory Impact Assessment that was published alongside the Social Security (Scotland) Bill.

The Scottish Government has set up Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017. The Panels involve people with lived experience of the benefits that are coming to Scotland. In July 2019 recruitment to the Experience Panels was reopened. We have been working with relevant stakeholders to specifically target disabled people from seldom heard groups as part of our engagement.

Two surveys regarding the case transfer process were sent out to Experience Panel members in January and February 2019. 404 and 559 responses were received respectively. A series of individual and group interviews were also conducted. Results from both surveys and the interviews were published in 2019.<sup>52</sup> These surveys confirmed that of most importance to panel members was that they continue to receive the correct payment at the correct time.

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<sup>51</sup> <https://www.gov.scot/publications/analysis-written-responses-consultation-social-security-scotland/>

<sup>52</sup> See <https://www.gov.scot/publications/social-security-experience-panels-case-transfer-survey-findings/> and <https://www.gov.scot/publications/social-security-experience-panels-designing-case-transfer-process-main-report/>

The Consultation on Disability Assistance built on the work on the Experience Panels and was published on 5 March 2019. In line with the principles of dignity, fairness and respect, the Scottish Government sought the views of the people of Scotland on the three proposed disability assistance benefits, including Adult Disability Payment.<sup>53</sup> The consultation closed on 28 May 2019, having received 263 replies, of which 74 were from stakeholder organisations and 189 from individuals.

The Scottish Government has also undertaken ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG) as well as the Ill Health and Disability Benefits Stakeholder Reference Group. DACBEAG is chaired by Dr Jim McCormick and comprises individuals with significant practical experience of the United Kingdom social security system, from a range of professional backgrounds. It is independent of the Scottish Government. The Group's role is to advise Scottish Ministers on specific policy options for disability assistance and carers benefits due to be delivered in Scotland.

The Ill Health and Disability Benefits Stakeholder Reference Group was set up in March 2016 to inform and influence the development of policy options relating to devolved Disability Assistance. This group has advised on the potential impact of policy decisions as well as user and stakeholder engagement.

On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on the draft impact assessments. The consultation ran until 15 March 2021. The consultation received 127 responses from individuals and stakeholder organisations. We have taken a number of actions in response to the consultation feedback including:

- Undertaking further analysis of the impact of proposed changes to the application of the eligibility criteria, specifically looking at potential impacts on women and on people with one or more mental health condition and people with a learning disability and/or learning difficulty, and on people with varying health conditions.

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<sup>53</sup> <https://www.gov.scot/publications/social-security-consultation-disability-assistance-scotland/>

- The introduction of measures to ensure that a Social Security Scotland practitioner gains an understanding of the full needs and experiences of a client where a consultation takes place.
- Actions to further ensure that the application of the reliability criteria mitigates the negative impacts of how the Personal Independence Payment eligibility criteria is currently applied by the Department for Work and Pensions.

In addition to the above, the views of people with lived experience have been captured through a range of user research and stakeholder engagement activities held throughout Scotland. These events have provided stakeholders the opportunity to feed into the early development of policy discussions, raising awareness of the consultation and further exploring the views of stakeholders and service users in more depth. The events have also provided the Scottish Government opportunity to engage specifically with particular groups that would be impacted by the proposed policy.

Despite the continuing impact of coronavirus, work with Experience Panels has continued, with user testing on digital material that will be available on the Social Security Scotland website. Specifically with regards to case transfer, framing exercises have been taking place in 2020 and will continue to take place with a range of internal Scottish Government stakeholders.

## **Options**

### Option 1 - Do Nothing

The transfer of powers to Scotland to make provision for Adult Disability Payment is set out in the Scotland Act 2016 and Social Security (Scotland) Act 2018. Therefore, not taking over powers from the Department for Work and Pensions was not considered to be a viable option.

There are not considered to be any benefits to this option.

