

# **The Disability Assistance for Older People (Scotland) Regulations 2024**

**Equality Impact Assessment (EQIA)**

**April 2024**

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## **Title of policy**

The Disability Assistance for Older People (Scotland) Regulations 2024

## **Summary of aims and desired outcomes of policy**

The Social Security (Scotland) Act 2018 sets out the broad framework for the delivery of the Scottish Government's social security benefits.

On 1 April 2020, executive and legal competence for disability benefits, including Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance was transferred to Scottish Ministers.

Pension Age Disability Payment will be the replacement for Attendance Allowance in Scotland. This new benefit will be delivered by Social Security Scotland. Attendance Allowance will continue to be delivered during a transition period by the Department for Work and Pensions (DWP) under the terms of an Agency Agreement to ensure the safe and secure transfer to Pension Age Disability Payment.

The Disability Assistance for Older People (Scotland) Regulations 2024 set out the eligibility criteria and how Social Security Scotland will deliver Pension Age Disability Payment. This benefit will accept new applications from those over State Pension age.

The regulations also make provision to safely and securely transfer responsibility for delivering disability benefits for people over State Pension age from the DWP on behalf of Scottish Ministers to Social Security Scotland, and to change the disability benefit for these people from Attendance Allowance to Pension Age Disability Payment.

The regulations also include technical amendments on Short-term Assistance for Child Disability Payment and Adult Disability Payment. These amendments regularise existing processes, to align with current practice used across live disability benefits to calculate the value of Short-term Assistance.

This policy is closely aligned with the Healthier, Wealthier and Fairer Strategic Objectives, and contributes to the following National Outcomes:

- 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.

## **Directorate, division, team**

Social Security Directorate,  
Social Security Policy Division,  
Disability Benefits Policy Unit.

## Executive summary

The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of the Scottish Government's social security benefits.<sup>1</sup> On 1 April 2020, executive and legal competence for disability benefits, including Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance was transferred to Scottish Ministers.

The Scottish Government has now replaced Disability Living Allowance for Children with Child Disability Payment, and Personal Independence Payment with Adult Disability Payment. Attendance Allowance is currently being delivered by the DWP on behalf of the Scottish Government under the terms of an Agency Agreement.

Under the 2018 Act, it is the Scottish Government's intention to replace Attendance Allowance with Pension Age Disability Payment. This was formerly known as Disability Assistance for Older People. Pension Age Disability Payment will be delivered by Social Security Scotland on behalf of Scottish Ministers. People will be able to challenge a determination by requesting a re-determination, and subsequently they will be able to appeal to the Social Security Chamber of the First-tier Tribunal for Scotland.

The Disability Assistance for Older People (Scotland) Regulations 2024 set out the eligibility criteria and how Social Security Scotland will deliver Pension Age Disability Payment. Section 31 of the 2018 Act sets out the legal basis in which Scottish Ministers make regulations for the rules and structures of disability assistance. Therefore, the title of these regulations do not use the specific name of this benefit.

Based on information from the DWP Stat-Xplore service, there were around 150,000 individuals in May 2023 with an entitlement to Attendance Allowance in Scotland whose awards would transfer to Pension Age Disability Payment.<sup>2</sup>

In addition to supporting new applications, the regulations include provision for the transfer of responsibility for delivering disability benefits for people of State Pension age in Scotland who receive Attendance Allowance from the DWP on behalf of Scottish Ministers to Social Security Scotland, and for changing the disability benefits for people from Attendance Allowance to Pension Age Disability Payment. This is referred to as the "case transfer" process. The case for these individuals will transfer to Social Security Scotland once new application functionality is in place.

Scottish Ministers have set out a number of case transfer principles which have guided the development of the approach to case transfer.<sup>3</sup> The Scottish Government's commitment to equalities will run through all of these principles and also guides the overall approach. The principles are:

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<sup>1</sup> [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>2</sup> [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

<sup>3</sup> [Social security case transfer: policy position paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/policy-position-papers)

- **Correct payment at the correct time** – ensuring that the case transfer process is designed so that individuals will receive the same amount for the Scottish benefit as they received for the corresponding UK benefit.
- **No re-applications** - we will not require individuals to re-apply for their benefit as part of the case transfer. We will work with DWP to move individuals automatically to Social Security Scotland and the corresponding new Scottish benefit.
- **No face to face DWP re-assessments** - we will, wherever possible, ensure that no-one will be subject to a face to face re-assessment by DWP after the launch of new applications for Adult Disability Payment. The DWP do not typically conduct face to face assessments for Attendance Allowance, so this is not a consideration for Attendance Allowance-Pension Age Disability Payment case transfer.
- **Complete as soon as possible** – Scottish Ministers have been clear that they want to complete the transfer of cases as soon as is possible in a way that is safe and secure, and will not create unacceptable risks for individuals.
- **Clear communication with individuals** – we will inform people of the date their case will be transferred and will keep them informed at the various stages of the case transfer process.

The public sector equality duty is a legislative requirement which states that the Scottish Government must assess the impact of applying a proposed new or revised policy or practice on groups with protected characteristics. Policies should reflect that different people have different needs. Equality legislation covers the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex, sexual orientation as well as marriage and civil partnership.

This Equality Impact Assessment has identified potential impacts on disabled people in Scotland who are over the State Pension age as a result of replacing Attendance Allowance with Pension Age Disability Payment.

It was found that, overall, the Scottish Government's policy on Pension Age Disability Payment has a number of improvements compared to Attendance Allowance which could have a positive impact on people in Scotland with protected characteristics. Where areas of improvement have been identified, the Scottish Government has made changes to better meet the needs of people living in Scotland.

## Background

Pension Age Disability Payment will be a disability benefit for people over State Pension age. It will be awarded to help with extra costs if a person has a disability severe enough that they need someone to help look after them.

