

## EQUALITY IMPACT ASSESSMENT

<b>Title of Policy</b>	Social Security (Scotland) Bill
<b>Purpose</b>	To provide the legislative framework necessary for the creation of a Scottish social security system.
<b>Scottish Government Directorate</b>	Social Security Directorate
<b>Date</b>	June 2016

### EXECUTIVE SUMMARY

1. This is a summary of the full Equalities Impact Assessment (EQIA) conducted on the Social Security (Scotland) Bill and builds on the partial EQIA that was completed and published alongside the Consultation on Social Security in Scotland<sup>1</sup>. The findings here are based on the previous partial EQIA, desk based research, the formal analysis of consultation responses by Research Scotland and stakeholder engagement feedback.
2. The EQIA process has evidenced that the Bill, as introduced, will have a positive impact on protected groups and individuals by introducing a framework for a new system founded dignity, respect and a human rights based approach. Included in these principles is an explicit acknowledgement of the role of Scottish Ministers in supporting people, including those with protected characteristics, to access their full entitlement.
3. The benefits to be devolved represent just 15% of total welfare spend in Scotland, meaning that it will not be possible for the Scottish Government to completely eradicate all of the unfairness in the current UK system. However, it is clear that delivering a new system that operates in accordance with these principles can make a significant difference to those with protected characteristics by reversing the stigma, complexity and adversarial nature of the present system.
4. These principles will be practically applied through the provisions placing a statutory duty on Ministers to develop a charter. The charter will convert the principles from statements of intent, to tangible commitments to deliver specific outcomes. Further, Scottish Ministers will be required to report on progress against these commitments, ensuring that the charter drives action and progress towards maximising the positive impacts of the new system on protected groups and individuals.
5. The impacts of this particular Bill cannot be considered in isolation from the wider process of implementation and policy design that it underpins. This EQIA therefore also identifies the most important elements of the work that will impact on those with protected characteristics. For example, the new Scottish social security agency will train its staff to uphold the standards of a rights based approach and to deliver a

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<sup>1</sup> [https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user\\_uploads/consultation-on-social-security-in-scotland---full-version.pdf](https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user_uploads/consultation-on-social-security-in-scotland---full-version.pdf)

positive experience that is guided by the needs of the individual.

6. Similarly, the commitment to co-production of the new system with experts and people with personal experience of the current system will ensure that those with protected characteristics have a direct impact on shaping services.
7. This means that even where there are no current plans to adapt levels of payment or eligibility, recipients of devolved benefits will still benefit substantially by having assistance administered through a system that has tailored its approach and processes to their specific needs. The Scottish Government has therefore listened to the many people who have said that positive impacts can be delivered not just through *what* assistance is delivered but in *how* it is delivered.
8. Through co-production with stakeholders to understand where improvements can be made, the Scottish Government has made a series of commitments to exercise the powers in this Bill to widen the eligibility and/or enhance the levels of payment associated with some forms of assistance. This will impact positively on all those with protected characteristics who meet the eligibility criteria.

## **BACKGROUND**

9. The Social Security (Scotland) Bill is brought forward as a result of measures following the changes to the devolution settlement enacted in the Scotland Act 2016. These measures give the Scottish Parliament legislative competence over disability, industrial injuries and carer's benefits; benefits for maternity, funeral and heating expenses; and Discretionary Housing Payments. They also provide the ability to top up benefits that remain reserved to the UK Parliament, and allow new benefits to be created in any area except old age pensions or where there is a connection to a matter reserved to the UK Parliament (such as child support maintenance or reserved aspects of employment support). As a result of the changes in the devolution settlement, eleven existing social security benefits will become a devolved responsibility.
10. The Bill transposes these eleven benefits onto a Scottish legislative platform, allowing the Scottish Ministers to shape a new and distinctly Scottish benefits system, with dignity and respect being core to its approach. These are: Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Severe Disablement Allowance and Industrial Injuries Scheme; Carer's Allowance; Sure Start Maternity Grants; Funeral Payments; Cold Weather Payments and Winter Fuel Payments; and Discretionary Housing Payments. The Bill also gives powers to create new benefits for early years and to provide for top up of reserved benefits. It provides for a supplementary payment to persons receiving Carer's Allowance, pending the transposition of that benefit onto a Scottish legislative platform.
11. The Bill also sets out an overarching legislative framework for the administration of social security in Scotland, making provision for operational functions such as managing overpayments, fraud, error and appeals. As well as these more technical matters, the Bill sets out a framework to define the Scottish Government's ambitions for the nature of the new system; making provision for key principles and a charter.

