

Disability and Carers Benefits Expert Advisory Group

To: Jeane Freeman MSP Minister for Social Security
By e-mail

31 May 2018

Dear Jeane

Carer's Allowance Supplement (CAS)

This is the first benefit to be delivered by Social Security Scotland; part of its delivery needs to be about building confidence and trust amongst people who use the new social security system.

A small workstream of Group members has had several meetings and telephone conversations with your officials to gain a better understanding of the process and structure of the new benefit. I set out below some issues arising from these conversations which we wish to draw to your attention.

Data Sharing

There is a need to clarify the issue of data sharing and whether individual consent is required for the DWP to share information with the Agency in the light of new data protection legislation.

Our understanding is that DWP has not made their plans clear yet on how they will make Scottish CA recipients aware of data being shared for the purposes of paying CAS and are still working through the implications of GDPR around this, including whether individual consent is required. We are concerned that people could ignore correspondence from the DWP on this, or it could be worded in such a way that people would oppose the DWP sharing their data. If individual consent is required, careful handling will be needed to ensure that nobody loses entitlement because they misunderstand what is being asked of them or fail to respond to a letter from the DWP. While it may be DWP responsibility to seek consent, it would be advisable for the Scottish Government to be fully involved in processes to devise consent letters, follow up non-returns and refusals and manage any queries generated from the process (including offering phone contact).

Communication

We understand that following the data sharing agreement and transfer of data from DWP, all communications on CAS will be issuing from the Agency, and that plans and testing for communications with the Experience Panels are already underway. While CAS is expected to be a more straightforward benefit to implement than some others, we would urge you to remain mindful that there are complexities and potential for people to fall through the gaps, and to ensure that communication and guidance is robust enough to anticipate the less straightforward situations.

A potential source of confusion may be where someone is entitled to Carer's Allowance but it is not being paid e.g. because it overlaps with the State Pension or Employment and Support Allowance. Carers with only an underlying entitlement to Carer's Allowance will not receive the supplement. Carers may be confused about whether they should or should not get the supplement. There is a need for clear guidance on this that is available to all.

We asked officials whether decision letters to carers should include information on impacts on reserved benefits to avoid confusion. The supplement will be ignored for reserved benefits and tax credits but Carer's Allowance itself taken into account. Care needs to be taken that communications do not inadvertently lead to people thinking they do not need to report Carer's Allowance itself.

We recommend that clear guidance on the supplement, issues of overlapping benefits, tax credits, taxation etc. is available for carers and advisors.

Processes for Challenge or Complaint

A clear approach to challenge and complaint has been set out and we are pleased to have received detailed information on that from your officials. An area we would like to highlight is that people may take issue with the DWP's records as to whether or not they are in receipt of Carer's Allowance or resident in Scotland. There is nothing in the Bill to say who counts as resident in Scotland so whilst the Agency may in practice regard people as being resident in Scotland if they have a Scottish postcode in DWP records, people may take a different view. For example, a carer may have their normal home in England but also be staying in Scotland to provide care for someone. Legally it may not be clear where the carer is resident. This is simply to illustrate that carers may have challenges about legal entitlement to CAS not just about quality of service, so it would be advisable for the Agency to be prepared for this.

Recipients of this first benefit to go live must have access to a clear statement on what they can expect from the system, and how to complain or dispute an award. Ideally this would be addressed through the charter however current timelines suggest the charter will not be completed in time. In that case, we consider that an interim solution should be put in place.

I look forward to hearing your views on these points.

With best wishes,

Fiona Collie

Carer's Allowance Supplement Workstream Chair