

# **Consultation On Low Income Winter Heating Assistance (LIWHA)**

**December 2021**

## Ministerial Foreword



I am pleased to be launching this consultation on Low Income Winter Heating Assistance.

This seeks your views on our proposals to introduce a new Scottish benefit to replace the current Cold Weather Payment scheme in Scotland from winter 2022.

Our proposed new benefit, Low Income Winter Heating Assistance, will give the 400,000 low income households currently eligible for Cold Weather Payments the reassurance of a £50 payment every year. This will be an investment of around £20 million each year to support people towards the costs of heating their homes in winter no matter what the weather or temperature.

Although Cold Weather Payments have been a valuable support for some during periods of very cold weather, there have been some years when hardly any payments have been made. The current requirement for temperatures to be recorded or forecasted at below zero degrees Celsius for seven days in a row in order to trigger a £25 payment provides no certainty to people. Furthermore, we know that the location of the 27 weather stations in Scotland which need to reach this temperature have raised questions on equality and fairness for Cold Weather Payments. In some years only one or no payments have been triggered. If winters, as predicted, are due to be wetter and warmer, this may also reduce the numbers of Cold Weather Payments in the future. We want people to have certainty about receiving a payment, no matter the temperature during the winter or where they live in Scotland.

Our proposed replacement, Low Income Winter Heating Assistance, will provide a single annual payment of £50 to all eligible households receiving income related benefits in the winter. This is the equivalent to two Cold Weather Payments and should ensure that most people will be better off under the new benefit. It is the newest benefit in our ambitious programme to devolve some of the UK benefits system to Scotland and is also part of our broader approach to support people who need extra help with heating costs during the coldest months of the year.

Working with individuals and organisations with experience of the benefits system is central to our approach to developing the devolved social security system in Scotland. We are now looking for your views through this consultation to finalise our policy on this benefit. I encourage you to respond to the consultation, and thank you in advance for taking the time to give us your views.

**Ben Macpherson MSP**

Minister for Social Security and Local Government

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## Section 1 – Introduction

### 1.1 Policy Development

In July 2016 the Scottish Government launched a public consultation to inform the content of the Social Security (Scotland) Act 2018. The consultation set out a vision and key principles for social security in Scotland. The consultation was in three parts, covering:

- A Principled Approach;
- The Devolved Benefits; and
- Operational Policy.

Some of the themes highlighted by respondents on winter heating benefits included:

- In general respondents supported a broad continuation of the current eligibility criteria for both benefits.
- Whether the delivery of Winter Fuel Payment could be improved, particularly for households in remote rural and island communities that are not on the gas grid.
- Whether the way that cold weather events are identified could be improved, for example by considering whether the number of weather mapping points should be increased or if the effects of wind chill could be better recognised.

This consultation aims to build on the above views which respondents provided, focusing specifically on the introduction of our new Low Income Winter Heating Assistance (LIWHA), which will replace Cold Weather Payment (CWP) in Scotland in Winter 2022.

The Scottish Government believes that understanding and learning from the experiences of individuals and organisations that come into contact with the current benefits system is vital to help us develop LIWHA with dignity, respect and fairness.

The Scottish Government set up the innovative Social Security Experience Panels in 2016. The Experience Panels are made up of over 2,400 people across Scotland who have recent experience of receiving at least one of the benefits devolved to Scotland. Those people are instrumental in shaping the policy and design of winter heating benefits in Scotland, providing input to our research, providing views and opinions, which will inform our processes from end to end. The Experience Panel research on winter heating benefits was undertaken between February and March 2020 and covered the following areas:

- Experiences and understanding of the existing CWP and Winter Fuel Payment (WFP)
- Accessing support and information on heating your home
- How CWP and WFP could be improved
- The impact of individual circumstances such as energy/ connection type
- Communications about CWP and WFP

The full report can be found on the Scottish Government website at:

[Social Security experience panels: cold spell and winter fuel payment – report - gov.scot \(www.gov.scot\)](http://www.gov.scot)

We have also set up and met with the Winter Heating Benefits Reference Group which was established in October 2020. The group has contributed ideas and views on our approach to devolving winter heating benefits to Scotland. They have helped gather evidence, bringing a variety of informed perspectives and providing feedback on proposals, including:

- Recipients will have a positive experience of Scotland’s social security system
- Clear eligibility rules that are easily understood
- Benefits are paid automatically to those who are eligible within agreed timescales

Building on our work with Experience Panels we are now keen to gather further views of people with a working knowledge of social security, including CWP’s. The Scottish Commission on Social Security (SCoSS) has been established and will scrutinise the LIWHA regulations which will be drafted in accordance with feedback from this consultation.

## **1.2 Legislative Powers**

The Scotland Act 2016 devolved certain powers over social security to Scottish Ministers, which included powers to create new benefits to assist with the expense for heating in cold weather, as well as other benefits to support people on low incomes.

Following the Scotland Act 2016, the Social Security (Scotland) Act 2018 created the legal framework under which social security assistance will be given to people by the Scottish Government, which includes new winter heating benefits. Section 30 of the Social Security (Scotland) Act 2018 authorises the Scottish Ministers to make provision by way of regulations for assistance to help an individual to meet, or help towards meeting, the individual’s heating costs during the winter months. This provides Scottish Ministers with the opportunity to offer a distinctly new benefit with dignity and respect being core to its approach.

As we have been developing the law that will underpin how Social Security will be delivered in Scotland, we provided a series of position papers to the Scottish Parliament’s Social Security Committee setting out current policy thinking on key matters, including winter heating benefits. The *Cold Spell and Winter Heating Assistance: policy position paper*, published on 28<sup>th</sup> February 2019, outlined the commitment of the Scottish Government to replace CWP with Cold Spell Heating Assistance (CSHA). The commitment included that:

- no-one will lose out when the Scottish Government takes responsibility for CSHA
- there are no plans to change the current eligibility criteria
- there are no plans to change the amount paid

Therefore, our intention had previously been to introduce our replacement for CWP in winter 2021 and on a like-for-like basis. This work was paused due to COVID-19

and the priority of introducing the Scottish Child Payment (SCP). Following a period of review Scottish Ministers have now committed to replacing CWP with a Scottish alternative, to bring greater certainty to clients and better target households at risk of fuel poverty.