12. The Bill will later need to be supplemented with a significant body of secondary legislation. The Scottish Government will approach this as openly and as transparently as possible e.g. by producing illustrative regulations to demonstrate exactly how it intends to use these new powers. As with every other aspect of the work to develop the new system, the Scottish Government will seek to involve expert organisations and people outside of government in the development of the secondary legislation, just as closely as they have been involved through the consultation exercise and in the development of the Bill.
13. Running parallel to the legislative process, the Scottish Government is also leading a substantial programme of implementation and policy development. In the key findings section below the Scottish Government has flagged the main aspects of this work that is relevant to supporting those with protected characteristics.
14. The scope of this EQIA is focused on the possible equality impacts that may occur from implementing the provisions in the Bill. If passed, the Scottish Government intends to make regulations and to provide statutory guidance following consultation with stakeholders, to support the implementation of the Bill. This and further on-going research and stakeholder engagement will contribute to further EQIAs for each set of substantive regulations.

## **CONSULTATION**

15. The Scottish Government's consultation on Social Security in Scotland<sup>2</sup> ran from 29 July 2016 to 28 October 2016. The consultation set out the 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.
16. A total of 521 written responses to the consultation were received, 280 from individuals and 241 from organisations. Respondents represented a wide range of individuals and organisations with knowledge and experience of, or an interest in, social security matters. The independent analysis of the responses, by Research Scotland<sup>3</sup>, along with the Scottish Government response<sup>4</sup> were published on 22 February 2017.
17. In addition to the formal consultation, the Scottish Government held over 120 engagements carried out with partners across all 32 local authorities in Scotland between July and October 2016. These events provided stakeholders and those with experience of the current UK system, the opportunity to communicate their views and contribute to the development of the proposals contained in the Bill.

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<sup>2</sup> [https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user\\_uploads/consultation-on-social-security-in-scotland---full-version.pdf](https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user_uploads/consultation-on-social-security-in-scotland---full-version.pdf)

<sup>3</sup> <http://www.gov.scot/Resource/0051/00514351.pdf>

<sup>4</sup> <http://www.gov.scot/Resource/0051/00514404.pdf>

18. The findings from this process were used to identify the actions and commitments described throughout this document that the Scottish Government believes will impact positively on those with protected characteristics.

## **KEY FINDINGS**

### **Core Principles**

19. The devolution of these benefits creates important opportunities to promote fairness and equality, especially in relation to those with protected characteristics. Over 1.4 million people receive these forms of assistance in Scotland, with total expenditure of around £2.9 billion (in 17/18). Through the process of engagement described above, it has been made clear to the Scottish Government that these opportunities rest just as much in the nature of how assistance is delivered as in what is delivered.

20. The Scottish Government has made clear it will seize this opportunity by taking a different approach to social security and building a new, distinctly Scottish system founded on fairness, dignity and respect. All aspects of the design and development of this new system will therefore be defined by adherence to seven key principles:

- Social security is an investment in the people of Scotland;
- Social security is a human right, essential to the realisation of other human rights;
- Respect for the dignity of individuals is at the heart of everything we do;
- Scottish Ministers have a role in ensuring that individuals are given what they are eligible to be given under the Scottish social security system;
- Our processes and services will be evidence based and designed with the people of Scotland;
- We will strive for continuous improvement in all our policies, processes and systems, putting the user experience first; and
- We will demonstrate that our services are efficient and value for money.

