

The Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations (2021)

Draft Fairer Scotland Assessment

September 2021

Title of Policy, Strategy, Programme etc	The Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations (2021)
Summary of aims and expected outcomes of policy	<p>The Scottish Government launched Child Winter Heating Assistance in November 2020 to provide the financial assistance to disabled children and young people, who are entitled to the highest rate of the care component of Disability Living Allowance (DLA) or Child Disability Payment (CDP). This new form of assistance delivered over 14,000 payments to eligible children and young people totalling £2.8 million.</p> <p>The key aim of the CWHA is to provide children, young people and their families with an annual payment during the winter to assist them financially in mitigating the increased costs they incur in heating their homes as a result of having a disability or long-term condition.</p> <p>Having considered the views of individuals and stakeholders since delivering the payment, the Scottish Government intends to extend eligibility to CWHA for young people aged 16, 17 and 18 who are entitled to be paid the enhanced rate of the daily living component of Personal Independence Payment (PIP) during the qualifying week.</p> <p>This change will be made retrospectively to ensure that young people who were entitled to the enhanced rate of the daily living component in the qualifying week in September 2020, are also entitled to CWHA for that year.</p> <p>These Regulations also permit Scottish Ministers to pay CWHA to another person to be used for the benefit of the child.</p> <p>The Scottish Fuel Poverty Definition Review Panel recommended in 2017 that for ‘vulnerable households’, including those of disabled people, the living room temperature recommendation should be 23°C and other rooms 20°C in line with World Health Organisation guidelines. The CWHA payment mitigates some of the increased fuel costs that families incur as a result of maintaining a higher household temperature.</p> <p>The extension of eligibility for CWHA to young people who receive the enhanced rate of the daily living component of PIP will help deliver numerous Social Security Outcomes. It is closely aligned with the Healthier, Wealthier and Fairer Strategic Objectives, and contributes to the following National Outcomes:</p>

	<ul style="list-style-type: none"> • We respect, protect and fulfil human rights and live free from discrimination; • We tackle poverty by sharing opportunities, wealth and power more equally; • We live in communities that are inclusive, empowered, resilient and safe; • We grow up loved, safe and respected so that we realise our full potential. <p>The policy intent has been assessed against the relevant UNCRC articles:</p> <ul style="list-style-type: none"> • Article 2 – No Discrimination • Article 3 – best interests of the child • Article 6 – life, survival and development • Article 23 – children with a disability • Article 26 – social security • Article 27 – adequate standard of living
<p>Summary of evidence</p>	<p><u>Consultation</u></p> <p>This Fairer Scotland Duty has been developed drawing on a range of primary research.</p> <p>In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. Two questions about Winter Fuel and Cold Weather Payments were incorporated into this consultation. We asked ‘Do you have any comments about the Scottish Government’s proposals for Winter Fuel and Cold Weather Payments?’ 164 respondents answered this question (82 individuals and 82 organisations).</p> <p>Overall, a large number of respondents felt that Winter Fuel and Cold Weather Payments were necessary to tackle fuel poverty and inequality and they generally welcomed the approach. Respondents were generally in favour of expanding the eligibility criteria to include families with children receiving the highest rate of DLA and accelerating payments to people off the main gas grid.</p> <p>They were also keen that the Scottish Government should continue to look at expansion of these payments to other groups at risk of fuel poverty that do not qualify for the highest rate of the care component of DLA. Some respondents were concerned about the need to improve</p>

fuel efficiency and concerns were raised about promoting awareness of these payments.

The 'Disability Assistance in Scotland' Consultation built on the work of the previous consultation and research with more than 2,400 volunteers with experience of the benefits that are being devolved to Scotland (Experience Panels). The consultation was published on 5 March 2019. It sought the views of the people of Scotland on the three proposed disability assistance benefits, and included a question on Winter Heating Assistance for severely disabled children. The consultation closed on 28 May 2019, having received 263 replies, of which 74 were from stakeholder organisations and 189 were from individuals¹.