As part of the commitment to a safe and secure transfer, Scottish Ministers do not propose to make significant changes to the existing Attendance Allowance eligibility criteria when introducing Pension Age Disability Payment. Examples of this include the replication of the current 6 month qualifying period for Attendance Allowance and continuing alignment by not introducing a mobility component. By maintaining the

current eligibility criteria, individuals in Scotland who are eligible for passported benefits and premiums from the UK Government will have seamless access to this vital support. This will provide security to people in Scotland when Pension Age Disability Payment is rolled out.

However, there are some key changes along with a number of practical administrative differences between Pension Age Disability Payment and Attendance Allowance which Scottish Ministers expect to have a positive impact for disabled people in Scotland. These differences have been developed through the commitments under the Social Security Charter.<sup>4</sup> The Scottish Government recognises social security as a human right and has designed Social Security Scotland's services with the people who use them so that everyone is treated with dignity, fairness and respect. The Scottish Government is committed to continually improving Scottish disability benefits by continuing to engage with disabled people and stakeholders to identify areas for further improvement in future.

Aspects of the transfer process from Attendance Allowance to Pension Age Disability Payment which are expected to have a positive impact on older disabled people in Scotland will be set out.

### **Application process**

The Scottish Government has made changes to the application process for all forms of disability assistance, including Pension Age Disability Payment, which will help to reduce stress and anxiety for individuals. People interacting with Social Security Scotland will require options and choices that suit them best. Social Security Scotland offers a multi-channel approach including online, telephone, paper-based and face-to-face applications. As well as offering choices, this ensures that those who cannot or choose not to adopt digital methods will not become isolated.

People who require further assistance or would prefer face-to-face support will be able to access that through Social Security Scotland's Local Delivery service. Local Delivery staff will provide one-to-one support and help disabled people to understand what Scottish Government benefits they may be entitled to. They can also provide assistance to complete application forms and take forward any follow-up actions relating to a person's application. It is considered that this support will be of particular benefit to older people applying for Pension Age Disability Payment, as many older people may find completing application forms overwhelming and might not have access to a support network to assist them.

The Scottish Government also launched the Social Security Independent Advocacy Service in January 2022. The service is free and supports people who self-identify as a disabled person to access and apply for Social Security Scotland assistance.

As with the Scottish Government's other disability benefits, a new approach to gathering supporting information is being utilised by Social Security Scotland which will help reduce stress and anxiety for individuals.

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<sup>4</sup> [Social Security Scotland - Our Charter \(socialsecurity.gov.scot\)](https://socialsecurity.gov.scot)

Case Managers can use a collaborative approach to help people gather supporting information from a professional, where needed and if an individual does not already have this to hand. This may include Case Managers obtaining supporting information from professionals on the individual's behalf. Case Managers can also assist in gathering supporting information from the individual's wider support network, such as a family member or unpaid carer, which can help Social Security Scotland to understand the individual's needs, conditions or disability.

### **Definition of terminal illness**

In May 2023, 3,874 people receiving Attendance Allowance in Scotland had their main condition or disability listed as a terminal illness.<sup>5</sup>

The Scottish Government's definition of terminal illness will support recognition of a wider number of illnesses and conditions through Pension Age Disability Payment than can be accounted for under the current definition in the UK Government system.

This is because the UK Government's time limited definition of terminal illness is able to recognise individuals with malignant illnesses at the end of life, but is less effective in recognising individuals with other degenerative life-limiting conditions, as it can be harder to determine length of life for these illnesses. In these circumstances, individuals with such conditions sometimes may not meet the definition of terminal illness in the UK Government system.

The Scottish Government included provision in the 2018 Act to introduce a new definition of terminal illness that differs from the current UK Government definition. It removes the arbitrary 12 month timescale currently used by the DWP. Instead, the judgement as to whether a person should be considered terminally ill for the purposes of determining eligibility for Pension Age Disability Payment will be made by clinicians, based on guidance prepared by the Chief Medical Officer.<sup>6</sup>

The Scottish Government's new definition allows medical professionals, including registered nurses, to use their clinical judgement when determining whether an individual has a condition which can reasonably be expected to result in their death. This means that individuals who would otherwise not be entitled to Attendance Allowance through Special Rules will be able to do so under the Scottish Government definition as part of Pension Age Disability Payment, thereby having a positive impact on those with protected characteristics in Scotland.

Applications will be fast tracked from people with a terminal illness. Individuals who are terminally ill will automatically receive the highest rate of Pension Age Disability Payment and there will be no award reviews.

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<sup>5</sup> [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

<sup>6</sup> [Updated Guidance on the Implementation of Benefits Assessment under Special Rules in Scotland \(BASRiS\) - Chief Medical Officer \(sehd.scot.nhs.uk\)](https://www.sehd.scot.nhs.uk/basris/)



As the Scottish Government is committed to ensuring individuals receive the appropriate rate of Pension Age Disability Payment, the annual uprating notification will serve as a reminder to encourage people to report any change of circumstances they might have experienced. This should be of assistance particularly to those receiving an indefinite award for the lower rate of Pension Age Disability Payment to ensure Social Security Scotland continues to have an understanding of any changes to their condition or needs.

## **Re-determinations and appeals**

The Scottish Government wants to ensure that no one is disadvantaged by time limits for challenging a determination. In response to feedback from the Disability Assistance consultation, Experience Panels and the Disability and Carers Benefits Expert Advisory Group, Scottish Ministers have set the time limit for requesting a re-determination to 42 calendar days across the Scottish Government's disability benefits. This is an increase on the month time limit that is set for requesting a mandatory reconsideration by the DWP.<sup>9</sup> This will provide individuals with additional time to seek advice or gather supporting information which might be required before requesting a re-determination.