21. The Scottish Government has made clear that these principles are the foundation upon which the new system will be built. They are established on the face of the Bill, with the intention of embedding the more positive, supportive nature of the Scottish system from the very outset. This will also provide a legislative mechanism for Parliament, people with protected characteristics and the organisations that represent them to scrutinise and challenge the Scottish Government in any circumstances where it is felt that the system is falling short of these core principles. In this way, the Bill will ensure that this and future Scottish Governments are held accountable for upholding the system's founding values, that were so strongly endorsed by the people of Scotland during the consultation process.

22. This will have a strongly positive impact on those with protected characteristics in that the new system will seek to end the stigma, complexity and adversarial nature of the present system. The new system will welcome applicants, positively support them to exercise their right to access their full entitlement and will ensure that their specific needs, including those associated with protected characteristics, are understood and catered for.

23. A new seventh principle has been introduced, that “the Scottish Ministers have a role in ensuring that individuals are given what they are eligible to be given under the Scottish social security system.” This reflects the Scottish Government’s commitment to help maximise people’s incomes and to ensure that those who are eligible, but who are not currently making claims, receive the benefits to which they are entitled. The Scottish Government is already investing in benefit take-up activities to help raise awareness and encourage people to get the support they are entitled to. For example, on 12 June 2017 a campaign was launched in partnership with Young Scot to encourage young carers, aged between 16-24, to access their entitlement to Carer’s Allowance. Placing this additional principle on the face of the Bill cements the commitment in legislation.

### **A Rights Based Approach**

24. Of particular importance is the principle that ‘social security is a human right, essential to the realisation of other human rights’. The Scottish Government is clear that a rights based approach will be the cornerstone of the new system; from policy development and service design, all the way through to the delivery of benefits and the interaction between agency staff and the people who use the new service. This is about ending the stigma around accessing benefits: the Scottish Government is clear that social security is a right and that the new system will support and encourage people, especially those with protected characteristics, to exercise it to the fullest possible extent.

25. To ensure that the new system positively supports people and meets this very high standard in all of its processes and practices, the Scottish Government is working closely with the Equalities and Human Rights Commission (EHRC) and the Scottish Human Rights Commission (SHRC). These respected, expert organisations are acting as a critical friend and sounding board, and will deliver sessions for Scottish Government officials to ensure they fully understand and apply a rights based approach in all of their work to develop the new system. The Scottish Government will also seek to learn and apply lessons from the research that the EHRC is currently gathering on best practice international examples of public services founded on dignity and respect. It will strive to ensure that the Scottish system itself becomes an international exemplar in this regard.

26. Finally, to further bolster the delivery of a rights based approach, the Scottish Government is exploring with EHRC whether there is sufficient Scottish level data to allow it to conduct a Cumulative Impact Assessment on the new system. This is a sophisticated technique that enables Governments to measure not just the effect of singular policy decisions, but to understand the combined impact of a whole set of changes, including on people with specific protected characteristics. Should it be possible, this assessment could help the Scottish Government to ensure the new system is supporting people in the way that it is intended, as well as to identify, and where possible take action to avoid, any unintended impacts on specific equalities groups.

27. As with the wider set of key principles, the commitment to a rights based approach has been universally welcomed, especially by people and groups representing those with protected characteristics. It underlines again the strength of the Scottish

Government's commitment to supporting those with protected characteristics by replacing the stigmatising nature of the present system with a service that is positive, supportive and tailored to people's specific needs.