We asked 'Do you agree or disagree with the proposal to make a £200 Winter Heating Assistance payment to families in receipt of the highest rate care component of Disability Assistance for Children and Young People? If you disagreed, please could you explain why'. An analysis of the consultation responses indicated that a large majority of respondents were supportive of the proposal. There were some suggestions that this payment should be available to all people receiving any form of social security benefits or Disability Assistance².

Research

Poverty in children and young people

It is estimated that 24% of children³ (230,000 children each year) were living in relative poverty after housing costs in 2016-19. Before housing costs, it is estimated that 20% of children (200,000 children each year) were in relative poverty⁴. Children in this context refers to 'dependent children'; a dependent child is a person either aged 0-15, or aged 16-19 and: not married nor in a Civil Partnership nor living with a partner, and living with their parents, and in full-time non-advanced education or in unwaged government training.

It is estimated that in 2016-19, 65% of children in relative poverty after housing costs (150,000 children each year) were living in working households. Before housing costs,

¹ <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/>

² <https://www.gov.scot/publications/consultation-disability-assistance-scotland-analysis-responses/>

³ <https://www.gov.scot/publications/poverty-income-inequality-scotland-2016-19/>

⁴ Relative poverty is a measure of whether the income of the poorest households are keeping pace with the middle income households.

	<p>64% of children in poverty (130,000 children) were living in working households.</p> <p>Between 2016 and 2018, 34% of households (810,000) in Scotland were financially vulnerable⁵. A household is 'financially vulnerable' if there are not enough savings to cover basic living costs for three months. Basic living costs include average costs of rent, food and fuel, such as gas and electricity. The groups of households that are most likely to be financially vulnerable (workless, young, with children, lone parents) are often small, so the bulk of financially vulnerable households is made up of households with different characteristics.</p> <p>The significance of the poverty rate is key as the longer that children experience poverty, the greater the damage to their health, wellbeing and life chances. From birth, without support, children living in poverty are twice as likely to fall behind their peers in all aspects of their development.</p> <p>The link between poverty and disability</p> <p>Research has shown that poverty disproportionately affects those living with a disability, with disabled people experiencing higher poverty rates than the rest of the population⁶. UK-wide, disabled people make up 28% of people in poverty and a further 20% of people in poverty live in a household with a disabled person. This statistic is largely replicated in Scotland where around 410,000 households in poverty (42% of all households in poverty) include a disabled person or are disabled themselves⁷.</p> <p>Disability and unemployment / under-employment are strongly correlated. 14% of 'workless families' (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have one or more children with a disability or long-term illness. A further 17% of 'struggling to get by' families (unemployed or working part-time, half of which are single-parent families) have one or more children with a disability or long-term illness⁸. Child material deprivation in households containing a disabled</p>
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⁵ Wealth and Assets in Scotland, <https://data.gov.scot/wealth/2020report.html>

⁶ <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

⁷ https://www.npi.org.uk/files/3414/7087/2429/Disability_and_poverty_MAIN_REPORT_FINAL.pdf