If an individual is not able to request a re-determination within 42 calendar days, they can ask for this time limit to be extended. The 2018 Act provides for an extension of up to a year for late re-determination requests. Guidance will ensure that, where an individual requests a late re-determination, their request is considered in a holistic and person-centred manner, taking account of their circumstances.

In the Consultation on Disability Assistance, it was proposed that Social Security Scotland be allowed 40-60 days to carry out a re-determination. 60% of respondents to the Consultation on Disability Assistance agreed with this proposed approach. However, some stakeholders felt that this was an excessive period for someone to be left without clarity over their award level or eligibility.

Given the concerns raised in the consultation, and subsequent stakeholder engagement, the Scottish Government has settled on the timescale for Social Security Scotland to undertake a re-determination at a maximum of 56 calendar days. It may be necessary to gather supporting information on behalf of the individual, and this information may take some time to obtain.

This will be beneficial as it will ensure that disabled people and their families or carers will have certainty about how long Social Security Scotland has to complete a re-determination. Similarly, by enabling individuals to appeal directly to the First-tier Tribunal, should Social Security Scotland be unable to complete the re-determination process within the prescribed timescale, this will further reduce any uncertainty and make people feel more confident in challenging a determination they do not agree with.

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<sup>9</sup> [Social Security - A Consultation on Disability Assistance in Scotland - Scottish Government response \(www.gov.scot\)](https://www.gov.scot/response)



## Short-term Assistance

During the Parliamentary passage of the 2018 Act, the inclusion of Short-term Assistance was welcomed by stakeholders and supported by Parliament.

The Scottish Government has committed to providing Short-term Assistance where Social Security Scotland has made a determination to reduce or stop an on-going Scottish Government benefit and that determination is subject to a request for re-determination or an appeal. As with the Scottish Government's other disability benefits, Short-term Assistance will be available for those with an award of Pension Age Disability Payment.

The intention of Short-term Assistance is to ensure individuals are not discouraged from challenging a review of their award determination or from accessing administrative justice, by having to manage, for a period, with a reduced income. Short-term Assistance is not available in the UK Government system. Providing support in this way is another example of where Scottish Ministers are removing barriers in the Scottish social security system.

Short-term Assistance will be available until the First-tier Tribunal for Scotland has made a determination, and is non-recoverable except in cases of fraud or error. Where a person is eligible, the value of Short-term Assistance will be the difference between the longstanding award paid prior to the reduction and the new level of award. This includes when that amount is now £0 because entitlement to the individual's award has stopped.

The proposal that Short-term Assistance should not be recoverable, except in cases of fraud or error, was also met with approval by 87% of respondents to the Disability Assistance consultation.<sup>10</sup> This will ensure that, should a re-determination or appeal be unsuccessful, there will not be any overpayments that individuals will need to worry about repaying. This will help to prevent a further reduction in household income should the re-determination or appeal be unsuccessful, something which was stressed by respondents.

Short-term Assistance for Pension Age Disability Payment will be processed in the same way as Adult Disability Payment and Child Disability Payment in terms of eligibility, value and form. Scottish Ministers have sought to clarify existing processes for how Short-term Assistance value is currently calculated for live disability benefits, such as Adult Disability Payment and Child Disability Payment, and bring Pension Age Disability Payment in alignment with current practice. These regulations therefore include technical amendments to Pension Age Disability Payment Regulations, as well as equivalent technical amendments to the Adult Disability Payment and Child Disability Payment Regulations for Short-term Assistance, ensuring clarity regarding Short-term Assistance value and existing practice.

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<sup>10</sup> [Social Security - A Consultation on Disability Assistance in Scotland - Scottish Government response \(www.gov.scot\)](https://www.gov.scot/resources/documents/2018/04/Social_Security_-_A_Consultation_on_Disability_Assistance_in_Scotland_-_Scottish_Government_response.pdf)

## **Eligibility criteria**

A number of key changes for Pension Age Disability Payment have been set out above, including the introduction of the Scottish Government's definition of terminal illness and provision of Short-term Assistance. However, the Scottish Government does not intend to make further significant changes to the existing Attendance Allowance eligibility criteria.

The Scottish Government will ensure that individuals with an award of Attendance Allowance will not need to reapply when their award is transferred to Pension Age Disability Payment. Significant changes to the eligibility criteria from that of Attendance Allowance would risk creating a two-tier system of disability benefits for those over State Pension age. Changes to the eligibility criteria for Pension Age Disability Payment would cause unfairness, confusion and disruption for individuals by having two different sets of eligibility criteria and rules, whilst undertaking a significantly complicated case transfer process.

Eligibility to Attendance Allowance also provides individuals with entitlement to various UK Government benefits and premiums, usually referred to as 'passporting'. Throughout the consultation on Disability Assistance, people consistently raised concerns about maintaining other support that they are entitled to as a result of their disability benefit award. An example of a passported entitlement through an award of Attendance Allowance is the Severe Disability premium of Pension Credit. Whilst the passporting of benefit entitlements is not the sole reason for Scottish Ministers' approach to safe and secure transfer, the Scottish Government recognises that these entitlements are crucial to disabled people in Scotland.

However, what Social Security Scotland delivers on day one is not the limit of the Scottish Government's aspirations. Scottish Ministers are committed to continually improving disability benefits by continuing engagement with disabled people and stakeholders to identify areas for further improvement in future.

## **Case transfer**

### **No re-applications**

Individuals have told us they would be worried about gaps or delays in their benefits, that their payments would stop, or that they may need to do something as part of the case transfer process.

Individuals will not be required to re-apply for their benefit as part of their case transfer. The Scottish Government will work with the DWP to move peoples' awards automatically to Social Security Scotland and the corresponding new Scottish benefit.

Individuals will receive the same amount for Pension Age Disability Payment as they received for Attendance Allowance, with no gap between regular payment dates.