LIWHA will form part of a suite of winter heating benefits. A new benefit, Child Winter Heating Assistance (CWhA), has already been introduced and Pension Age Winter Heating Assistance (PAWHA), our replacement for the UK Government's Winter Fuel Payment, will be introduced in 2024.

The Scottish Government is committed to delivering LIWHA safely and securely and will ensure that this assistance is provided efficiently and in good time.

## **Section 2 – About the Consultation**

### **2.1 What are we consulting about?**

This document sets out the Scottish Government's proposed policy approach.

The Scottish Government has now committed to replacing the UK Government's CWP of £25 for every 7 day period of very cold weather, with a new £50 winter heating payment paid annually to those low-income households currently eligible for the CWP. This will be an investment of £20 million every year and support 400,000 households, giving eligible low-income households guaranteed support with energy bills.

We are therefore consulting on the policy intention behind the delivery of this new LIWHA. This will build on the broader consultation on the Social Security Bill in 2016 which asked respondents for their views on WFP and CWP. This consultation aims to provide an overview of the new payments aim, its key eligibility criteria and format. It will lay out how we intend to deliver this new benefit through Social Security Scotland to provide assistance to individuals to help towards meeting heating costs in winter. We also want to identify any unintended consequences of our proposals.

This consultation asks questions on whether the policy intent set out in the Scottish approach to replacing CWPs will best meet the needs of those it is intended to help. We would like to gather views to ensure we have identified the best possible approach to delivering this assistance before we draft the benefit regulations.

### **2.2 Who might be affected by the approach proposed within the consultation document?**

Any individual living in Scotland who has previously received a CWP during the winter from DWP, or would have likely received CWP if the weather conditions were met because they met all the other eligibility conditions, will be affected by the approach set out in this consultation document. In addition, any individual living in Scotland who meets the eligibility criteria may also be affected by the proposals. Welfare rights agencies, fuel poverty organisations, local authorities and rights organisations may also want to consider the impact of the proposed policy intent both on their organisations as well as on any client groups they support.

We are also taking this chance to collect information on what to include in our Impact Assessments on the introduction of LIWHA. There is an opportunity to feed into these in SECTION 7 of this consultation and we would welcome your views.

### **2.3 Who do we want to hear from?**

We would like to gather views from a range of organisations and individuals, in particular those individuals currently receiving any of the qualifying benefits which would make them eligible for the new LIWHA, to ensure we have identified the best solution. In addition to asking questions about the policy we are also asking for views on the potential impacts of the devolution of both benefits on different groups and also on businesses.

We want this consultation to be as accessible as possible for people who might be affected by the transfer of these benefits. Therefore we would like to run events in conjunction with stakeholders to promote and encourage people to take part in the consultation. This will provide people with the opportunity to speak directly to us about their experiences and views on topics covered in the wider consultation.

## **2.4 How will my views inform the policy?**

The responses to the consultation will be analysed and, taking these into account, policy decisions will be made. The final policy will be set out in draft regulations which will have to be approved by the Parliament before delivery can take place. The draft regulations will be scrutinised by the Scottish Commission on Social Security (SCoSS) before they are laid in the Scottish Parliament.

We will also start to design the business processes which will allow citizens to access and receive LIWHA. This work will include developing the communications that clients receive about their payments. We want to test and evolve designs with stakeholders and members of the public who have experience of the current DWP system to ensure it is as user-friendly as possible.

LIWHA will be delivered by Social Security Scotland. Social Security Scotland will have the systems, staff, processes, geographical reach and the legal powers to administer LIWHA across the whole of Scotland. The Agency's head office is in Dundee, with a second major base in Glasgow and client advisors based in both locations. Once the Agency is fully operational there will also be a local delivery presence in local authority areas across Scotland. This will enable an accessible and person-centred service by providing a local presence across Scotland to meet people's needs by giving them a choice in how they access the service.

## **2.5 What comments are requested and by when?**

We are inviting responses to this consultation paper by 23 February 2022.

To submit your response online please visit our consultation website at <https://consult.gov.scot/social-security/winter-heating-benefits>. If you would prefer, you can email your response to our email address; [WinterBenefitsPolicy@gov.scot](mailto:WinterBenefitsPolicy@gov.scot) or send to:

Social Security Policy Division  
Welfare Fund and Winter Benefits Policy Unit  
Victoria Quay  
Edinburgh  
EH6 6QQ

### **Section 3 – Policy Objectives of Low Income Winter Heating Assistance**

The Scottish Government previously intended to replace the current DWP CWP with a very similar benefit but to look at ways of improving it<sup>1</sup>. We know that the difference in weather conditions between some areas and the location of the weather stations which would trigger a CWP is a source of frustration to some people. Similarly the exclusive reliance on temperature rather than other factors such as wind chill can make some people feel that they are not being treated fairly under the current scheme. An Experience Panel survey undertaken in February 2020 showed that many felt that the requirement for seven consecutive days of low temperature was also prohibitive, and left people feeling unable to heat their homes even in very cold weather.

We now consider that the best way to address these weaknesses is not to add further complexity to the benefit e.g. by creating more weather stations or adding more ways of determining cold weather. Instead we intend to remove the dependence on cold weather altogether and acknowledge that, regardless of temperature it is more likely to be difficult for people on low income benefits to spend more money to heat their homes in the winter. Whether that is because of the weather, the cost of fuel or the efficiency of their heating system or insulation, it will still require them to spend more money.

Under these new arrangements everyone in Scotland who would have been eligible for CWP if the weather conditions had been met in their location, will in future be awarded a single annual payment of £50 each winter instead.

This new benefit will be provided to those receiving Pension Credit, Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance, Universal Credit and Support for Mortgage Interest. As with the current CWP, additional qualifying criteria for some of these benefits may also need to be satisfied e.g. in relation to disability premiums paid to the client or if a disabled child is in their household.