If the Department for Work and Pensions were to stop making Personal Independence Payment payments to Scottish applicants and the Scottish Government did not provide a benefit to replace

this provision, then up to 300,000<sup>54</sup> people entitled to Personal Independence Payment would be worse off as they would no longer receive a payment. This number is forecast to increase over time

Option 2 - Introduce Adult Disability Payment on same basis as Department for Work and Pensions, including how it is delivered:

The Scottish Government could have replicated Personal Independence Payment with no changes made to eligibility, application process or integration with other benefits. However, this would have been inconsistent with the Social Security principles set out in the Social Security (Scotland) Act 2018 and would not have fitted with wider Scottish Government policy on disability assistance.

It would have continued a benefit that clients find stressful and lacking transparency, and one leading to a high level of inaccurate decisions and lack of support for clients.

Option 3: Introduce Adult Disability Payment (recommended option):

The Scottish Government will make first payments of Adult Disability Payment when it launches a pilot in spring 2022, with full rollout by summer 2022 incorporating all of the improvements set out above.

### **Sectors and groups affected**

The impact of Adult Disability Payment is going to be dispersed across the country and sectors of the economy. To estimate the cost of Adult Disability Payment, it is possible to look at estimates of the cost of Personal Independence Payment when the Scottish Government took executive competence as estimated by the Scottish Fiscal Commission's forecasts conducted earlier this year. They estimated that the cost of Personal Independence Payment would be £1.583 billion in 2020/21. This rises to £1.65 billion in 2021/2022 and £1.714 in 2022/23.<sup>55</sup>

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<sup>54</sup> Personal Independence Payment at July 2020: summary statistics

<sup>55</sup> <https://www.fiscalcommission.scot/forecast/scotlands-economic-and-fiscal-forecasts-february-2020/>

## **Scottish Firms Impact Test**

Scottish businesses, including the third sector, responded to the A New Future for Social Security consultation during summer 2016. Responses were received from 14 private businesses and 5 business organisations all of which requested that their responses remain anonymous.

Stakeholder events were also run in tandem with the Consultation on Disability Assistance between 5 March and 28 May 2019 to obtain as wide a view as possible on the forthcoming Scottish social security system. Views were received from many different types of interested stakeholder organisations, such as Child Poverty Action Group in Scotland, Citizens Advice Scotland, the Scottish Association for Mental Health (SAMH), Engender, CEMVO Scotland, Rights Advice Scotland, LEAD Scotland, MND Scotland, National Deaf Children's Society, Royal Blind and Scottish War Blinded, the National Association of Welfare Rights Advisers, Down's Syndrome Scotland, Royal College of Paediatrics and Child Health, Scotland, One Parent Families Scotland, Children's Hospices Across Scotland (CHAS), The Poverty Alliance, Epilepsy Scotland and Glasgow Disability Alliance.

As part of the Consultation on Adult Disability Assistance, we also ran a series of online engagement events to raise the profile of the consultation and to enable as many people as possible to contribute their views. Events were attended by representatives from third sector organisations, welfare rights advisors and members of the public including many individuals with experience of social security and disability benefits. Stakeholder organisations involved in running and/ or attending consultation events included Inclusion Scotland, Versus Arthritis, RNIB, Sight Scotland, People First Scotland, and the Scottish Refugee Council.

It is expected that the introduction of these regulations could cause additional requests for information and support from existing advice services. As a new benefit, this may result in additional pressure on advice agencies as they become familiar with it. The Scottish Government will continue to engage with the advice services sector as the programme to implement the social security system in Scotland progresses.

The Scottish Government does not believe that the introduction of Adult Disability Payment will have an adverse impact on the

competitiveness of Scottish companies or the third sector within Scotland, the United Kingdom, or elsewhere in Europe or the rest of the world. Additionally the Scottish Government does not expect there to be any significant impact on the operational business of local authorities or health boards as a result of introducing this provision.

There may be some impact on public sector agencies and third sector organisations operating in Scotland in relation to the way the new Social Security Scotland agency delivers the devolved benefits compared to the status quo. These changes are unlikely to place significant demands on third sector organisations providing advice and support for people receiving and enquiring about social security payments and should not require a significant change to their operations.

### **Competition Assessment**

The Scottish Government does not believe that Adult Disability Payment will directly or indirectly limit the number of suppliers, nor does it limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Any procurement required to support the administration of Adult Disability Payment will be subject to the Public Contracts Scotland (2015) regulations and the Procurement Reform (Scotland) Act 2014, which together provide a national legislative framework for sustainable public procurement which supports Scotland's economic growth through improved procurement practice.