## **Communications during the transfer process**

It has been suggested that people would have many questions about the changes created by the case transfer process. For example, they may have concerns seeing a payment coming from Social Security Scotland as opposed to the DWP, questions about whether they needed to do anything as part of the process, or be uncertain about the time remaining on the benefit award after point of transfer.

A communication strategy will be developed that strikes an appropriate balance between ensuring that the individual is kept fully informed of what is happening with their case whilst also not providing an excessive amount of information which could result in confusion or anxiety for them.

It is anticipated that these measures will reduce uncertainty and anxiety and thus mitigate any potential negative impact of the case transfer process on this group of people.

## **Who was involved in this Equality Impact Assessment?**

This Equality Impact Assessment has been developed involving officials from within the Scottish Government and with a range of external stakeholders, as well as the wider public.

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. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses. In particular, comments were invited on a partial Equality Impact Assessment which represented the Scottish Government's work on the impact of social security policy on people with protected characteristics prior to the consultation.

There were 521 formal written responses submitted overall, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children and young people, equalities and human rights, disability and long term conditions, and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 May 2017.<sup>11</sup> In addition, the Equality Impact Assessment that was published alongside the Social Security (Scotland) Bill was used to inform this Equality Impact Assessment for Pension Age Disability Payment.<sup>12</sup>

The Scottish Government has established Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017.<sup>13</sup> The Panels involve people with lived experience of the benefits that the Scottish Government is replacing. In July 2019, recruitment to the

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<sup>11</sup> [Analysis of written responses to the consultation on social security in Scotland - gov.scot \(www.gov.scot\)](http://www.gov.scot/analysis-of-written-responses-to-the-consultation-on-social-security-in-scotland)

<sup>12</sup> [Social Security \(Scotland\) Bill: Equality Impact Assessment \(www.gov.scot\)](http://www.gov.scot/social-security-scotland-bill-equality-impact-assessment)

<sup>13</sup> [Social Security Experience Panels: how to get involved - gov.scot \(www.gov.scot\)](http://www.gov.scot/social-security-experience-panels-how-to-get-involved)

Experience Panels reopened. Work was taken forward with relevant stakeholders to specifically target disabled people from seldom heard groups as part of this engagement.

Two surveys regarding the case transfer process were sent out to Experience Panel members in January and February 2019. 404 and 559 responses were received respectively. A series of individual and group interviews were also conducted. Results from both surveys and the interviews were published in 2019.<sup>14</sup> These surveys confirmed that of most importance to panel members was that they continue to receive the correct payment at the correct time.

The Consultation on Disability Assistance was published on 5 March 2019. In line with the principles of dignity, fairness and respect, the Scottish Government sought the views of the people of Scotland on the three proposed disability assistance benefits to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance. The consultation closed on 28 May 2019, having received 263 replies, of which 74 were from stakeholder organisations and 189 were from individuals. An analysis of responses was published in October 2019.<sup>15</sup> Targeted consultation with stakeholders representing people with protected characteristics was undertaken during the consultation period.

In August 2022, the Disability and Carers Benefits Expert Advisory Group (DACBEAG) shared advice on Pension Age Disability Payment with the Scottish Government.<sup>16</sup> Scottish Ministers responded on 1 March 2023,<sup>17</sup> accepting Recommendation 12 which commits the Scottish Government to completing a robust Equality Impact Assessment for Pension Age Disability Payment.

The Scottish Government has also held specific stakeholder engagement sessions for Pension Age Disability Payment. In April 2023, a stakeholder engagement workshop was held to inform the findings of this Equality Impact Assessment. Key stakeholders from MND Scotland, Mobility and Access Committee for Scotland (MACS), Scottish Women's Convention and Christians Against Poverty attended this workshop.

## **The scope of the Equality Impact Assessment**

This Equality Impact Assessment considers the impact of introducing Pension Age Disability Payment on disabled people who are over the State Pension age and have one or more protected characteristics. State Pension age is currently 66 years of age, and is planned to gradually increase to 67 years of age by 2028.<sup>18</sup>

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<sup>14</sup> [Social Security Experience Panels: designing the benefits case transfer process - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-experience-panels-designing-the-benefits-case-transfer-process/pages/1-10.aspx)

<sup>15</sup> [Disability assistance in Scotland: analysis of consultation responses - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-assistance-in-scotland-analysis-of-consultation-responses/pages/1-10.aspx)

<sup>16</sup> [Disability and Carer Benefits Expert Advisory Group - Pension Age Disability Payment: advice - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-and-carer-benefits-expert-advisory-group-pension-age-disability-payment-advice/pages/1-10.aspx)

<sup>17</sup> [Disability and Carer Benefits Expert Advisory Group - Pension Age Disability Payment: Response from Ministers - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-and-carer-benefits-expert-advisory-group-pension-age-disability-payment-response-from-ministers/pages/1-10.aspx)

<sup>18</sup> [State Pension age timetable - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/state-pension-age-timetable)

The Equality Impact Assessment also considers potential impacts on older disabled people in Scotland as a result of transferring responsibility for delivering disability benefits for people of pension age who receive Attendance Allowance in Scotland from the DWP on behalf of Scottish Ministers to Social Security Scotland, and changing the disability benefits for these people from Attendance Allowance to Pension Age Disability Payment.

## Data sources

- Scottish Health Survey
- Scotland's census 2011
- NRS Mid-year population estimates
- Social Security Experience Panel findings
- Responses to the Consultation on Disability Assistance in Scotland
- Advice from the Disability and Carer Benefits Expert Advisory Group
- DWP Stat-Xplore statistics
- Statistics and Projections from the Scottish Government's Communities Analysis Division
- Scottish Government publications: qualifying periods and mobility policy position papers
- Stakeholder Workshop on the Equalities Impact Assessment

## Key findings

This Equality Impact Assessment has found that the introduction of Pension Age Disability Payment is likely to have a positive impact on the people of Scotland, including individuals who fall under the following protected characteristics.