By removing the link between additional support and weather we will provide certainty for low income households about the extra help they will get, regardless of the actual temperature each day. It will also enable us to provide assistance to more households that are at risk of fuel poverty.

Simplifying the benefit will also make it possible for us to deliver it more quickly than a benefit with more complex additional eligibility criteria.

In the following section we will first give an overview of the UK Government's current CWP and then set out in more detail our intended approach to the introduction of LIWHA in Scotland.

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<sup>1</sup> [Cold Spell and Winter Heating Assistance: policy position paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/cold-spell-and-winter-heating-assistance/policy-position-paper/pages/11.aspx)

## **Section 4 – Outline of Policy: Cold Weather Payment Background**

### **4.1 Background – Cold Weather Payment (CWP)**

CWP is a payment of £25 made by the DWP to eligible clients each time a ‘cold spell’ is recorded or forecasted in their local area between 1st November and 31st March.

### **4.2 Temperature**

A ‘cold spell’ occurs when the average temperature is recorded as, or is forecast to be, zero degrees (Celsius) or below for seven consecutive days. This measurement system does not account for other weather conditions, such as wind chill and rain. This means that in many remote areas (especially islands), the localised effects of wind and other weather conditions are not taken into consideration since recorded temperatures have not reached zero.

### **4.3 Local Area**

To identify a ‘cold spell’, each postcode in Great Britain is mapped to one of 95 weather stations. This mapping is done jointly by the DWP and the Met Office. The Met Office takes account of topography, the extent of built-up areas and the distance from available weather stations. Each postcode district is assigned to a weather station with the most similar climate in terms of the average winter temperature between 1981 and 2010. This postcode to weather station mapping is agreed before the service is due to start each year. There are currently 27 weather stations used to capture temperatures in Scotland, an increase from the 18 stations in place when the benefit was first established in 1988. Certain postcodes span the border with England which results in a small number of Scottish households being linked to weather stations in England and vice versa.

### **4.4 Eligibility**

In addition to temperature, eligibility for CWP is dependent on a client being in receipt of, and meeting one of the qualifying conditions of, an existing DWP benefit. The majority of payments are made to clients in receipt of Pension Credit with the remainder made to people receiving Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance, Universal Credit and Support for Mortgage Interest. Additional qualifying criteria for some of the low income benefits also need to be satisfied in relation to disability premiums paid to the client or the presence of a disabled child or child under 5 years of age in their household.

The eligibility criteria for CWP are complex, but ultimately eligibility is dependent on a client meeting one of the qualifying conditions detailed in Table 1 when a ‘cold spell’ is triggered.

Table 1. Qualifying Benefits and Condition

<b>Benefit in Payment</b>	<b>Qualifying Conditions For a CWP</b>
<b>Income Support (IS)</b>	Entitled to a CWP if they receive a disability premium, a severe disability premium, any one of the pensioner premiums, a child disability premium within IS or Child Tax Credit (CTC) or they have a child under 5 years.
<b>Income Based Jobseeker's Allowance (JSA (IB))</b>	Entitled to a CWP if they receive a disability premium, a severe disability premium, any one of the pensioner premiums, a child disability premium within JSA(IB) or CTC or they have child under 5 years
<b>Income Related Employment Support Allowance (ESA (IR))</b>	Entitled to a CWP if they are placed in the support group or the work-related activity group or receive a severe or enhanced disability premium, pensioner premium, or have a child who is disabled for whom they receive a disability premium within CTC or have a child under 5 years.
<b>Pension Credit (PC)</b>	Entitled to CWP
<b>Support for Mortgage Interest loan (SMI)</b>	Entitled to a CWP if they receive a disability premium, a pensioner premium, have a child who is disabled, receive CTC that includes a disability or severe disability element or have a child under the age of 5 living with them.
<b>Universal Credit (UC)</b>	<p>Entitled to a CWP, if they receive, or have underlying entitlement to, the limited capability for work element</p> <p>they receive or have underlying entitlement to, a limited capability for work element with a work related activity element, they receive a disabled child element or have a child who is disabled or under the age of 5.</p> <p>NB:- In addition they must also not be employed or self-employed, except where there is a child who is disabled in the family.</p>

## 4.5 Variability

While CWP is targeted on households that are likely to be in need of support to pay their fuel bills, payments are dependent on weather conditions so the total amount of money awarded to eligible clients can vary greatly each year. However, data shows that the highest number of cold spells take place in the north of Scotland and in the last three years 68% of cold spells in Great Britain occurred in Scotland.

Table 2. Cold Weather Payments in Scotland – Caseload and Expenditure

<b>Cold Weather Payment Details</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>Cold Spell Triggers</b>	29	22	11	61	25	7	76
<b>Total No. of Eligible CWP recipients</b>	380,000	415,000	409,000	393,000	385,000	365,000	402,000
No. of whom in receipt of Pension Credit	205,000	183,000	173,000	158,000	148,000	139,000	133,000
<b>Total no. of payments</b>	268,000	136,000	31,000	818,000	385,000	7,000	854,000
No. of payments to those in receipt of Pension Credit	148,000	65,000	15,000	333,000	147,000	3,000	289,000
<b>Total no. of individual CWP recipients</b>	226,000	119,000	26,000	387,000	320,000	4,000	398,000
No. of individual CWP recipients in receipt of Pension Credit	121,000	56,000	13,000	155,000	148,000	1,000	129,000
<b>Total expenditure</b>	£7,285,000	£3,480,000	£745,000	£21,520,000	£10,230,000	£225,000	£21,350,000
Expenditure to those in receipt of Pension Credit	£3,695,000	£1,600,000	£400,000	£8,300,000	£3,675,000	£75,000	£7,225,000

#### 4.6 Current and post pandemic CWP Caseload

In winter 2020/21 there were 402,000 eligible recipients in Scotland. This was an increase from 365,000 eligible recipients in 2019/20. The increase in eligible recipients is likely to be a result of the increase in Universal Credit (UC) recipients due to the COVID-19 pandemic.