The Motability Scheme is currently the only national scheme that is open to eligible clients in receipt of the higher rate mobility component of Personal Independence Payment that can take advantage of certain tax exemptions that makes running a heavily discounted vehicle and equipment scheme financially sustainable. In ensuring that there is a devolved equivalent, we anticipate that the impact upon the existing supply chain of accessible vehicles and equipment will be nominal.

The Scottish Government has launched the Accessible Vehicles and Equipment Scheme to ensure that individuals in Scotland who receive a qualifying rate of disability assistance will be able to lease a range of cars, scooters and powered wheelchairs directly from a choice of accredited providers.

Accreditation under the Accessible Vehicles and Equipment Scheme is intended to allow other suppliers to join the Scheme – the Scheme does not directly or indirectly limit the number of suppliers, nor does it limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. Potential suppliers have a mechanism to request a review of a decision to refuse accreditation.

Social Security Scotland will arrange to pay the qualifying part of an individual's disability assistance to the accredited provider for the duration of a lease. Individuals who select the scheme to meet their mobility needs will not be subject to a credit check and will have access to a range of affordable choices directly from providers.

In the current system, assessments are carried out by private companies who do so on behalf of the Department for Work and Pensions. Their assessors then produce reports which are used by Department for Work and Pensions decision makers to determine entitlement to Personal Independence Payment. In Scotland, this is carried out by Independent Assessment Services (formerly ATOS) or Capita.

We are replacing health assessments with client consultations. Consultations will be carried out by health and social care practitioners in Social Security Scotland. There is therefore no need to put any contracts out to tender.

- **Will the measure directly or indirectly limit the number or range of suppliers?**  
No
- **Will the measure limit the ability of suppliers to compete?**  
No
- **Will the measure limit suppliers' incentives to compete vigorously?**  
No
- **Will the measure limit the choices and information available to consumers?**  
No

## **Legal Aid Impact Test**

Clients applying for Adult Disability Payment will have a right to request a re-determination of their entitlement by Social Security Scotland, and have a right of appeal to the First-Tier Tribunal for Scotland's Social Security Chamber.

It is not envisaged that there will be any greater demands placed on the legal aid system as a result of implementing this change, principally because the caseload is unlikely to change significantly. Legal assistance is available to individuals and is subject to a financial eligibility test based on the "disposable income" and "disposable capital" of the applicant.

It is a demand led budget and will continue to be available to individuals to appeal an entitlement decision to the First-tier Tribunal, to the Upper Tribunal, the Court of Session or Supreme Court. The Scottish Government does not expect any new impact on the legal aid budget, and expects legal assistance through the statutory scheme of Advice and Assistance, and Advice by Way of Representation will continue.

It is also expected that as a result of the extensive consultation and co-designed service design process, the decision making quality of Social Security Scotland will be improved and reduce appeals to tribunal by clients as a result.

## **Enforcement, sanctions and monitoring**

On-going stakeholder engagement with key organisations – such as Child Poverty Action Group in Scotland, Citizens Advice Scotland, DACBEAG, and our Ill Health and Disability Benefit Stakeholder Reference Group – will provide the Scottish Government with an opportunity to monitor the impact of the changes made by these regulations.

The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes made by these regulations, with a full suite of equalities data for new applicants.

The Social Security (Scotland) Act 2018 places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish social security system during the previous financial year. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the Social Security Charter.

### **Implementation and delivery plan**

The Scottish Government intends to begin accepting applications from new clients from spring 2022, and at a later date, existing Department for Work and Pensions clients will transfer to Social Security Scotland without having to make a new application. Social Security Scotland will handle all aspects of the client's case to minimise stress and anxiety.

A communications strategy will be developed in advance of the launch of Adult Disability Payment, which will aim to ensure that individuals, their families and carers, the third sector, local government, health sector and advice providers are aware of the introduction of Adult Disability Payment, and understand the eligibility criteria. We will develop the communications strategy so that it will be linked in with wider Scottish Government initiatives for improving outcomes for disabled people.