### Age

In the Mid-2021 Population Estimates, people aged 65 and over accounted for 20% of the Scottish population.<sup>19</sup> This is an increase since the time of the 2011 Census, whereby this age group accounted for around 17% of the population.

In the current system, the age criteria for Attendance Allowance begins at State Pension age. The Scottish Government intends to align the age criteria for Pension Age Disability Payment with that of Attendance Allowance. In the 2019 Consultation, 89% of respondents agreed with the proposals to align the age criteria with State Pension age.

It will be important for individuals to understand that if they are receiving Adult Disability Payment prior to reaching State Pension age, they will continue to receive this after reaching State Pension age so long as they remain entitled. Individuals will also be able to apply for Adult Disability Payment after reaching State Pension age in circumstances where no more than a year has lapsed since their previous award of Adult Disability Payment, Personal Independence Payment or Disability Living Allowance has ended, and their condition or disability is substantially the same as

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<sup>19</sup> [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/mid-2021-population-estimates-scotland)

when their previous award was made. Guidance and communications will be clear on this so that individuals understand if, and in what circumstances, they should apply for Pension Age Disability Payment.

Given Pension Age Disability Payment will be open to new applications for those over State Pension age, the Scottish Government has an opportunity to further tailor the approach to disability assistance with regard to the needs of this age group. Scottish Ministers believe that the improvements made through Pension Age Disability Payment should have a positive impact on disabled people within this age group.

### **Case transfer**

User research has reported concerns that the transfer process may be more difficult and stressful for some individuals, especially older individuals who may experience the transfer as particularly disruptive. Older people with dementia, a learning disability, or with a mental health condition may also experience additional barriers to engaging in the transfer process. Therefore, the transfer process will be conducted entirely through Managed Case Transfer and in accordance with the case transfer principles which do not require any application and minimal, if any, input from individuals. Particular attention will be paid to clarity of communication and providing information about sources of support if people have any questions or concerns about the process.

### **Application and decision-making process**

Case Managers will be empowered to speak to individuals who have indicated that they are willing to be called to gain additional information or to clarify details of their application and supporting information. Supporting information will be used by Case Managers as a resource to support the decision-making process. This information, along with information in application or review forms, will be approached from a position of trust.

From engagement with stakeholders, it is understood that although many people who apply for Attendance Allowance are able to manage their own affairs, it is likely that they may require support from family or a caregiver with aspects such as the application or review processes. The Scottish Government will ensure that individuals can request a third party representative with ease to support them early on in their engagement with Social Security Scotland. Scottish Ministers believe this strikes the right balance to encourage people in this age group to gain support from friends and relatives when required, while also maintaining their financial independence.

It is likely that this process will have an impact not just on those who require additional support on the basis of age, but also for individuals with additional communication needs, such as the use of assistive technology or the use of lip reading, where an individual is still able to manage their own affairs but feel they need additional support when interacting with Social Security Scotland.

Social Security Scotland's existing appointees process will be extended to Pension Age Disability Payment. This process recognises the vulnerabilities of those who require an appointee, and includes a number of safeguards. These safeguards have an intersectional impact across protected characteristics, including older disabled people.<sup>20</sup>

Supporting information from a professional can be sought by Case Managers where this is needed to support the decision-making process and assist Case Managers in their understanding of an individual's level of need, condition or disability alongside internal Decision Making Guidance. Where an individual does not have supporting information to hand, Social Security Scotland may use a collaborative approach with the individual to assist in gathering supporting information from a professional and/or their wider support network.

Case Managers can make a determination of an individual's entitlement to Pension Age Disability Payment with no supporting information from a professional, or from their wider support network where it is reasonable to do so. Such circumstances could be due to the individual's health, condition or personal circumstances. Examples include, if an individual has had a recent hospital stay, if they have been unable to receive the support they need from an advocate or support worker, or where they may have lost contact with their support network, including health and social care professionals.

Case Managers may utilise other decision-making tools, such as case discussions with a health or social care practitioner to assist in using their discretion when making a determination. This approach will ensure access to a robust determination of entitlement that takes into consideration current circumstances when supporting information is not available.

The overall approach to the application and decision-making process has been designed with people who will use it, and should be of particular benefit for individuals within this age cohort compared to the level of support available under the existing system. Age Scotland research from 2021 suggests that views on ease of applying for social security varies across benefits, but that overall, 28% of those over 50 found applying 'not easy' or 'not easy at all'.<sup>21</sup> Pension Age Disability Payment will provide an opportunity for improvement for those over State Pension age, while noting that other areas of support for older people, such as the State Pension and Pension Credit, continue to be administered by the UK Government.

### **Decision to not introduce a mobility component**

Attendance Allowance as delivered by the DWP does not include a mobility component. As part of the Scottish Government's commitment to a safe and secure transfer of disability benefits, Scottish Ministers are not introducing a mobility component as part of Pension Age Disability Payment, and do not intend to review this position in the foreseeable future.

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<sup>20</sup> [Client Representative Guidelines Part 5.2 - Appointees for adults regarded as incapable | Social Security Scotland \(socialsecurity.gov.scot\)](#)

<sup>21</sup> [Equality and Human Rights Monitor: Is Scotland Fairer? \(equalityhumanrights.com\)](#)



Although 63% of respondents to the 2019 Consultation on Disability Assistance agreed with the Scottish Government's position on the eligibility criteria for Pension Age Disability Payment, a number of stakeholder organisations noted their view on the introduction of a mobility component.<sup>22</sup> This has also been reflected in a 2023 paper produced by a number of stakeholders, setting out their arguments in favour of a mobility component, or other forms of transport assistance for older disabled people in Scotland.<sup>23</sup>

In recognition of the intersectional impact of Pension Age Disability Payment and the Scottish Government's commitment to human rights, the social security principles and the Public Sector Equality Duty (PSED) have been considered throughout the policy development process. The justification of the decision to not introduce a mobility component is set out under the protected characteristic of age, with the mitigations of this policy position provided under the protected characteristic of disability.