For this reason we think it is reasonable to forecast the CWP caseload using the average caseload from those years for which data are available (2014/15 to 2020/21) without making an adjustment to account for the increase in UC cases. This gives a caseload of around 400,000. This means that a £50 flat payment could cost around £20m per year, £5m more than the estimated budget for CWP of around £15 million (based on average expenditure since 2008/09).

Table 3. predicted eligible recipients based on qualifying benefits

<b>Qualifying benefits</b>	<b>Scotland caseload</b>
Pension Credit	133,000
Universal Credit (UC) with a disabled child element, or UC and limited capability for work and not in employment	269,000
Income Support (IS) or Income-based Job Seeker's Allowance (JSA (IB)) with disability or disabled child element	
Income related Employment Support Allowance (ESA (IR)) with severe/enhanced disability premium or limited capability for work	
Child Tax Credit which includes a disabled child element	
In receipt of UC, IS, (JSA (IB)) or (ESA (IR)) and are responsible for a child under 5	
<b>Total (based on eligible recipients for CWP in Scotland in 2020/21)</b>	<b>402,000</b>

## Section 5 – Proposals for Low Income Winter Heating Assistance

### 5.1 Low Income Winter Heating Assistance – Overview

Under our proposed new benefit, everyone who would currently be eligible to receive CWP if the average temperature in their area were zero or below for 7 days (i.e. everyone in receipt of a qualifying benefit) would receive a single £50 each year during the winter. Our intention, subject to agreement with the UK Government is that this payment will be tax free. This would remove the dependence of the payment on changing weather conditions and on a limited number of, often remote, weather stations to monitor them. This would offer recipients greater dependability and may provide the opportunity to target more households that are at risk of fuel poverty.

Based on estimations of eligible claimants, LIWHA will make an estimated payment of £20 million annually to around 400,000 eligible people. In developing this proposal, the Scottish Government has considered the UK Government’s approach and has decided that the UK approach does not offer sufficient flexibilities, nor does it reflect the Scottish Government’s principles or the need to reduce fuel poverty in Scotland more effectively.

To remain consistent with the terminology used by Section 30 of the Social Security (Scotland) Act 2018, under which regulations will be brought to introduce this replacement benefit and to reduce the risk of confusion between benefits being delivered by both UK and Scottish Governments, we intend to refer to our replacement as Low Income Winter Heating Assistance (LIWHA).

<b>Question 1. Do you agree or disagree with the proposal to replace Cold Weather Payment with a new benefit whose eligibility is based solely on receipt of a low income benefit and not on reaching a specific temperature for a period of time?</b>
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<b>Question 2. If you disagreed, please could you explain why?</b>
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<b>Question 3. Do you agree or disagree that this approach is an effective way for the Scottish Government to tackle winter heating costs for people on low incomes?</b>
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<b>Question 4. If you disagreed, please could you explain why?</b>
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<b>Question 5. Do you agree or disagree with the proposal to name the replacement for Cold Weather Payment (CWP) in Scotland “Low Income Winter Heating Assistance” (LIWHA)?</b>
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<b>Question 6. If you disagreed, please could you explain why?</b>
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### 5.2 Removal of ‘Cold Spell’ triggers and ‘Lump Sum’ payment

CWP was ostensibly designed to address fuel poverty as the payment is intended to help those most vulnerable to the health risks of staying in a cold home to pay for

additional heating when the weather is at its coldest. However the sporadic nature of these payments, and the difficulty recipients have in anticipating them, has meant that although it may have an impact on the lived experience of fuel poverty, it has made little impact on overall fuel poverty rates to date. Although it is difficult to quantify the impact the introduction a new benefit like this would have on reducing the fuel poverty rate in Scottish households, data from the Scottish House Condition Survey 2018 showed that, 34% of households receiving CWP were fuel poor. If the weather dependent criterion is removed this would rise to 44% (Source: SCHS 2018).

Individual weather stations currently used to measure the temperature for different areas in Scotland, are limited in number and often cover large geographical areas (*figure 1*) within which the weather and temperature can vary significantly. Stakeholders have previously highlighted that some weather stations are located in areas that do not reflect the general climate or weather of all of the postcodes that they are linked too. For example, some weather stations situated in coastal areas or at a lower altitudes determine CWP triggers for homes located further inland or on higher ground. The strict requirement for eligibility to be dependent on an areas actual or forecasted temperature being measured at or below zero degrees Celsius for seven consecutive days does not take account of wind chill or temperature variation within a region. We also know that many will find it very cold when temperatures are measured as being slightly above freezing. This has led to individuals expecting a payment to be made, but not receiving one.

By removing the weather dependence of this payment we will provide greater security and stability in payments. Our Experience Panel survey showed that many felt that the requirement for seven consecutive days below freezing was too strict and that it made it difficult to plan, discouraging some from putting their heating on when needed.

It is our intention that this new benefit will provide additional assurance to vulnerable people that assistance will be provided to help maintain a safe temperature at home during the winter, reducing the health risks due to living in cold environments. It will also have a positive impact on disabled children, children under five and children living in low income households. Evidence has shown that living in a cold home can have a negative impact on health, educational attainment, emotional wellbeing and resilience. LIWHA will provide a financial boost to the family income of these most vulnerable children.

