# Scottish Government Response to Recommendations and Observations on the Draft Care Leaver Payment (Scotland) Regulations 2026

January 2026

Scottish Government
Riaghaltas na h-Alba

**Minister for Children, Young People and The Promise**
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Scottish Government
Riaghaltas na h-Alba

Ed Pybus
Scottish Commission on
Social Security
c/o Secretariat
Area 1-C South
Victoria Quay
Edinburgh

21 January 2026

Dear Mr Pybus,

Thank you for your scrutiny report of 27 November on the Care Leaver Payment (CLP) draft regulations. I greatly appreciate the time and effort, alongside the willingness, of SCoSS members to engage with officials and in helping to scrutinise these regulations by providing insightful and relevant policy analysis.

This letter is to inform you that Scottish Ministers have today laid the Care Leaver Payment Regulations 2026 and accompanying documents in parliament. As per section 97 of the Social Security (Scotland) Act 2018, we have also laid a response to Commission's recommendations on the draft regulations.

I have attached a copy of the Scottish Government's full response to the SCoSS recommendations, which I have also sent to the convener of the Education, Children and Young People Committee and the Social Justice and Social Security Committee.

Yours sincerely,

**Natalie Don-Innes MSP**
**Minister for Children, Young People and The Promise**

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| **Scottish Commission on Social Security Recommendation** | **Scottish Government Response** | **Accept / Partially accept / Decline** |
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| 1. The Scottish Government and local authorities should give due regard to the social security principles and the social security charter in the design, administration and the development of guidance for Care Leaver Payment. | Section 93A of the Social Security (Scotland) Act 2018 ("the 2018 Act") which was inserted by section 2(2) of the Social Security (Amendment) (Scotland) Act 2025) and which enables the Scottish Ministers to make regulations for Care Experience Assistance, does not fall within the ambit of section 23 of the 2018 Act. As such, the care leaver payment scheme established by these Regulations does not fall within the definition of the Scottish social security system and therefore the duties in Part 1 of the 2018 Act do not apply to the Regulations. This is similar to the approach taken for discretionary housing payments under Part 5 of the 2018 Act.<br><br>The payment is instead grounded in GIRFEC as the national, Scottish approach which puts the wellbeing and rights of young people at the heart of any decisions in how they are supported. GIRFEC was created specifically to ensure that all young people receive the right support at the right time. Local authorities are the delivery vehicle for the payment and social workers will already have a pre-existing relationship with the entitled young person, which is a different background and circumstances from the customary circumstances around the charter.<br><br>However, the Scottish Government recognises the importance of the Social Security Charter and will include reference to it within the national practitioner guidance which will sit alongside the Regulations to ensure practitioners are able to have an overview of the principles when they are delivering the payment. | **Partially accept** |

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| 2. The Scottish Government should consider, in line with principle (g) of the social security principles on continuous improvement, how they can provide payments to the wider group of care experienced people. | The Scottish Government understands that the care experienced population is wider than just care leavers and as a result there is other specific work ongoing within the Scottish Government on the definition of 'care experience'. A public consultation on Developing a Universal Definition of 'Care Experience' was held between 9 October 2024 and 31 January 2025. Across 10 questions, the consultation sought views on the need for a universal definition of 'care experience' and about any potential impacts of introducing a definition. It also asked for opinions on the language currently used to speak about care experience and how it can be improved. Alongside other consultations and engagement events held in 2024, this consultation is one step in progressing recommendations to keep The Promise.<br><br>The consultation analysis report was published in July 2025. Responses demonstrated strong support for a proposed definition of 'care experience', with reasons given including consistency in practice and reduced stigma. Responses to the consultation highlighted that the term 'care experience' is currently used in a broad and inclusive way. The outcome of the consultation was considered during development of the Children (Care, Care Experience and Services Planning) (Scotland) Bill. Section 5 of the Bill includes a requirement on the Scottish Ministers to publish guidance in relation to 'care experience'. The purpose of this guidance is to develop a better understanding and awareness of 'care experience' and the care system, which in turn should help reduce stigma associated with individuals who have care experience. This requirement will apply to all public authorities including the Scottish Ministers, and wider corporate parents, in the course of their work and interaction with the care experienced community. The guidance will include a universal definition of the term 'care experience'. It is intended that the guidance will be co-produced with key | **Accept** |



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| | stakeholder organisations and the care community to ensure that their voices shape the guidance and definition of 'care experience' within it. The Children (Care, Care Experience and Services Planning) (Scotland) Bill is currently at Stage 1 of its parliamentary scrutiny process.<br><br>The Scottish Government will continue to consider the care experienced population in broader policy work as the definition of 'care experience' progresses. | |
| 3. The Scottish Government should keep the amount of the payment under review based on the outcomes achieved for care leavers. | The Scottish Government is committed to reviewing and evaluating the care leaver payment as it is embedded and this will include consideration of improved outcomes for care leavers. We will work with delivery partners to achieve this. | **Partially accept** |
| 4. National guidance should state that the payment is supplementary to, and not a replacement for, existing care leaver provision. | National practitioner guidance which will sit alongside the payment is being developed. It will explain that the care leaver payment is intended to be in addition to support which care leavers customarily receive and is not intended to be a substitute. The Scottish Government has ensured that the appropriate disregards are in place in relation to the payment so that it will not be included in taxable income or benefit entitlement calculations. From the inception of the payment, the policy development has always been clear that it is an additional payment in order to help care leavers overcome financial challenges and to provide extra support. | **Accept** |
| 5. Regulation 4 should explicitly say that the payment is to be given as money subject to the option to pay in another way by agreement. The guidance should make it clear that money should be the default. | The policy intention for the payment has always been that the entitled young person will discuss, with their social worker, the best form to receive the payment, for their individual circumstances. Throughout our engagement with stakeholders and young people, it was made clear that 'choice' of how to receive and use the payment was paramount, to ensure the young person's autonomy. However, the Scottish Government has adjusted regulation 4(2) to make it clearer that it is a payment in money and the natural expectation is that it will be taken as money. However it remains the young person's choice to receive the payment in a different form that better suits | **Accept** |