### **The Charter**

28. Continuing this theme, the Bill also proposes a statutory requirement on Scottish Ministers to produce a publicly accessible charter that must reflect the key principles described above. It is intended that the charter will convert the principles from ambitious objectives and communicate in the clearest possible terms what people are entitled to expect from the Scottish system and to drive the culture and positive ethos of the new social security agency.
29. Another advantage is that there is greater flexibility to review and update a charter without having to amend primary legislation. This creates opportunities to refine the charter as the system matures and grows, facilitating purposeful dialogue between people using the new service, the social security agency and the Scottish Government.
30. The Bill also proposes a duty on Scottish Ministers to report annually on progress made against the commitments made in the charter. This will ensure that the key principles are a pivotal part of the new system and that the Scottish Government is held to account for the successful delivery of its stated aim of creating a fairer, more inclusive system. In this way, the charter could be seen as an accord or compact between the service and the people who use it, creating a formal mechanism for scrutiny, enhanced accountability and driving improvement.
31. Finally, in line with the strong consensus in consultation responses and wider engagement, the Scottish Government has committed to working closely with people with direct experience of the present system, including those with protected characteristics, to support the development of the charter. In line with the Scottish Government's commitment to a rights based approach, the charter will therefore introduce to the Scottish system a further, important layer of accountability and participation; key requirements of rights based approach as set out in General Comment 19 of the UN Committee on Economic, Social and Cultural Rights<sup>5</sup>.
32. The positive impact of the charter on those with protected characteristics should be clear: it is a vehicle that can ensure their voice is heard, that their rights are clearly articulated and that will translate the principles into meaningful, measurable commitments that Scottish Ministers will be accountable for delivering.

### **Co-production**

33. Given that delivering a positive impact on people is the ambition at the heart of all of this work, in line with overwhelming support in the consultation, every aspect of the new system will be developed in partnership with people with direct personal experience of the current system.

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<sup>5</sup> <http://www.refworld.org/docid/47b17b5b39c.html>

34. One of the most important ways that the Scottish Government will achieve this is through the creation of Experience Panels. It has recruited over 2,300 people with direct experience of the current system to help design, build and refine a new and better model for Scotland. Work is on-going to ensure that equalities groups and those with protected characteristics are strongly and fairly represented in these Panels.
35. Indeed, people who know the current system are already helping the Scottish Government to test and pilot some of the new technology and processes that are needed to make the new system a success. Early examples include work on application processes and communications, including important details such as stopping the use of intimidating brown envelopes, eliminating jargon and large blocks of complex text and using clearer, more positive language in correspondence.
36. This co-production approach should empower those with protected characteristics, giving them an active and direct role in designing and shaping the new system, ensuring that it meets their specific needs from the outset.

### **The Agency**

37. The new agency will be an executive agency, directly accountable to Scottish Ministers and the Scottish Parliament. While this means that there is no requirement for the agency to appear in the Bill, it is crucial that the core principles do not just appear in legislation but are also strongly reflected in the operation of the body that will administer social security in Scotland.
38. During the process of selecting the preferred operating model for the agency, one of the key tests applied was to place people at the heart of the system; exploring how it would feel for someone to interact with each of the different options. This led to a number of important conclusions, e.g. that face-to-face contact between those in receipt of benefits and agency employees is of key importance; that cash as opposed to in-kind provision is generally seen as the best option to allow people choice and flexibility; and that medical assessments must be fair and undertaken by professionals with expertise in the conditions of the people they are assessing.
39. An excellent example of how the agency will improve the experience of those interacting with the new system is through the intended approach to staff training. The agency will work closely with both Experience Panels and key partner organisations to develop a training programme that fully reflects the core principles and the commitments that will be made in the charter. This will include ensuring that staff are trained to understand the diverse needs of those interacting with the system and that they are able to tailor their approach to meet those needs.
40. A core element of this will be to emphasise the importance of listening. Agency staff will be trained to see people as individuals and to be responsive to the specific help and support that each person requires. The goal here is to ensure that the system is not adversarial and that people are respected and fully supported through the entire process. This means that people with protected characteristics can rest assured that they will be dealing with professionals, trained to tailor their approach to the specific needs and characteristics of the person with whom they are dealing.

## **Assistance**

41. The Bill transposes eleven benefits onto a Scottish legislative platform. The specific types of assistance and how they will support various equalities groups is explained in detail below. The Scottish Government has made clear that its number one priority is safe and secure transition of the current benefits so that everyone continues to receive the right payment at the right time. This means that for some of the benefits, the eligibility criteria and levels of payment will remain the same. However, even for these benefits, people will still experience a positive impact given the far more supportive approach of the new system. For example, the agency, in addition to the improvements described above, will also provide enhanced phone and on-line support, face-to-face pre-claims advice and, where possible, will co-locate support services in places that people already visit.