<b>Question 7. Do you agree or disagree with the proposal to remove the requirement for a ‘cold spell’ to be identified in order for a client to receive a payment?</b>

<b>Question 8. If you disagreed, please could you explain why?</b>

<b>Question 9. Do you agree or disagree with the proposal to have a one off, annual payment for LIWHA?</b>

<b>Question 10. If you disagreed, please could you explain why?</b>

# Scottish Cold Weather Payment Areas & Weather Stations

2020-21 data

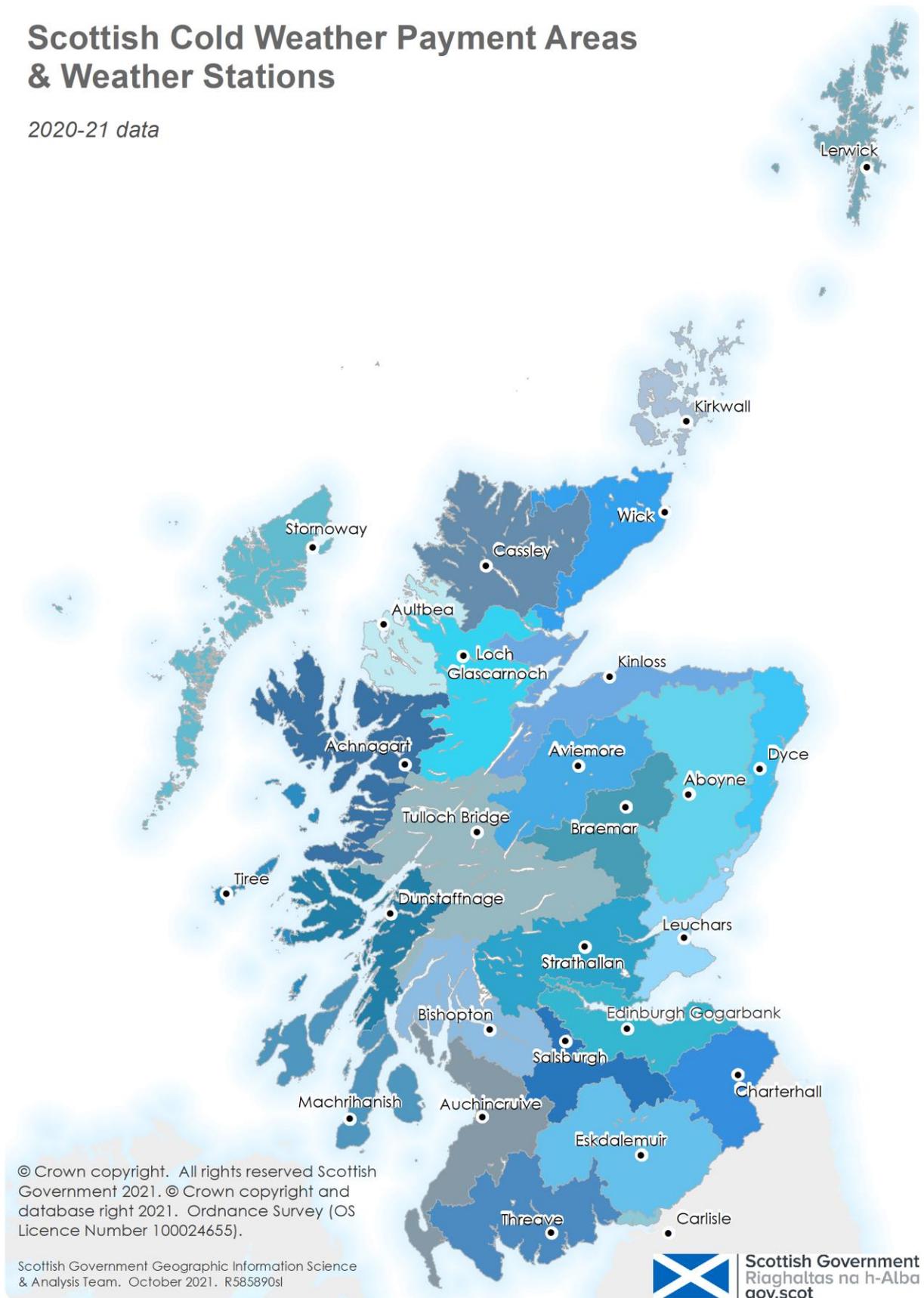


Figure 1.

### 5.3 Qualifying Benefits

Although we intend to remove completely the reliance on variable weather conditions and location to determine an individual's eligibility, we do not intend to make significant changes to the qualifying benefits which establish entitlement to CWP. This will ensure that people in financial need continue to receive support with minimal disruption.

Therefore, those clients who are currently eligible for CWP due to being in receipt of, and meeting one of the qualifying conditions of, the existing reserved benefits will automatically be eligible for a LIWHA payment.

This includes clients in receipt of Pension Credit, Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance, Universal Credit and Support for Mortgage Interest. Additional qualifying criteria for some of the low income benefits will also need to be satisfied in relation to disability premiums paid to the client or a disabled child in their household (full overview of qualifying benefits and conditions are shown in Table 1).

We are taking this approach as there tends to be an overlap of the eligibility criteria for CWP and households who are in fuel poverty and extreme fuel poverty. A household in fuel poverty is one that, in order to maintain a satisfactory heating regime and meet their reasonable fuel needs has total fuel costs more than 10% of the household's adjusted net income (after housing costs), and after deducting fuel costs, benefits received for a care need or disability and childcare costs, the household's remaining adjusted net income is insufficient to maintain an acceptable standard of living. The remaining adjusted net income must be at least 90% of the UK Minimum Income Standard (MIS) to be considered an acceptable standard of living, with an additional amount added for households in remote rural, remote small town and island areas. Extreme fuel poverty follows the same definition with the exception that a household would have to spend more than 20% (rather than 10%) of its adjusted net income (after housing costs) on total fuel costs to maintain a satisfactory heating regime and meet their reasonable fuel needs.

Due to this overlap between the current eligibility for CWP and those households who have need for enhanced heating regimes (those who are likely to have higher heating costs), it can be assumed that a guaranteed payment each winter would have the effect of reducing the fuel poverty rates in those households.

Eligibility for CWPs is linked to entitlement to a number of reserved DWP benefits. Therefore we rely on DWP to provide the data required to identify eligible clients. This is drawn from a number of different DWP technical systems. Making significant changes to the qualifying criteria would increase the technical complexity of identifying clients and therefore impact on the delivery timetable we have set out. Agreement with DWP would be needed for them to undertake the necessary development work. This would also create a risk that clients are not paid correctly or on time. Therefore our approach will allow us to offer more consistency and dependability to this payment whilst ensuring there is no gap in the provision of assistance for those who had previously received CWP.