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| | their circumstances. National practitioner guidance, which will sit alongside the Regulations, will emphasise the importance of the autonomy of choice for the young person. | |
| 6. As Care Leaver Payment is established through social security legislation its determination and appeals process should be rights-based. As such, the process to establish eligibility should include an application process and independent review alongside automatic payments. | The policy intention for the care leaver payment scheme was always that it would allow a young person, if they did not receive a payment and felt that they should have, to contact a local authority and request that it consider whether the young person should have received a payment. However, for clarity, the Scottish Government has inserted new regulation 7 into the Regulations. It provides that a young person can apply to any local authority if they feel that they should have received a payment but didn't and the local authority must take steps to identify the responsible authority for the young person (for it to make a determination) or make a determination itself . National practitioner guidance, which will accompany the Regulations, will include practical details about handling and processing these applications.<br><br>If a responsible authority or another local authority has determined that a young person should not receive a care leaver payment, the young person may request a review of that determination. The request must be made to the authority within a year of the determination and state the reasons why the young person considers that they are eligible for a Care Leaver Payment (regulation 8) Regulation 9 provides that on upon receiving such a request, the authority must appoint an officer who was not involved in the original determination to review the determination.<br><br>Additionally, as a young person needs to be looked after on or after their 16th birthday to receive the payment, local authorities should have regular pathway planning and life after care discussions with these young people. Eligible young people will therefore be known to their local authorities and other organisations that are | **Partially accept** |

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| | in place to provide support to young people (schools, health facilities) and so limiting the chances of them not receiving the care leaver payment.<br><br>We are confident that the legal status of these young people and their pre-existing relationships with their social workers together with regulations 7 and 8 of the Regulations provides sufficient safeguards so that every eligible young person will receive the care leaver payment. | |
| 7. The Care Leaver Payment regulations should make specific provision for appointees and the processes that local authorities use should be aligned with Social Security Scotland. | Some young people may not transition to independent living in the same way as other young people, so the support they need might look different and this is accounted for through the GIRFEC approach through making decisions based on the needs of each individual young person. The Scottish Government has engaged with relevant stakeholders on this point and are satisfied that there are due processes already in place, should a young person require additional support when leaving care and accessing any payments (including the care leaver payment) that are customarily made at that transition point.<br><br>These leaving care supports apply to all looked after young people, regardless of disability. A disabled young person moving to independence will therefore also receive all available supports which they are entitled to. There are also additional duties related to disability and independent living under adult legislation, and extra state benefits which are available for eligible persons.<br><br>If a young person does not have capacity then guardianship arrangements can be made (either through family or a local authority) for the purposes of taking decisions in relation to/on behalf of the young person. | **Reject** |
| 8. The Scottish Discretionary Housing Payment Guidance Manual | Discretionary Housing Payments (DHPs) provide financial assistance to a qualifying individual to meet, or help towards | **Reject** |

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| should be amended to disregard Care Leaver Payment for the purposes of assessing an individual's eligibility for Discretionary Housing Payment. | meeting, an individual's housing costs. DHPs for mitigation of the bedroom tax and benefit cap are to be paid by a local authority when they are satisfied that an individual has been affected by these reductions. After applying bedroom tax and benefit cap mitigation, local authorities may award DHPs to eligible individuals at their discretion, ensuring that every application is assessed on its individual merits. As CLP is disregarded as income and capital for the purposes of Universal Credit it will be disregarded for the purposes of assessing means-tested reserved benefits but may be considered by local authorities under the discretionary element of DHP funding.<br><br>The Scottish Government recognises that care leavers face unique challenges and are disproportionately at risk of homelessness. The Scottish DHP guidance manual therefore explicitly identifies young people leaving local authority care as a group to consider prioritising, with a clear emphasis on homelessness prevention. Considering each application on its own merit allows local authorities to ensure that DHPs are paid to those most in need.<br><br>The Scottish Government believes the current guidance strikes the right balance between providing local authorities with the discretion needed to respond to the most urgent local needs, while highlighting the importance of prioritising groups most vulnerable to homelessness, poverty and financial hardship. On this basis, we consider the guidance manual to be sufficient in its present form. | |
| 9. The Scottish Government should consider amendments to regulations in light of the technical issues we have identified. | The Scottish Government has removed the term 'wrong assumption' from regulation 14(1)(3)(b) as per the recommendation.<br><br>We are content that the regulations do not prevent a local authority from issuing a new direction should they feel that the situation warrants one. The national guidance, which will sit alongside the payment, will also offer practical guidance on operational | **Partially accept** |

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| | and handling aspect of the care leaver payment scheme. | |
| **Scottish Commission on Social Security Observation** | **Scottish Government Response** | **N/A** |
| 1- The new payment is a welcome addition to the existing support available to young people who are leaving care as a step towards The Scottish Government keeping The Promise | The Scottish Government welcomes this observation. | **N/A** |
| 2- As the language, terminology and understanding of the needs of care experienced people evolves, the name of the payment is something the Scottish Government should keep under review. | The Scottish Government welcomes this observation and will consider further in due course. | **N/A** |
| 3- Automatic payments, removing the need for individuals to submit an application, are an effective way of ensuring those entitled to a care leaver payment receive it. | The Scottish Government welcomes this observation. | **N/A** |

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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80643-666-8 (web only)

Published by The Scottish Government, January 2026

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1690966 (01/26)

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