⁸ <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/5/>

	<p>person reaches 20% compared to 8% of households without a disabled person.</p> <p>Even where one or more parent in the household is in employment, within families with a disabled child, the same level of income secures a lower standard of living than it would for a disabled person. Research conducted by the Papworth Trust⁹ showed that the annual cost of bringing up a disabled child is three times greater than for a non-disabled child. Disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition¹⁰. Travel costs too, may be higher as families have to afford the cost of taxis to and from hospital where it is not possible to use public transport (and/or public transport may not be available).</p> <p>Fuel poverty</p> <p>The Scottish House Condition Survey data (December 2019)¹¹ indicates that around 613,000 households (24.6%) in Scotland live in fuel poverty, with 279,000 (12.4%) living in extreme fuel poverty. 16% of households in fuel poverty are families with children.</p> <p>Households with a disabled family member are disproportionately over-represented within fuel poverty statistics, with approximately 34% of fuel poor households containing someone with a disability¹². Fuel poverty, as defined in the Scottish Fuel Poverty Statement, is when a household has to spend more than 10% of their income on fuel costs, in order to maintain a satisfactory heating regime. The World Health Organisation (WHO) have defined this as 21°C in the living room and 18°C in other rooms, for 16 hours in every 24, unless the household is classified as “vulnerable”, such as when at least one resident has a long term sickness or disability. In these instances, the heating regime required is 23°C in the living room and 18°C in other rooms, for 16 hours per day. In light of this guidance, the Scottish Fuel Poverty Definition Review Panel recommended in 2017 that for ‘vulnerable households’, including those of disabled people, the living</p>
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⁹ Papworth Trust, Disability in the United Kingdom 2010, in <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

¹⁰ <https://www.jrf.org.uk/income-and-benefits/>

¹¹ <https://www.gov.scot/publications/scottish-house-condition-survey-2019-key-findings/documents/>

¹² <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

	<p>room temperature recommendation should be 23°C and other rooms 20°C.</p> <p>Unfortunately in spite of the WHO recommendations, research shows that vulnerable households often struggle to afford adequate energy consumption to meet their needs, resulting in having to choose between 'heating or eating'.</p> <p>A report by the Children's Commission on Poverty in 2013 surveyed around 200 children between the ages of 10 and 17. Children were asked about the level of warmth in their homes during the winter. Over half of children who said that their family is 'not well off at all' (54%) also said that their homes were much or a bit colder than they would have liked¹³.</p> <p>In a 2015 study commissioned by Affordable Warmth Solutions (AWS) and undertaken by The Children's Society (TCS) and National Energy Action (NEA) which included 20 households, with a total of 20 adult participants and 35 children and young people, the following conclusions were reached. The effects of fuel poverty are far-reaching, spanning different areas of life (personal, social, economic) and penetrating deep into the rhythms and patterns of daily living. Attempts to cope with any given aspect of fuel poverty often result in aggravating other aspects of the problem, and people thereby unwittingly undermine their own efforts to manage. The financial and emotional resources required to cope with the effects of fuel poverty leave inadequate room for pursuing dreams or for coping with life's other hardships. The effects of intervening to alleviate fuel poverty are far-reaching, with the potential to break cycles of negative consequence and foster positive outcomes in emotional and social, as well as economic, terms. The report makes a variety of policy recommendations including the provision of energy bill support and income support, in particular to the most vulnerable families with dependent children¹⁴.</p> <p>In an attempt to tackle fuel poverty amongst older people, the Department for Work and Pensions (DWP) makes an annual tax-free Winter Fuel Payment to pensioners, to help towards their winter heating costs. This payment is</p>
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¹³ https://www.childrenssociety.org.uk/sites/default/files/through_young_eyes_poverty_commission_report_final.pdf

¹⁴ <https://www.childrenssociety.org.uk/sites/default/files/fuel-poverty-report-final-with-forward-no-crops-sm.pdf>