**Question 11. Do you agree or disagree that our approach to identifying eligibility should be through the use of qualifying benefits?**

**Question 12. If you disagreed, please could you explain why?**

**Question 13. Do you agree or disagree with the proposal to retain the current qualifying benefits to indicate eligibility for this new payment?**

**Question 14. If you disagreed, please could you explain why?**

**Question 15. Do you agree or disagree that the eligibility criteria for the LIWHA are clear?**

**Question 16. If you disagreed, please could you explain why?**

#### **5.4 Amount of Payment**

The current CWP rate of £25 is relatively low and payments are sporadic so it has made little impact on overall fuel poverty rates to date. There has also been a general decrease in the number of payments of CWP made in Scotland over recent winters with table 4 below showing a general downward trend (until winter 2020/21) in cold weather events and therefore CWP payments.

Table 4. Number of cold weather triggers and total spend in Scotland from 2017/18 until 2020/21.

<b>Year</b>	<b>Number of CWP Payments</b>	<b>Scottish Payments as a % of GB</b>	<b>Total Value £m</b>
2017/18	987,000	21%	24.90
2018/19	408,000	37.9%	10.20
2019/20	7,000	100%	0.17
2020/21	854,000	21.2%	21.30

Historically many people eligible for CWP will not receive a payment for every winter period, because the triggers for payments are concentrated in certain weather stations. For instance, in 2019/20 only 7,000 payments were made, consisting of 2,000 people getting one payment of £25, 1,000 people getting two payments for a total of £50, and 1,000 people getting three payments for a total of £75.

Assuming there is no change to the qualifying benefits, a flat payment of £50 each year would provide those living in areas where there have historically been few triggers with a similar or higher amount each year than they receive under the current system. Conversely, those living in areas which historically have frequent triggers would potentially receive less than they do under the current system. As the current payment is £25 for each trigger, people living in areas with three or more

triggers would receive less under the £50 payment. However, data from Scottish weather stations from the past six years indicates that only eligible recipients living in six of the twenty seven weather station areas covering Scotland would have, on average, received less had the payment been set at a flat rate of £50. These are generally less densely populated rural areas covering a small amount of eligible clients.

Since we cannot forecast the triggers in advance, we cannot say definitively who would definitively be affected by this. However, we believe the positive impact of this change in approach will be acutely felt by those eligible low-income households who may not have previously received a payment (under the current DWP Cold Weather Payment,) due to the current dependency on weather. Although under this proposal the level of payment will not increase as the temperature recorded drops, we believe it will provide more predictable support bringing a better platform for those eligible clients who receive it to meet extra heating costs as they arise.

## **5.5 Financial Implications**

Last year there were 854,000 payments made to CWP recipients in Scotland totalling more than £21 million. The year before there were only 7,000 payments totalling less than a quarter of a million. Because payments are weather-dependent, overall expenditure fluctuates considerably from year to year (see Table 2 above). By removing the uncertainty of weather dependence we anticipate that our guaranteed £50 payment will provide at least £20 million to those households every year. This is £5 million more than the estimated budget for CWP (based on average expenditure since 2009/10).

Unless there are prolonged periods of very cold weather in future winters the Scottish Government's annual expenditure on LIWHA will, therefore, exceed the budget provided for CWP as part of the annual Block Grant Adjustment (BGA). While this will increase costs and limit scope for increases to the value or frequency of payments, it will improve dependability for recipients and enable the government to be in a better position to more accurately forecast actual expenditure every year.

<b>Question 17. Do you agree or disagree that the proposed rate of £50 for LIWHA is appropriate?</b>
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<b>Question 18. If you disagreed, please could you explain why?</b>
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## **5.6 Format of Payment**

Our intention is for LIWHA to be paid to clients annually, one off basis. This would take the form of a cash payment, as is the case now with individual CWPs. Currently eligible clients for CWP are identified and paid through the system which processes their qualifying benefit. There is no application process and payments are made directly into a client's bank account.

The majority of respondents to our Experience Panel survey on winter heating benefits indicated that the fact that it is paid automatically into their account was a

particularly positive element of the current benefit and so is something that we intend to continue. This approach offers eligible clients the ability to retain the flexibility of the current CWP, but would have the benefit of adding certainty and consistency to the payments received by eligible recipients struggling to heat their homes in winter, as they would be guaranteed a payment for each winter period, whether or not their geographical location had experienced a cold weather event.

<b>Question 19. Do you agree or disagree with the proposal for LIWHA to be given to clients in the form of a cash payment and not another form?</b>
<b>Question 20. If you disagreed, please could you explain why?</b>
<b>Question 21. Do you agree or disagree with the proposal to pay LIWHA as an annual one-off payment each winter?</b>
<b>Question 22. If you disagreed, please could you explain why?</b>

## 5.7 Qualifying Week

For CWP, eligible clients are identified and paid automatically every time a ‘cold spell’ trigger is identified in their geographical location. As the individual circumstances of a client changes, so does their eligibility for a qualifying benefit and consequently their eligibility for CWP. Client eligibility is determined from the point a ‘cold spell’ is triggered, not at the start of winter or during a ‘qualifying week’ as is the case for other winter heating benefits.

Clients are notified by letter when a cold spell has been triggered and advised they will receive a payment. However, on occasion this letter is not received until after the client has been paid. This can cause some confusion, particularly as the CWP is made through the qualifying benefit system so the description on a bank statement makes this look like an overpayment of another benefit.

As we intend to remove the weather dependency of this benefit when we introduce LIWHA we will need to be able to identify eligible clients before any payments are made. Therefore, it is our intention to set a ‘qualifying week’ for LIWHA replicating the approach taken to identify eligible clients for the current Winter Fuel Payment (WFP) and the Scottish Government’s Child Winter Heating Assistance (CWAHA). This means that an individual’s entitlement to LIWHA will be based on entitlement during the ‘qualifying week’ rather than during a particular period of cold weather.

Setting the ‘qualifying week’ for the week beginning with the third Monday in September of any given year would be consistent with other winter heating benefits being paid across the UK. This enables clients to be identified before the beginning of the winter period, ensuring that they are notified early and can therefore plan ahead with the certainty that they will receive a payment each year.