Under section 149 of the Equality Act 2010, Scottish Ministers must consider the need to eliminate discrimination, advance equality of opportunity and foster good relations.

#### **i) Eliminating discrimination, harassment and victimisation**

As outlined above, number of stakeholders noted their position on introducing a mobility component in their consultation responses. During the development of Pension Age Disability Payment, the Scottish Government undertook significant work exploring the feasibility of introducing a mobility component. The analysis was published in February 2020.<sup>24</sup> This provided a considered evidence base, in alignment with the social security principles, which aided Scottish Ministers when determining the policy position on Pension Age Disability Payment.

Through consideration of the analysis, Scottish Ministers concluded that it is not feasible to introduce a mobility component within the foreseeable future. In alignment with the social security principles, Pension Age Disability Payment has been designed with the people of Scotland and key policy decisions have been made on the basis of evidence.

In this analysis, it was estimated that the introduction of a mobility component could cost an additional £580 million annually. This is broadly similar to the preliminary figure produced by Age Scotland in their consultation response in 2019.<sup>25</sup> This cost would increase annually due to uprating with inflation and, with an ageing population, is likely to grow substantially in the coming years. As the Scottish Government's analysis was produced in 2020, it is likely that this figure would now be significantly higher following the Covid-19 pandemic and the current period of high inflation.

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<sup>22</sup> [A Consultation on Disability Assistance in Scotland: Analysis of Responses \(www.gov.scot\)](https://www.gov.scot/publications/consultations/analysis-of-responses-to-a-consultation-on-disability-assistance-in-scotland/pages/10-to-12.aspx)

<sup>23</sup> [Pension Age Disability Payment - mobility component | Age Scotland \(ageuk.org.uk\)](https://ageuk.org.uk/pension-age-disability-payment-mobility-component/)

<sup>24</sup> [Scottish Government Position Paper - Mobility Component for Disability Assistance for Older People \(DAOP\) Scottish Government Position Paper - Mobility Component for Disability Assistance for Older People \(DAOP\) \(www.gov.scot\)](https://www.gov.scot/publications/position-papers/pages/10-to-12.aspx)

<sup>25</sup> [Response 879593193 to A Consultation on Improving Disability Assistance in Scotland - Scottish Government consultations - Citizen Space](https://www.gov.scot/publications/consultations/citizen-space/pages/10-to-12.aspx)



The Scottish Government would have to find this additional funding from the fixed budget, requiring the Scottish Government to reduce spending on other key social security priorities. Due to the highly challenging fiscal environment, and the principle to deliver social security with efficiency and value for money, Scottish Ministers are not in a position to reconsider the introduction of a mobility component.

As set out above, the Scottish Government intends to largely align Pension Age Disability Payment with the rates and eligibility criteria of Attendance Allowance to ensure a safe and secure transfer. The introduction of a mobility component as part of Pension Age Disability Payment would be a fundamental change in the policy rationale that underpins Attendance Allowance as a disability benefit that helps with extra costs if an individual has a disability severe enough that they need someone to help look after them.

The Scottish Government is ensuring that those receiving Attendance Allowance in Scotland do not need to reapply to receive Pension Age Disability Payment. Significant changes, such as introducing a mobility component, would risk creating a two-tier system of disability benefits for those over State Pension age. Changes to the eligibility criteria for Pension Age Disability Payment would cause unfairness, confusion and disruption for individuals by having two different sets of eligibility criteria and rules, whilst undertaking a significantly complicated case transfer process.

Similarly, by aligning Pension Age Disability Payment with Attendance Allowance, the Scottish Government has ensured that those receiving Pension Age Disability Payment will continue to have access to passported entitlements from the UK Government, as is currently available under Attendance Allowance. The Scottish Government recognises the importance of passported entitlements to those receiving disability benefits.

If the Scottish Government were to introduce fundamental changes to Pension Age Disability Payment, there is no guarantee that the DWP would continue to recognise Pension Age Disability Payment as 'like for like' with Attendance Allowance for passporting purposes. The practical realities and difficulties of diverging from UK Government equivalent benefits has been set out by the former chair of the Scottish Commission on Social Security (SCoSS).<sup>26</sup> Scottish Ministers will not make changes to social security payments that could put at risk access to passported entitlements for older disabled people in Scotland, when a safe and secure approach to delivering disability benefits has been taken for disabled people of other age groups.

It is also important to acknowledge the impact that age itself has on mobility; it is expected that many older people will develop mobility issues as part of the ageing process. The ageing process leading to an individual developing mobility needs would not have caused the same disadvantage as a long-term disability or health condition during an individual's working life.

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<sup>26</sup> [Journal of Social Security Law 2023: Issue 2 - Personal Reflections as Former Chair of the Scottish Commission on Social Security \(www.sweetandmaxwell.co.uk\)](https://www.sweetandmaxwell.co.uk)

People who receive the mobility component of Personal Independence Payment before they reach State Pension age will continue to receive this after that age if they remain eligible. The Scottish Government has maintained this vital safeguard as part of the safe and secure transfer to Adult Disability Payment. This ensures that people who become disabled during working age and who may be less able to prepare for later life can continue to receive the rate of the mobility component they were entitled to before State Pension age, so long as they continue to satisfy the eligibility criteria.

Pension Age Disability Payment will also sit alongside other benefits, premiums and services that only become available in later life. This includes access to the State Pension, State Pension credit, Winter Fuel Payment and an over 60s bus pass. This means that the circumstances of people receiving Pension Age Disability Payment are meaningfully different to those of working age, with access to UK Government passporting also being protected through the Scottish Government's decision to broadly align with Attendance Allowance.