## ***Carer's Allowance***

42. Carer's Allowance (CA), aims to support an individual looking after someone with substantial caring needs. To be eligible the individual must be 16 or over and spend at least 35 hours a week caring for them.

43. The Bill includes powers which allow Scottish Ministers to give carer's assistance, the details of which will be set out in secondary regulations. Such an approach will enable the Scottish Ministers to ensure that those in receipt of CA at the point of transition continue to receive it at the right time and in the right amount, and will allow options for a future Scottish carer's benefit that is more responsive to any changes in economic and social conditions to be developed.

44. For current recipients of UK CA living in Scotland, the Bill also makes provision for an interim, supplementary payment to increase the benefit to the level of Job Seeker's Allowance. This will deliver enhanced financial support more quickly and in advance of the devolved system going live, increasing the income of recipients, including those with protected characteristics. Importantly, when the increase takes effect, carers will not lose access to other entitlements available elsewhere in the benefits system.

45. There is strong evidence that the present arrangements do not take enough account of the crucial role being played by young people in the delivery of care. For example, though CA is for those aged 16 and over, as at November 2016 there were only 274 carers under the age of 18 receiving the benefit in Scotland (DWP). This suggests low uptake of the benefit amongst young people, an issue that the Scottish Government has already taken steps to tackle through a public campaign to improve take-up amongst 16-24 year-olds launched on 12 June 2017.

46. This evidence also suggests that the present system fails to acknowledge and support the valuable role being undertaken by very young people who are admirably taking on significant responsibilities. To address this, the Scottish Government is actively considering the introduction of a Young Carer's Allowance to provide extra support for young people with significant caring responsibilities. Again, this would not only provide an important new level of support for young people but would by



extension also support the disabled person being cared for, by improving the wellbeing of those who deliver that care.

47. Similarly, the Scottish Government has also committed to increasing CA for carers looking after more than one disabled child, as well as to improve carers' experiences by ensuring they can more easily access help and advice and that the application process is quick and user-friendly. This will positively impact on all those with a protected characteristic who care for more than one disabled child, as well as supporting the disabled children themselves by ensuring their carers receive both enhanced financial assistance and improved pastoral care.
48. There is also evidence that these changes to the provision of CA will have a disproportionately positive impact on women since, as at August 2016, 69% of the 69,848 people in receipt of carer's allowance were women. The high proportion of female carers may be a product of historical, cultural gender roles meaning women may be more likely to take on caring responsibilities.
49. Several stakeholder groups have stated that carers from particular minority communities, e.g. black and ethnic minority carers, are less likely to claim CA. The Scottish Government is working with these groups to understand the underlying reasons and to establish how best to promote greater uptake of CA to people with these characteristics.

### ***Early Years Assistance***

50. The Bill will include powers to allow Scottish Ministers to provide assistance to families and carers on low incomes at key transitions throughout the early years as part of a package of early years support to give every child born in Scotland the best start in life.
51. Early years assistance is currently provided by the UK Government in the form of the Sure Start Maternity Grant, a one-off payment of £500 to help towards the costs of having a first child. It is available to recipients of certain qualifying benefits, which are used as a proxy for low income.
52. The Scottish Government has already committed to replacing the current Sure Start Maternity Grant with a new, expanded Best Start Grant (BSG). The new BSG will pay qualifying families £600 on the birth of their first child and £300 on the birth of every subsequent child.
53. Qualifying families will also receive £250 around the time the child starts nursery, and a further £250 when they start school. The support provided is staggered and each payment has a different focus for giving children the best start in life. For a family with two children, the BSG will provide £1900 of support over the period of their early years, compared to £500 that is currently available from the UK Government.
54. It is therefore clear that BSG will have an extremely positive impact on all children and families, including those with protected characteristics. By substantially increasing financial support for low income families it will help to mitigate the worst

effects of child poverty and material deprivation, helping to improve outcomes for children. The increase in the value of the payment from £500 to £600 for the first child will provide families with enough to buy essential, expensive items such as a buggy or a cot or can be used to meet any other financial pressures a family may face.