This date is appropriately associated with a winter payment and would give us a reasonable amount of time to identify eligible recipients to ensure that all clients receive their payment in time. However, unlike WFP and CWAHA, this option would

mean that there is a substantial period of time between the ‘qualifying week’ and when the intended payments of the new benefit are to be made to eligible clients.

<b>Question 23. Do you agree or disagree with the proposal to set a ‘qualifying week’ during which eligible clients for LIWHA will be identified?</b>
<b>Question 24. If you disagreed, please could you explain why?</b>
<b>Question 25. If you agreed, please provide a preference for when you think the qualifying week for LIWHA should be?</b>

## 5.8 Timing of Payment

We know that meeting the costs of fuel for heating in the coldest months of the year causes many that currently receive CWP significant financial difficulty. Our stakeholder engagement on this area has indicated that the timing of any new payment is important to clients who currently receive CWPs. The timing of the current payments, which are paid out to clients within 14 days of a cold weather event in their area currently causes some confusion and is often hard to predict. Often clients have had to wait to receive a payment following a period of extreme cold weather and when it is received the time of need has passed. This is a particular issue for those households who have prepayment meters.

It makes sense to provide this support when it is needed most. The coldest months in Scotland tend to be January and February and our ongoing stakeholder engagement suggests some clients would prefer to receive their winter heating benefits in these months. Trends also indicate that February is the month in which most cold weather triggers have occurred over the past 6 years (see table 5 below). We therefore propose making the new payment in February each year, enabling clients to plan ahead ensuring they are able to put this new payment towards the increased fuel cost often normal for this time of year.

Table 5. Number of cold weather triggers by month in GB for the last 6 years.

<b>Cold Weather Payment (triggers)</b>	<b>November</b>	<b>December</b>	<b>January</b>	<b>February</b>	<b>March</b>
2015/16	0	0	19	6	1
2016/17	8	0	2	3	0
2017/18	0	30	13	62	35
2018/19	0	0	30	13	0
2019/20	5	0	0	2	0
2020/21	0	8	55	77	0

**Question 26. Do you agree or disagree with the proposal to make LIWHA payments to clients in February each year?**

**Question 27. If you disagreed, please could you explain why?**

## **Section 6 – Request for a Redetermination and Appeals**

The Social Security Act (Scotland) 2018 provides a right for an individual to challenge a decision made by Social Security Scotland if they believe it is not right. The individual will be able to ask for a redetermination without having to supply further evidence, but Social Security Scotland will take into consideration any new evidence provided.

The focus of the redeterminations approach is on getting the decision right, to have clearly published procedures and timescales for challenging decisions, with meaningful redress, and to have processes in place for Social Security Scotland to put things right quickly where there has been an error.

Unlike the DWP's Mandatory Reconsideration process that only examines whether the original decision was right or not, Social Security Scotland will put aside the original determination and a different, independent officer will undertake the full process of making a new determination, which will replace the earlier determination completely. The individual will be able to ask for a redetermination without having to supply further evidence, but Social Security Scotland will take into consideration any new evidence provided. If the individual is dissatisfied with the redetermination outcome, or if it has not been completed within the prescribed timescales, then the individual can exercise their right to appeal to the First-tier Tribunal.

We have designed a redetermination and appeals process which is informed by individuals' experiences, including their previous experience of the current, DWP process. The Scottish Government has worked closely with Scottish Courts and Tribunal Services in co-designing the appeals process to ensure the individual is at the centre of the process.

### **6.1 Timescales for the redetermination process**

Section 41 (4) of the 2018 Act includes provision to set out the timescales for requesting a redetermination in regulations. In line with the approach taken for Best Start Grant and for Funeral Expense Assistance, we are proposing that a redetermination request relating to LIWHA should be made within 31 calendar days of being notified of the determination. This timescale is the same as the timescale for bringing an appeal to the First-tier Tribunal.

If a request is not made within the 31 days allowed, a request for a re-determination can still be considered at any point up to a year after being notified of the original determination, if there is a good reason for the request being made late. In the first instance the Agency will decide whether the reason provided is acceptable. If the request for a late redetermination is refused, the individual will have a right of appeal against this decision to the First-tier Tribunal. Social Security Scotland will take a supportive role during this late request process and will assess every request individually, on a case by case basis.

We propose that, on receipt of a request for a redetermination of entitlement to Low Income Winter Heating Assistance, Social Security Scotland should have 16 working days, beginning with the day Social Security Scotland receives the request, to make

the fresh determination. This period is to be counted from the next working day after Social Security Scotland receives a redetermination request in the format required by the Agency. If there is a failure to make the redetermination within the 16 day period, the individual will be informed that they have a right to appeal to the First-tier Tribunal against the original determination.

<b>Question 28. Do you agree or disagree with the proposal that clients have 31 days to request a redetermination?</b>
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<b>Question 29. If you disagreed, please could you explain why?</b>
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<b>Question 30. We have proposed that Social Security Scotland have a period of 16 working days to consider a redetermination of LIWHA. Do you agree or disagree with this proposal?</b>
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<b>Question 31. If you disagreed, please could you explain why?</b>
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<b>Question 32. Can you identify any potential unintended consequences which we have not considered in these proposals?</b>
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## **Section 7 – Impact Assessments**

As we have been assessing options for the policy we have been gathering evidence and developing our Impact Assessments for the introduction of LIWHA. We would therefore like to use this consultation process to explore the possible impacts of this policy and give you the opportunity to feed into the evidence gathering and therefore the development of the following Impact Assessments:

### **7.1 The Equality Impact Assessment summary**

An Equality Impact Assessment involves assessing the impact of a new or revised policies, practices or services against the requirements of the public sector equality duty. The duty requires all Scottish Public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It covers people in respect of all aspects of equality. It helps to ensure the needs of people are taken into account during the development and implementation of a new policy or service or when a change is made to a current policy or service.