### **Post-implementation review**

As outlined above, the Communities Analysis Division within the Scottish Government will run a comprehensive evaluation programme to consider the impact of the changes made by these regulations, with a full suite of equalities data for new applicants.

### **Summary and recommendation**

In summary, the Scottish Government has identified evidence that the introduction of Adult Disability Payment will constitute an investment into the Scottish economy. It is anticipated that these funds will be used to pay for care, goods and services and therefore businesses could benefit from the introduction of Adult Disability Payment.

Any impact to businesses as a result of these regulations should be positive or neutral. The Scottish Government have worked closely with stakeholders to develop the policy and will continue to do so until Adult Disability Payment opens for new applications, the transfer process of

clients from Department for Work and Pensions to Social Security Scotland, and beyond.

**Scottish Government Contact point:** Mathew Duff

## Fairer Scotland Duty Summary

<b>Title of Policy, Strategy, Programme etc</b>	Disability Assistance for Working Age People (Scotland) regulations
<b>Summary of aims and expected outcomes of strategy, proposal, programme or policy</b>	<p>The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for disability benefits, including Disability Living Allowance for Children, Attendance Allowance and Personal Independence Payment.</p> <p>These benefits will continue to be delivered during a transition period by the Department for Work and Pensions under the terms of an Agency Agreement agreed with the Scottish Government to ensure the safe and secure devolution of disability benefits.</p> <p>The Scottish Government intends to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance with new forms of assistance under the 2018 Act. These new benefits will be delivered by Social Security Scotland on behalf of Scottish Ministers.</p> <p>The Disability Assistance for Working Age People (Scotland) regulations sets out how we will deliver our replacement for Personal Independence Payment; Adult Disability Payment. This was formerly known as Disability Assistance for Working Age People. It will replace Personal Independence Payment for people living in</p>

	<p>Scotland between the ages of 16 and state pension age.</p> <p>The regulations set out the detailed rules surrounding entitlement to Adult Disability Payment which will replace Personal Independence Payment.</p> <p>This policy is closely aligned with the Healthier, Wealthier and Fairer Strategic Objectives, and contributes to the following National Outcomes:</p> <ul style="list-style-type: none"> <li>• We respect, protect and fulfil human rights and live free from discrimination;</li> <li>• We tackle poverty by sharing opportunities, wealth, and power more equally;</li> <li>• We live in communities that are inclusive, empowered, resilient and safe; and</li> <li>• We grow up loved, safe and respected so that we realise our full potential.</li> </ul>
<p><b>Summary of evidence</b></p>	<p>This Fairer Scotland Duty assessment has been developed drawing on a range of primary research, including 3 public consultations, engagement with those with lived experience via focus groups, as well as ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG) and the Ill Health and Disability Benefits Stakeholder Reference Group.</p> <p>This work also drew upon interviews conducted via the Scottish Government's Social Security Experience Panels. The Panels involve people with lived experience of the benefits that are coming to Scotland, and have over 2,400 members drawn from people across Scotland. In 2019, a further round of recruitment took place, targeting specific groups identified as being underrepresented such as ethnic minorities and young people.</p> <p>A specific survey regarding the case transfer process was sent out to Experience Panel</p>

members in February 2019. 559 responses were received and a summary of these responses was published.

Despite the continuing impact of coronavirus, work with Experience Panels has continued, with engagement helping to inform our policy.

The Scottish Health Survey 2018 provides an accurate estimate of the number of disabled working age people in Scotland. For young people aged 16-24, 24% of young people have a limiting longstanding illness. This number raises to 30% for individuals aged between 25-34, 32% between 35-44, 46% between 45-54 and, finally, 60% between 55-64.

In 2019, there were 3,522,626 people aged between 16-65 in Scotland. As of July 2020, there were 273,901 people in Scotland entitled to Personal Independence Payment. This accounts for roughly 7.8% of this demographic.