55. Moreover, introducing a payment of £300 to second and subsequent children will provide increased support to larger families on low incomes. Introducing two new payments, timed at key transition points in a child's early years will help to reduce the significant household costs associated with these transitions. For example, helping to pay the costs of starting nursery and school; such as travel, stationary and educational toys, providing changes of clothing and paying for after school activities. This will help decrease the financial pressures on the household, which can have negative effects on parental health, mental health, parenting skills and family relationships. It is therefore clear that the introduction of BSG has the potential to have a transformative effect on children and families, including those composed of individuals with protected characteristics.

56. As well as these overarching benefits, there is also strong evidence that BSG will deliver particular impact for the following groups:

- Parental age has a significant impact on child poverty rates: 52% of children whose mother is aged 25 or younger are in poverty, compared with 20% of children whose mother is over 25 (Scottish Government, 2016). Embedding BSG in wider early years policy such as the Family Nurse Partnership will help improve take-up for younger parents, ensuring they get the support they need to alleviate hardship.
- The large majority of lone parent households are headed by women and these households tend to experience higher poverty rates: 34% were in poverty in 2014/15, compared with 16% of couples with dependent children (Scottish Government, 2016).
- As women tend to be the main carers of children it is expected they will form the majority of BSG recipients.
- Poverty rates are higher for households with a disabled child: in 2014/15, 27% of households with a disabled child were in poverty compared with 18% of those without, meaning that low income families with a disabled child will be strongly advantaged by the introduction of BSG (Scottish Government, 2016).
- The introduction of payments for second and subsequent children means that BSG is likely to have a disproportionately positive impact on families from particular ethnic minority and religious backgrounds who are much more likely to experience poverty and also to have larger families (Scottish Government, 2016).

### ***Disability and Employment Injury Assistance***

57. The Bill makes provision for disability assistance to be delivered through a range of different benefits such as Disability Living Allowance (DLA), Personal Independence Payment (PIP), Attendance Allowance (AA), Severe Disablement Allowance (SDA). It also provides for employment injury assistance, currently delivered mainly through Industrial Injuries Disablement Benefit (IIDB).

58. The key priority to achieve a safe and secure transition of these benefits, ensuring that the large number of people who receive them, some of whom are potentially vulnerable, experience continuity of support. As with the other devolved benefits, the Bill includes powers to adapt provision in future as social and economic developments require. The significant numbers who receive disability assistance will also be positively impacted by engaging with a new system that delivers services in accordance with the principles of dignity, respect and human rights.
59. Importantly, the Scottish Government has committed to ending unnecessary re-assessments for the disability benefits, and to reducing as far as possible the need for face to face assessments. It will also ensure that, where assessments are required, they are not carried out by the private sector, instead being conducted by trained professionals with expertise of the conditions they are tasked with assessing. Since the current approach to assessments is widely regarded as one of the most significant problems with the present system, delivering this new approach will deliver a substantial improvement for all of those with a disability, including those who also have other protected characteristics.
60. The Scottish Government also plans to make changes to the provision of disability assistance for young people. Currently, assistance is provided to children and young people through DLA and PIP, which help meet the additional costs of the impact of a disability (physical or mental). DLA is currently for children and young people aged under 16 (and also adults over 65). PIP is a new benefit introduced by the UK Government in 2013, to replace DLA for people aged 16 - 65. There are both care and mobility components to each benefit. Currently 4% of these disability payments are to children<sup>6</sup>.
61. The Scottish Government's proposal is to provide an automatic entitlement for young people to continue to receive DLA for an additional two years until they are 18. The intention here is to support young people to more easily make the transition to adulthood by addressing some of the stress felt by young people and their families on the current transition to PIP at 16. The Scottish Government will work with expert organisations, families and young people to develop detailed proposals on this.
62. The Scottish Government also intends to undertake work to understand why only 16% of people claiming IIDB are women. Some stakeholders observe that this may be due to the nature of the list of prescribed diseases and that it is a historical consequence of men traditionally being more likely to occupy roles in heavy industry and/or manual labour.