**Question 33. Please set out any information you wish to share on the impact of LIWHA on groups who share protected characteristics**

### **7.2 The Child Rights and Welfare Impact Assessment summary**

The Scottish Government want to make Scotland the best place in the world for a child to grow up. Recognising, respecting and promoting the rights of children and young people is essential to achieving this. We are taking steps to ensure that children experience their rights, as determined by the United Nations Convention on Rights of the Child. A Child Rights and Wellbeing Impact Assessment helps ensure that our policies, measures and legislation protect and promote the wellbeing of children and young people.

**Question 34. Please set out any information you wish to share on the impact of LIWHA on children's' rights and wellbeing**

### **7.3 The Business and Regulatory Impact Assessment summary**

A Business and Regulatory Impact Assessment is used to analyse the cost and benefits to businesses and the third sector of any proposed legislation or regulation, with the goal of using evidence to identify the proposal that best achieves policy objectives while minimising costs and burdens as much as possible.

**Question 35. Please set out any information you wish to share on the impact of LIWHA on businesses**

### **7.4 The Island Community Impact Assessment summary**

The Islands (Scotland) Act 2018 provides for a new duty on the Scottish Ministers and other relevant public bodies that they must have regard to island communities in exercising their functions and in the development of legislation. An Island Community Impact Assessment (ICIA) is about testing any new policy, strategy or service which

is likely to have an effect on an island community which is significantly different from the effect on other communities.

**Question 36. Please set out any information you wish to share on the impact of LIWHA on Island communities**

## **7.5 Fairer Scotland Duty**

The Fairer Scotland Duty (the Duty) came into force on 1 April 2018 and places a legal responsibility on named public bodies in Scotland to actively consider ('pay due regard' to) how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.

**Question 37. Please set out any information you wish to share on the impact of LIWHA on reducing inequality of outcome caused by socio-economic disadvantage**

**Question 38. If there is anything else you would like to tell us about the described policy intention, impact assessments or LIWHA in general, please do so here**

## **Section 8 – Low Income Winter Heating Assistance in Scotland Consultation Questions**

Question 1. Do you agree or disagree with the proposal to replace Cold Weather Payment with a new benefit whose eligibility is based solely on receipt of a low income benefit and not on reaching a specific temperature for a period of time?

Question 2. If you disagreed, please could you explain why?

Question 3. Do you agree or disagree that this approach is an effective way for the Scottish Government to tackle winter heating costs for people on low incomes?

Question 4. If you disagreed, please could you explain why?

Question 5. Do you agree or disagree with the proposal to name the replacement for Cold Weather Payment (CWP) in Scotland “Low Income Winter Heating Assistance” (LIWHA)?

Question 6. If you disagreed, please could you explain why?

Question 7. Do you agree or disagree with the proposal to remove the requirement for a ‘cold spell’ to be identified in order for a client to receive a payment?

Question 8. If you disagreed, please could you explain why?

Question 9. Do you agree or disagree with the proposal to have a one off, annual payment for LIWHA?

Question 10. If you disagreed, please could you explain why?

Question 11. Do you agree or disagree that our approach to identifying eligibility should be through the use of qualifying benefits?

Question 12. If you disagreed, please could you explain why?

Question 13. Do you agree or disagree with the proposal to retaining the current qualifying benefits to indicate eligibility for this new payment?

Question 14. If you disagreed, please could you explain why?

Question 15. Do you agree or disagree that the eligibility criteria for the LIWHA are clear?

Question 16. If you disagreed, please could you explain why?

Question 17. Do you agree or disagree that the proposed rate of £50 for LIWHA is appropriate?

Question 18. If you disagreed, please could you explain why?

Question 19. Do you agree or disagree with the proposal for LIWHA to be given to clients in the form of a cash payment and not another form?

Question 20. If you disagreed, please could you explain why?

Question 21. Do you agree or disagree with the proposal to pay LIWHA as an annual one-off payment each winter?

Question 22. If you disagreed, please could you explain why?

Question 23. Do you agree or disagree with the proposal to set a 'qualifying week' during which eligible clients for LIWHA will be identified?

Question 24. If you disagreed, please could you explain why?

Question 25. If you agreed, please indicate a preference for when you think the qualifying week for LIWHA should be?

Question 26. Do you agree or disagree with the proposal to make LIWHA payments to clients in February of each year?

Question 27. If you disagreed, please could you explain why?

Question 28. Do you agree or disagree with the proposal that clients have 31 days to request a redetermination?

Question 29. If you disagreed, please could you explain why?

Question 30. We have proposed that Social Security Scotland have a period of 16 working days to consider a redetermination of LIWHA. Do you agree or disagree with this proposal?

Question 31. If you disagreed, please could you explain why?

Question 32. Can you identify any potential unintended consequences which we have not considered in these proposals?

Question 33. Please set out any information you wish to share on the impact of LIWHA on groups who share protected characteristics

Question 34. Please set out any information you wish to share on the impact of LIWHA on children's' rights and wellbeing

Question 35. Please set out any information you wish to share on the impact of LIWHA on businesses

Question 36. Please set out any information you wish to share on the impact of LIWHA on Island communities

Question 37. Please set out any information you wish to share on the impact of LIWHA on reducing inequality of outcome caused by socio-economic disadvantage

Question 38. If there is anything else you would like to tell us about the described policy intention, impact assessments or LIWHA in general, please do so here

## Annex A

### Low Income Winter Heating Assistance (LIWHA)



Scottish Government  
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#### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy at <https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again

in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

## **Annex B**

### **Responding to this Consultation**

We are inviting responses to this consultation by 23 February 2022

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space <http://consult.gov.scot>. To access and respond to this consultation online, please follow the link at <https://consult.gov.scot/social-security/winter-heating-benefits>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 23 February 2022.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Welfare Fund and Winter Benefits Policy Unit  
Scottish Government  
Victoria Quay  
Edinburgh  
EH6 6QQ

### **Handling your response**

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

### **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [WinterBenefitsPolicy@gov.scot](mailto:WinterBenefitsPolicy@gov.scot)

### **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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