	<p>made automatically, without application, universally to those above pension age.</p> <p>In the period 2018-2019, just under one million (999,360) people in Scotland received Winter Fuel Payments from DWP worth approximately £173 million. This will be devolved to Scotland in the coming years, with payments being made directly by Social Security Scotland.</p>
<p>Summary of assessment findings</p>	<p>The key aim of the CWHA is to provide children, young people and their families with an annual payment during the winter to assist them financially in mitigating the increased costs they incur in heating their homes as a result of being disabled or having a long-term condition.</p> <p>The assistance has been developed to address the increased costs that disabled children, young people and their families incur as a result of:</p> <ul style="list-style-type: none"> • heating their homes to a higher temperature in winter, in line with World Health Organization (WHO) Guidance on room temperatures for vulnerable people; • the need to heat their homes through the night, or for periods of the night, because another person is required to provide care and support to the child or young person during the night in respect of needs arising from the individual's disability or condition; and • the need to heat their homes for longer periods through the winter because of the likelihood of most children or young people receiving the highest rate care component of DLA being present in the family home for longer periods of time. <p>A household is in fuel poverty if it needs to spend more than 10 per cent of adjusted net income, i.e. after having paid housing costs, on reasonable fuel needs and is not left with enough money to maintain an acceptable standard of living¹⁵.</p> <p>For the purposes of the Fuel Poverty (Targets, Definition and Strategy) Act 2019, someone who has a long-term health condition or is in receipt of a disability benefit such as DLA or PIP is assumed to need a warmer home e.g. 23 degrees Celsius for the living room instead of the standard 21 degrees. They are also assumed to need to heat the home for 16 hours a day.</p>

¹⁵ Fuel Poverty (Targets, Definition and Strategy Act) 2019

CWHA is presently targeted only at children and young people who receive the highest rate of the care component of DLA or CDP, as this provides a reasonable proxy for those children and young people who need heat during the day and at night. It also targets those children and young people who are assumed to have the most severe needs as a result of their disability, by virtue of being entitled to the highest rate of the care component.

This targeted form of assistance is one way in which families of disabled children and young people reduce their exposure to fuel poverty.

As entitlement to CWHA is linked to entitlement to other forms of social security assistance, it does not ordinarily require an application from individual clients. Payments are normally triggered automatically on the basis of information held by Social Security Scotland or the Department for Work and Pensions.

The automatic nature of the payment is designed to ensure that this financial support is delivered by 31 December each year to eligible child or young person. A small number of children and young people, who are habitually resident in a country listed in the Schedule of the principal regulations and have a genuine and sufficient link to Scotland, must apply for Child Winter Heating Assistance.

Extension of eligibility criteria

Whilst we understand that some individuals would like to see us extend the eligibility criteria more widely. However, any further changes would need more detailed service design and delivery alterations (requiring technical system changes and further testing which would require diversion of resources currently dedicated to extension of the Scottish Child Payment (SCP), CDP and Adult Disability Payment (ADP)). In order to avoid considerable risks and delays to the launch of these other forms of assistance, Ministers have decided that on balance it is better to deliver the extended CWHA payment safely and securely now. This will ensure that a large number of young people can benefit from this support at a time when economic recovery will be of paramount importance.

The Scottish Government considered a number of options as part of the extension of the eligibility criteria of CWHA in light of stakeholder feedback. Rather than more generally extending entitlement to assistance to any child or young

person in receipt of any rate of a disability benefit, both individual and stakeholder feedback has focused primarily on young people aged 16 to 18. This is because some of those young people will not have received DLA or CDP prior to turning 16, therefore excluding them from entitlement to CWA.

A number of options were therefore considered for the extension of eligibility to meet the needs of this group:

- **Option 1:** Extending eligibility for CWA to all young people who are aged 16 to 18, but do not receive DLA, and require them to meet a new substantive eligibility requirement relating to day and night-time care needs;
- **Option 2:** Extending eligibility to all young people who are aged 16 to 18 and entitled to the enhanced rate of the daily living component of PIP in the qualifying week in September and meet a substantive eligibility requirement relating to night-time care needs;
- **Option 3:** Extending eligibility to all young people who are aged 16 to 18 and entitled to the enhanced rate of the daily living component of PIP in the qualifying week in September.

Option 1 would replicate the same application process as that used for both DLA and CDP. It would also potentially require clients within the extended eligibility group to re-apply in future years, as further confirmation that they continue to have both day and night-time needs would need to be established.

This would involve considerably more effort on the part of clients to complete an application form, as well as potentially supplying or signposting supporting information from a health or social care professional that confirms that the individual has the relevant needs.