### ***Funeral Expense Assistance***

63. The current Funeral Payment is available to people on certain qualifying benefits, which are used as a proxy for low income, who are responsible for arranging a funeral. In order to be eligible, the person arranging a funeral must also be in a specified relationship with the deceased person (e.g. a spouse or family member). The payment covers the costs for the purchase of graves and burial or cremation

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<sup>6</sup> <http://www.gov.scot/Publications/2016/07/9955/5>

fees. The amount awarded to meet these fees is uncapped. The payment also provides up to £700 towards other costs associated with a funeral.

64. The Scottish Government has engaged extensively to understand how this assistance could be improved. Key changes that are proposed as a result include:
- Aiming to process applications for the devolved benefit within ten working days of receipt of a completed application and make payments as soon as practicable thereafter.
  - Working with individuals and organisations to simplify and streamline the application process, which is currently felt to be overly complex.
65. It is expected that these specific changes, together with the wider advantages derived from delivery through a more positive, responsive system will impact positively on all those with protected characteristics that are eligible.
66. In addition, the Scottish Government is also seeking to understand whether women are disproportionately impacted by funeral poverty given their general propensity to have a higher life expectancy. At present, there is no data available on the current gender split in applications for the DWP Funeral Payment, making it difficult to know whether this is an issue that merits further policy development. The Scottish Government will therefore continue to work with stakeholders to explore this issue.
67. The Scottish Government understands that some faith groups find the current DWP Funeral Payment application timescales challenging in order to meet their faith requirements for example Muslim and Jewish faiths. To help the Scottish Government understand how these issues might be addressed, a number of faith groups are members of the Funeral Expense Assistance Reference Group. In addition, the Scottish Government will also seek discussions with faith groups on an individual basis as the future options for Funeral Expense Assistance are developed. This will help ensure that, as far as possible, the assistance is fit for purpose and meets the needs of all faith groups equally.

### ***Cold Weather and Winter Heating Assistance***

68. Though different, both of these benefits can be seen as measures to help tackle fuel poverty. Cold Weather Payments are currently made to qualifying households when the temperature drops below zero degrees Celsius for one consecutive week. Cold Weather Payments are paid automatically to, under certain conditions, households in receipt of certain benefits that act as a proxy for low income. Winter Fuel Payments are unrelated to any particular weather patterns and are paid annually at various rates to all persons over qualifying ages (broadly speaking to everyone over the female state pension age). Together, these types of assistance therefore support those on low incomes (who are generally more likely to have one or more protected characteristics) and older people.
69. The Scottish Government is proposing to extend eligibility for Winter Fuel Payments to households with a child who is in receipt of the highest rate of DLA. This will positively impact an estimated 16,000 families with disabled children in Scotland, including those families with members who have additional protected characteristics.

70. Going forward, the Scottish Government is working with various groups such as the Fuel Poverty Strategic Working Group and Rural Fuel Poverty Task Force, to consider how these forms of assistance can be improved to have an even greater impact on helping to alleviate fuel poverty and supporting protected groups and individuals.

### ***Discretionary Housing Payments***

71. The provisions on Discretionary Housing Payments (DHPs) allow Ministers to make payments to people entitled to housing benefit, or other reserved benefits that are payable in respect of rent liabilities, who appear to need additional financial assistance to help meet housing costs. In practice, the Scottish Government has used DHPs as a method of effectively abolishing the bedroom tax in Scotland. This has mitigated what would otherwise be a very significant negative impact on those with protected characteristics who would otherwise have been subject to the UK Government's bedroom tax.

72. DHPs are presently administered by local authorities and there are currently no plans to make significant changes to the way the DHP scheme operates.

### ***Job Grant***

73. As well as these forms of assistance that the Bill will make specific provision for, the Scottish Government also intends that the wider system will provide for a Job Grant to support young people aged 16-24 years to meet the costs of returning to work after a period of 6 months unemployment.

74. The UK Government abolished the Job Grant in 2013 leaving thousands of young people struggling with the costs associated with getting back into work. In contrast, the Scottish Government is seeking to reinstate this assistance, thereby supporting young people to achieve their potential and helping Scotland to maximise its most precious economic resource: the skills and talent of its people.