### **The link between poverty and disability**

Research has shown that poverty disproportionately affects those having a disability, with disabled people experiencing higher poverty rates than the rest of the population.<sup>56</sup> UK-wide, disabled people make up 28% of people in poverty and a further 20% of people in poverty live in a household with a disabled person. This statistic is largely replicated in Scotland where around 410,000 households in poverty (42% of all households in poverty) include a disabled person or are disabled themselves.<sup>57</sup>

Scotland-wide, there are higher levels of material deprivation in households containing a disabled person, at 20% compared to households without a disabled person (at 8%). There are higher rates

<sup>56</sup> <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

<sup>57</sup> [https://www.npi.org.uk/files/3414/7087/2429/Disability\\_and\\_poverty\\_MAIN\\_REPORT\\_FINAL.pdf](https://www.npi.org.uk/files/3414/7087/2429/Disability_and_poverty_MAIN_REPORT_FINAL.pdf)

of food insecurity among disabled people (18%) compared to non-disabled people (5%). There is a higher likelihood of living in relative poverty after housing costs with a disabled person in the household (24% of families with a disabled person compared to 17% of families with no disabled members). If disability benefits are not counted towards household income, this raises to 30%. 'Family' in these circumstances referred to the core family in a household, comprising one or two adults and children, if any.

Disability and unemployment / under-employment are positively correlated. 14% of 'workless families' (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have one or more children with a disability or long-term illness. Recent statistics have found that, compared to non-disabled people in the United Kingdom (81.7), disabled people had a significantly lower rate of employment (53.6%). In Scotland, a recent publication identified that 45.6% of disabled people were employed compared to 81.1% of non-disabled individuals. In 2018, almost half of disabled people between 16-64 in Scotland were economically inactive (49.7%), compared with 15.9% of non-disabled people.

35% of 'workless families' (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have an adult with a disability or long-term illness. A further 25% of 'struggling to get by' families (unemployed or working part-time, half of which are single-parent families) have one or more adults with a disability or long-term illness. In households without children, 50% of 'insecure singles' (defined as workless, primarily single individuals living in

social housing) had a disability or long-term health condition. This rises to 68% for 'detached singles'. This group is similar to the 'insecure singles' group with the addition that they are less likely to have internet access or to participate in cultural activities, making them more disconnected.

Even where one or more individual in the household is in employment, the same level of income secures a lower standard of living than it would for a household without someone with a disability or long-term health condition. This is because disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition. Travel costs too, may be higher as individuals have to afford the cost of taxis to and from hospital where it is not possible to use public transport (and/or public transport may not be available).

Research conducted by the Papworth Trust<sup>58</sup> showed that the annual cost of bringing up a disabled child is three times greater than for a non-disabled child. Disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition.<sup>59</sup> Travel costs too, may be higher as families have to afford the cost of taxis to and from hospital where it is not possible to use public transport (and/or public transport may not be available).

Poverty amongst disabled people is likely to be exacerbated in light of the COVID-19 crisis, UNICEF highlighted that: 'In the context of the COVID-19 pandemic, persons with disabilities may have increased risk',<sup>60</sup> and the report in

<sup>58</sup><https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

<sup>59</sup> <https://www.jrf.org.uk/income-and-benefits/>

<sup>60</sup>[http://www.internationaldisabilityalliance.org/sites/default/files/covid19\\_response\\_considerations\\_for\\_people\\_with\\_disabilities\\_190320.pdf](http://www.internationaldisabilityalliance.org/sites/default/files/covid19_response_considerations_for_people_with_disabilities_190320.pdf)

	<p>particular makes connections between the pandemic and poverty, with disabled people likely to be disproportionately impacted.</p>
<p><b>Summary of assessment findings</b></p>	<p><b>Improved application and advice</b></p> <p>Making the application process more accessible and the provision of pre-application advice and support is intended to make it easier for individuals to secure the financial support that they are entitled to.</p> <p>Making the process of applying for Adult Disability Payment easier will potentially mitigate the risk of increasing the existing levels of adults living in poverty.</p> <p><b>Improved decision making</b></p> <p>Where possible, we will use existing supporting information to make a determination for Adult Disability Payment. Clients can provide us with supporting information themselves or can ask us for support in requesting it from other parties. We are working closely with other parts of the public sector to make it easy for clients to nominate professionals to share information with us on their behalf.</p> <p>Currently clients have to obtain their own supporting information, which can result in them paying a charge for that information. If Social Security Scotland collect this information on their behalf it potentially mitigates the risk of increasing the existing levels of adults living in poverty.</p> <p>In the minority of cases where no formal sources of information are available, case managers will be able to use their discretion, informal sources of information and the advice and guidance available to them to reach a decision. This will ensure that clients who do not have formal</p>

sources of information are not disadvantaged. It also has the potential to reduce barriers for some individuals to apply for the financial assistance they are entitled to. Therefore this approach is likely to have a positive impact on reducing inequality.