This option would have a considerable impact upon Social Security Scotland's ability to deliver other forms of assistance, as it would require a full application and decision-making framework that does not currently exist. This would be delivered at the same time that Social Security Scotland will be delivering Child Disability Payment across Scotland, impacting upon the Scottish Government's ability to deliver a safe and secure transition for clients.

	<p>It is expected that there will be a need to transfer the payments of more than 40,000 clients from DWP to Social Security Scotland, whilst also developing the necessary systems and infrastructure to support delivery of Adult Disability Payment from 2022.</p> <p>Option 2 would require development of an application form and manual assessment of eligibility but only in respect of the individual's night-time care needs. The enhanced rate of the daily living component may be considered a reasonable proxy for having the highest level of daytime care needs.</p> <p>This option would take considerable time to implement the necessary design and development work, with a considerable impact as described in Option 1. This would affect Social Security Scotland's ability to deliver other forms of assistance this year, whilst also delivering a safe and secure transition from DLA to CDP at the same time.</p> <p>Option 3 as with Option 2, the receipt of the enhanced rate of the daily living component may be considered a reasonable proxy for having the highest level of day-time care needs and therefore the requirement for heating the home during the day.</p> <p>In Scotland, 68% of children in receipt of the highest rate of the care component of DLA, were awarded the enhanced rate of the daily living component of PIP, 9% were awarded the standard rate of the daily living component, and 15% had no entitlement to the daily living component.</p> <p>It is inherent in the social security system that is currently in operation that certain individuals in the relevant age group will receive PIP as the ultimate replacement for DLA, and that benefit does not differentiate between day and night time care needs. Against that background it would be disproportionate to require evidence of night-time care needs from individuals who are assessed, for the purposes of the benefit available to them, to have the highest level of need.</p> <p>Nonetheless, someone who is in receipt of PIP at the enhanced rate of the daily living component is likely to indicate higher disability-related costs in the same way that a child in receipt of higher-rate DLA will.</p>
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The extended eligibility criteria seeks to ensure those who need the financial support to heat their home due to having the most severe of care needs receive that support. These changes will help to reduce inequalities of outcome as it will ensure that the young people under the new eligibility receive the financial support required due to the severity of their care needs. It also ensures the household does not experience financial deprivation because of the financial impact of caring for a disabled young person who has the most severe needs as a result of their disability. It also avoids potentially putting children and young people and their families in the situation whereby they are faced with choices to forgo other aspects of their life due to increased heating costs.

This is particularly important when we know that research indicates households with at least one disabled child are far more likely to be in poverty, this would only be further compounded for those with the most severe of care needs.

This amendment will have a positive impact on disabled young people by ensuring that additional financial support is available to ease the pressure of winter fuel costs.

Monitoring and evaluation

The Scottish Government will undertake policy evaluation as part of a broader evaluation of devolved disability benefits. As part of this evaluation we will carry out an impact analysis on people from the protected characteristic groups identified in this document. The Social Security (Scotland) Act 2018 required the Scottish Government to create the Social Security Charter. The purpose the Charter is to set out what people should expect from the new social security system. It explains in clearer terms how we will uphold the Principles in the Act, how we will make sure that we are taking a human rights based approach to what we do and how we will demonstrate dignity, fairness and respect in all our actions¹⁶.

A commitment to report on the impact on people with protected characteristics is set out in the Social Security (Scotland) 2018 Act Part 1 section 20 (c) and (d). It states that the annual report to Parliament must also contain “an assessment of how the Scottish social security system has affected the circumstances of persons living in households whose income is adversely affected, or whose expenditure

¹⁶ <https://www.socialsecurity.gov.scot/about-us/our-charter>

	is increased, because a member of the household has one or more protected characteristics within the meaning of section 4 of the Equality Act 2010, and a description of the data for the purpose of monitoring equality of opportunity used in preparing the report”.
Sign off	Name: Ian Davidson Job Title: Deputy Director, Social Security Policy Division 27 July 2021



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