Although the Scottish Government is not in a position to review this position on a mobility component, Pension Age Disability Payment continues to align with the social security principles by taking a human rights approach and providing respect for the dignity of individuals. This has been identified throughout this Equality Impact Assessment in areas where Scottish Ministers have decided, on the basis of evidence, that it is appropriate and feasible to diverge from Attendance Allowance. This includes introducing the Scottish definition of terminal illness, providing person-centred approaches to decision making and award reviews, and ensuring parity of treatment across age groups on legal detention.

## **ii) Advancing equality of opportunity**

Although the Scottish Government will not be introducing a mobility component as part of Pension Age Disability Payment, due regard has been given to advancing equality of opportunity between people who share and people who do not share relevant protected characteristics.

Where it has been appropriate to do so, the Scottish Government has standardised disability benefit regulations and processes to ensure accessing Pension Age Disability Payment and interactions with Social Security Scotland are consistent for disabled people, providing equality of opportunity to apply for disability benefits and access support during the application process.

Given the different circumstances of those over State Pension age and the decision to not introduce a mobility component as part of Pension Age Disability Payment, this Equality Impact Assessment has set out a number of mitigations for disabled people over State Pension age that can assist them with their mobility needs. Such mitigations have an intersectional impact and have been provided under the protected characteristic of disability.

Although Pension Age Disability Payment will not have a mobility component, there are a number of alternative forms of support available to reduce the impact of mobility needs for older people, while recognising the specific impact that age has on an individual's circumstances.

### **iii) Fostering good relations**

Although Pension Age Disability Payment will not introduce a mobility component, the Scottish Government is taking a number of actions to reduce prejudice and increase understanding between different groups of people regarding the disability benefits administered by Social Security Scotland.

Where possible, regulations, processes and services have been aligned across Scottish Government disability benefits to ensure those who share protected characteristics are provided with a consistent service in their interactions with Social Security Scotland. However, where there are specific needs, such as those relating to age, services have been specifically tailored. This is evident from the Scottish Government's position on indefinite awards and improving access to third party representatives for Pension Age Disability Payment.

Social Security Scotland has launched a disability benefits campaign, urging people to find out if they are eligible for Scottish disability benefits with an aim to increase benefit take-up.<sup>27</sup> Through this campaign, Social Security Scotland has made clear the different purposes of Child Disability Payment and Adult Disability Payment, ensuring people in Scotland have access to information about disability benefits through various forms of media engagement. When launched, Pension Age Disability Payment will be promoted for new applications to those over State Pension age in Scotland as a specific benefit within the wider delivery of disability benefits by Social Security Scotland.

Social Security Scotland will create a range of Pension Age Disability Payment stakeholder resources and content in accessible formats. These resources will be proactively supplied to relevant stakeholder organisations through the National Engagement Team for organisations to distribute to people in local communities. This will assist stakeholder organisations to understand and communicate the specific nature of Pension Age Disability Payment, while clarifying where processes remain aligned with Child Disability Payment and Adult Disability Payment.

The Scottish Government is committed to continued stakeholder engagement to seek opportunities for continuous engagement of Pension Age Disability Payment, while being mindful of the financial limitations and constraints that Ministers act within. This will ensure that despite Pension Age Disability Payment not introducing a mobility component, the social security principles will be put into practice through ongoing engagement, ensuring this benefit continues to deliver for the people of Scotland.

### **Alternative accommodation rules: legal detention**

Under the UK Government social security system, different approaches have been taken to legal detention for disability benefits for individuals of working age and those of State Pension age.

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<sup>27</sup> [Social Security Scotland - New campaign promoting disability benefits \(socialsecurity.gov.scot\)](https://www.socialsecurity.gov.scot/news-and-events/news/social-security-scotland-launches-disability-benefits-campaign)

Payments for those receiving Attendance Allowance are stopped the day after an individual enters legal detention. However, for those receiving Personal Independence Payment, an individual's payments are stopped after 28 days from when they entered legal detention. This position has been replicated as part of Adult Disability Payment in order to maintain alignment with Personal Independence Payment.

In the 2019 consultation, a number of respondents noted this difference between the Attendance Allowance rules for those who have entered legal detention and that of Personal Independence Payment and Adult Disability Payment. The Scottish Government has given consideration to this during the development of this Equality Impact Assessment.

The Scottish Government has determined that it would be appropriate to align Pension Age Disability Payment with the legal detention rules of Adult Disability Payment and the care component of Child Disability Payment. Therefore, an individual will have their payment set to £0 the day after they have been in legal detention for a full 28 calendar days.

This will ensure that when an individual in receipt of Pension Age Disability Payment enters legal detention, they will be treated in the same manner as an individual in receipt of Adult Disability Payment or the care component of Child Disability Payment, therefore advancing equality of opportunity and fostering good relations between people who share and people who do not share relevant protected characteristics.

As Pension Age Disability Payment is ordinarily paid four weeks in arrears, this policy position will ensure that where an older disabled person enters legal detention, they will be able to receive their entitlement for the first 28 calendar days. This will ensure that individuals have access to their entitlement to contribute to the settlement of any outstanding costs relating to their needs, prior to entering legal detention.

After the 28 day period, an individual will continue to have an entitlement to Pension Age Disability Payment, but their award will be reduced to £0. An individual whose award is reduced to £0 due to being in legal detention is not entitled to Short-term Assistance. By reducing the award to £0 during this period, when an individual leaves legal detention they will not be required to make a new application for Pension Age Disability Payment if they continue to be eligible. Therefore, individuals will be able to access their financial support again with relative ease.

## **Disability**

The Scottish Government believes that the changes being made with Pension Age Disability Payment will have a positive impact on disabled people over State Pension age in Scotland.