### **Client consultations**

Our new approach to information gathering will reduce the number of consultations that will take place and, if a consultation is required, it will take place at a time and place that suits the needs of the individual. Consultations will take place primarily over the phone with individuals having the option to request that it take place in person at a time and place that suits them, including at home or a separate location of their choosing which meets their needs.

Reducing the number of consultations and conducting them in a way that suits the needs of clients, will reduce the stress and anxiety caused and remove the requirement for individuals to travel long distances, often to unfamiliar locations. Where a client participates in a consultation for Adult Disability Payment, they will be given a bespoke appointment duration based on the needs identified by the case manager. Social Security Scotland practitioners will be given the time they need to fully understand the impact of a client's condition or disability.

### **The application of the eligibility criteria**

We are taking steps to apply the eligibility criteria differently to how it is currently applied by the Department for Work and Pensions to ensure that all clients are treated equally and fairly. The way in which eligibility and entitlement will be decided for Adult Disability Payment will be fundamentally different to how it is decided for Personal Independence Payment.

Unlike Department for Work and Pensions, we will not require evidence of every impact that the client reports. We recognise that Department for Work and Pension's approach presents particular challenges for individuals with limited mobility, or with variable health conditions such as Multiple sclerosis. This is because a GP is often not able to describe the impact of someone's health condition on their day to day mobility needs. Instead, the supporting information we require to make a decision on entitlement need only be consistent with the needs detailed by a client on their application.

We will properly apply the reliability criteria. This means that someone can only be considered able to complete an activity if they can do so safely, repeatedly, in a reasonable time, and to an acceptable standard. Instead of this simply being a tick box exercise, this criteria will be enshrined in law and it will be used to ensure a full account of how a client experiences an activity such as moving around is produced. This will help ensure that clients who are entitled to financial assistance will receive it and thereby positively impact on reducing inequalities.

### **Terminal illness**

Our new definition of terminal removes the arbitrary six month time limit used in the current definition.

Allowing medical professionals to use their clinical judgement on a case by case basis will mean that a broader range of conditions will be able to be accounted for and, thus, allow more individuals to be entitled to Adult Disability Payment through Special Rules for Terminal Illness. This will also allow individuals who need support to receive it more quickly.

Clients who are eligible for Adult Disability Payment through Special Rules for Terminal Illness will automatically be entitled to the enhanced rates of the daily living and mobility components. This will help mitigate the risk of increasing the number of individuals living in poverty.

### **Award duration and reviews**

Awards will be rolling with no fixed end date and reviews will be light-touch. This will help to reduce stress and anxiety associated with coming to the end of an award for assistance before a review is complete.

By continuing entitlement while a review is taking place, we will further help to mitigate any fear of a financial cliff edge by ensuring that individuals continue to receive the assistance they are entitled to until a case manager has made a new determination. This process still enables Social Security Scotland to undertake reviews to determine continuing entitlement to Adult Disability Payment. 66% of respondents to our Consultation on Disability Assistance agreed with this approach alongside general agreement from our Experience Panels.

The introduction of lifetime awards for individuals with conditions which are unlikely to change will cut down on the number of unnecessary reviews of awards individuals will need to go through. Our initial proposal to set awards of between 5-10 years for people whose condition or disability is unlikely to change was agreed with by 58% of respondents to our Consultation on Disability Assistance. However after receiving further feedback from stakeholders and people with lived experience of disability, work is underway to establish parameters that could be put in place for the provision of indefinite awards for certain clients whose needs are very unlikely to change.

## **Re-determinations and appeals**

Extending the time individuals have to request a re-determination to 42 days will have a positive impact as it will provide more time to seek advice or support when challenging a decision. This was stressed as being important by organisations who responded to our Consultation on Disability Assistance even though, overall, there was general agreement to the initial proposed time limit of 31 days (58%).