75. The Scottish Government is working closely with young people, including those with protected characteristics, and the organisations who represent them, to help develop the detail of the Job Grant. It is also exploring with the UK Government the most appropriate legislative vehicle for its delivery.

76. The Job Grant will therefore have a direct, positive impact on young people, including those with protected characteristics, who are seeking employment.

### **Sexual orientation and Gender reassignment**

77. The Scottish Government is conscious that there may be fewer applications due to people feeling stigmatised, or not wishing to disclose personal information regarding sexual orientation. This will be taken account of by all policy areas, for example in creating new application methods – ensuring that the Scottish Government requests only what is required for processing of entitlement – and ensuring that all individuals are comfortable in disclosing the necessary information. Further exploration of this issue will be taken forward in subsequent EQIAs as appropriate.

78. Similarly, while none of the devolved benefits hinge on gender, work to develop application processes will take full account of the need to fully recognise and respect those whose gender identity is different from their birth. This includes, for example, ensuring that people can be referred to by their preferred titles and that their specific needs are taken account of. The Scottish Government will work with the appropriate stakeholder groups and individuals to achieve this.

## **Appeals**

79. Everyone who comes into contact with the agency will have the right to complain, ask for a re-determination or appeal against a decision they are unhappy with. There will also be clearly published guidance explaining to people how they can raise a complaint, challenge a decision they disagree with disagreed and setting out the timescales in which they can expect to get a response.

80. The Scottish Government recognises that people with different protected characteristics will be affected in different ways and the appeals and complaints processes will take due account of those differences. For example, qualitative research on the impact of on-going welfare changes on a range of working age households in Scotland (2013-2016) reported that the process of appealing a benefits decision can take “a considerable toll on the participant’s mental health”<sup>7</sup>.

81. All of these differences will be taken into account when developing the new complaints, re-determination and appeals process to ensure that those with protected characteristics are treated fairly and have access to a consistent and high standard level of service.

## **Recommendations and Conclusions**

82. The EQIA process has evidenced that the Bill, together with the wider process of implementation and policy design that it underpins, will have a significant positive impact on protected groups and individuals in the following main ways:

- By providing the legislative framework for the development of a new system centred on dignity and respect, with a rights based approach at its core.
- By ensuring that the new agency strongly adopts the positive ethos of the core principles, by tailoring its processes and approach to the specific needs of the people it serves.
- By providing for the development of a Charter, which will translate these principles into specific, tangible objectives that will be scrutinised and reported on.
- By responding to evidence and feedback to make important changes to eligibility, payment levels and processes for specific benefits.
- By ensuring that all of this work continues to be co-designed in partnership with those who know social security best: people with direct experience and the expert stakeholders who represent them.

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<sup>7</sup> <http://www.gov.scot/Resource/0050/00502088.pdf>

- Creating a redetermination and complaints system that is fair, accountable and accessible to all.

83. Together, these actions will deliver strong outcomes, positively transforming the experiences of those who engage with the new system. However this is far from the end of the process and the Scottish Government understands that in a work programme of this scale and complexity there will always be opportunities for refinement and improvement. To ensure it capitalises on those opportunities, going forward, the Scottish Government is committed to:

- Continuing to work in close partnership with Experience Panels, stakeholders and the various advisory and expert reference groups to ensure that every aspect of its work on social security is not just informed but driven by expert policy advice and first hand experiences.
- Within this, to continue working with minority and disability groups to explore issues areas of concern specific to particular groups, such as low benefit take up and bespoke funeral needs.
- Explore with the Equality and Human Right Commission (EHRC) whether there is sufficiently detailed data to allow the Scottish Government to conduct a Cumulative Impact Assessment (CIA) on its policy choices on social security, and to understand in more detail the impacts on particular groups.
- Engaging the support of both EHRC and the Scottish Human Rights Commission (SHRC) to act as a sounding board and critical friend, ensuring that a clear and rigorous understanding of human rights and equalities is being applied in both policy and service development.
- Positively act on opportunities for further improvement and to correct unintended consequences as they emerge.