We noted concerns raised by a small number of respondents that a short timescale may deter individuals from challenging a decision. We want to ensure that no one is disadvantaged by time limits for challenging a decision. Extending the time individuals have to request a re-determination may help to encourage people to challenge a decision they do not agree with. If Social Security Scotland has made a mistake during initial decision, this will help to ensure that individuals receive administrative justice.

When we asked respondents to our 2019 consultation if Social Security Scotland should have a time limit of 40-60 days to complete the re-determination process, 60% agreed. We have settled on giving Social Security Scotland 56 days to complete the re-determination process.

While some stakeholders felt that this was an excessive period for someone to be left without clarity over their award level or eligibility, it is important that enough time is given to collect any supporting information that might be needed on behalf of an individual, so that a case manager can make an informed decision about their entitlement to Adult Disability Payment.

This will be beneficial as it will ensure that individuals and their families or carers will have

certainty about how long Social Security Scotland has to complete a re-determination. Similarly, by enabling individuals to appeal directly to the First-tier Tribunal should Social Security Scotland be unable to complete the re-determination process within the timescale, this will further reduce any uncertainty and, consequently, make people feel more confident in challenging a decision they do not agree with.

### **Short-Term Assistance**

Continuing entitlement to Adult Disability Payment during the re-determination and appeals processes through the introduction of Short-Term Assistance will help to mitigate a loss in household income experienced in the current system wherein, during mandatory reconsiderations and appeals, individuals are not entitled to disability benefits. This will allow individuals entitled to Adult Disability Payment to continue to meet the additional costs of having a disability.

Introducing Short-Term Assistance will help to mitigate the risk of increasing the number individuals in poverty by ensuring that, if a mistake has been made by Social Security Scotland, they will continue to receive the payments they would have been entitled to should the mistake not have been made.

Engagement with our Experience Panels found that participants believed that Short-Term Assistance would make it more likely for people to challenge decisions by Social Security Scotland . There was an emphasis on Short-Term Assistance reducing financial pressure and giving people more confidence in challenging decisions they did not agree with.

Additionally, Short-Term Assistance is a non-recoverable payment made by the Scottish

Government, avoiding the need for clients to worry about having to pay it back should their re-determination or appeal be unsuccessful. This will help to prevent a further reduction in household income and increase financial security in these circumstances, something which was stressed by respondents to our 2019 consultation (87% agreed that Short-Term Assistance should not be recoverable).

There was disagreement from respondents to our consultation to the proposal that Short-Term Assistance should be subject to deductions in respect of an overpayment agreement. Only 49% agreed with many stating that because disability assistance is essential to meeting the additional costs associated with having a disability, reducing this level of assistance could cause hardship . We have considered this carefully but where a deduction is being made, an individual will already have had dispute rights against the determination that put that deduction in place. Financial and other circumstances will have been considered as part of that process.

### **Independent review of Adult Disability Payment and monitoring**

We plan to establish a group to undertake a review of Adult Disability Payment to commence in summer 2023. The members and chair of the group will be drawn from outside the Scottish Government. The group will also secure input from people with lived experience.

Holding the review in summer 2023 will provide the opportunity for Social Security Scotland to administer Adult Disability Payment for a full year so the necessary data and feedback from individuals can influence the recommendations.

The review will be wide ranging to allow consideration of the suitability all of the activities,

	<p>descriptors and supporting criteria. The review will allow a measurement of the extent to which Adult Disability Payment has reduced the negative impacts identified in this Fairer Scotland Duty including any impact on poverty and inequality.</p> <p>We will then make the independent report and recommendations publically available to allow for transparency, scrutiny and visibility.</p> <p><b>Recommendations and Conclusion</b></p> <p>This Fairer Scotland Duty has identified that overall, the introduction of Adult Disability Payment to replace Personal Independence Payment has the potential to have a positive impact on reducing inequality and tackling poverty for disabled people in Scotland.</p>
<p><b>Sign off</b></p>	<p><b>Name: Ian Davidson</b></p> <p><b>Job title: Deputy Director Social Security Policy</b></p>



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