In May 2023 there were around 150,000 individuals having an entitlement to Attendance Allowance in Scotland. 3,874 of these people had their main condition or

disability listed as a terminal illness. This represents just under 3% of the total people entitled to Attendance Allowance in Scotland.<sup>28</sup>

Social Security Scotland will create a range of Pension Age Disability Payment stakeholder resources and content in accessible formats. These resources will be proactively supplied to relevant stakeholder organisations through the National Engagement Team for organisations to distribute to people in local communities. Materials will be translated into British Sign Language, braille and easy read formats. This will ensure that people can access and understand all the information relating to Pension Age Disability Payment in a format that works best for them.

For case transfer, the Scottish Government is taking forward a number of proposals to help mitigate any potential negative impacts and ensure the positive impacts of Pension Age Disability Payment are shared by those transferring onto the assistance, including:

- ensuring tailored communications and signposting to support
- ensuring stability of payment amount and frequency.

### **Application and decision-making process**

Social Security Scotland offers a multi-channel approach including online, telephone, paper-based and face-to-face applications. As well as offering choices, this ensures that those who cannot or choose not to adopt digital methods will not become isolated.

People who require further assistance or would prefer face-to-face support will be able to access that through Social Security Scotland's Local Delivery service. Local Delivery staff will provide one-to-one support and help disabled people to understand what Scottish Government benefits they may be entitled to. They can also provide assistance to complete application forms and take forward any follow-up actions relating to a person's application.

The Scottish Government believes that this provision should be an improvement for disabled older people, particularly for individuals with additional communication needs, such as the use of assistive technology or the use of lip reading where in-person support may be more accessible.

Case Managers will only seek supporting information from a professional to make a determination on an individual's entitlement to Pension Age Disability Payment where it is necessary.

It is anticipated that this will have a positive impact on disabled people. This approach is designed to reduce stress and anxiety for individuals. This policy will allow for a consistent approach to supporting information for Pension Age Disability Payment, thereby ensuring the appropriate level of assistance is awarded through a robust decision-making process that embodies the values of dignity, fairness and respect.

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<sup>28</sup> [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

## **Award reviews**

The Scottish Government has taken a different approach to the award review framework across all disability benefits to ensure that people's awards are not reviewed unnecessarily. When a Case Manager makes a determination to award Pension Age Disability Payment, they will set a review date based on when they think a person's needs will change, using a person-centred approach.

Such reviews will be light-touch and designed to minimise stress and anxiety for disabled people. Social Security Scotland will tailor reviews for each person to ensure that they are suitable to their needs, take account of their preferences and deliver an appropriate determination for each individual. This should have a positive impact, particularly for those who have been awarded the lower rate of Pension Age Disability Payment, as a light touch review will ensure that individuals have an opportunity to tell Social Security Scotland if their needs have increased.

However, where it is clear that an individual's needs are highly unlikely to change, decision-making guidance will be in place to assist case managers in determining whether an indefinite award is appropriate. This will follow a holistic and person-centred approach to ensure that the appropriate award length is in place, regardless of which rate of Pension Age Disability Payment an individual is entitled to.

## **Short-term Assistance**

The introduction of Short-term Assistance will have a positive impact on disabled people over State Pension age. Short-term Assistance is currently available for those receiving Child Disability Payment and Adult Disability Payment.

Short-term Assistance will be available when Social Security Scotland has made a determination to reduce or stop an individual's longstanding award of Pension Age Disability Payment and that determination is subject to a request for re-determination or an appeal. Short-term Assistance will be non-recoverable, except in cases of fraud or error. This will ensure that disabled people have confidence and financial stability when seeking a re-determination or appeal of changes to their on-going award.

Short-term Assistance for Pension Age Disability Payment will be processed in the same way as Adult Disability Payment and Child Disability Payment in terms of eligibility, value and form. Scottish Ministers have sought to clarify existing processes for how Short-term Assistance value is currently calculated for live disability benefits, such as Adult Disability Payment and Child Disability Payment, and bring Pension Age Disability Payment in alignment with current practice. These regulations therefore include technical amendments to Pension Age Disability Payment Regulations, as well as equivalent technical amendments to the Adult Disability Payment and Child Disability Payment Regulations for Short-term Assistance, ensuring clarity regarding Short-term Assistance value and existing practice.

Scottish Ministers believe that this strikes the right balance of supporting disabled people in seeking administrative justice, and to ensure that individuals are not discouraged from challenging a review of their award due to facing a reduced

income. Short-term Assistance is not available under the current Attendance Allowance system, and aligns with the Scottish Government's human rights approach to social security in Scotland.

### **Qualifying period**

The current rules set out that an individual must have been disabled or had their condition for six months before becoming eligible for Attendance Allowance. This qualifying period for Attendance Allowance will be replicated as part of Pension Age Disability Payment. However, for people with a terminal illness, there will continue to be no qualifying period. It is understood that some people have concerns about the impact of this rule on those who require financial assistance. Therefore, the Scottish Government undertook an analysis of qualifying periods for disability benefits when establishing a policy position.<sup>29</sup>

The Scottish Government believes that the six month qualifying period prior to payment of Pension Age Disability Payment is appropriate and in keeping with the policy intent for Pension Age Disability Payment. It ensures that this form of assistance is targeted at those with longer-term conditions and disabilities. Changes to the six month qualifying period would lead to people with very short-term conditions becoming eligible, substantially changing both the nature and purpose of Pension Age Disability Payment.

When applying the qualifying period, Social Security Scotland will ensure that the impact of unpredictable and fluctuating conditions on individuals is taken into consideration as part of a person centred approach. Unlike Child Disability Payment and Adult Disability Payment, there will be no qualifying period expecting a person's condition to last for a specified time period into the future as part of Pension Age Disability Payment.

As with Attendance Allowance, the rationale for this approach is that the number of people who have stopped receiving their award because their condition improves is negligible; largely attributable to the requirement for a six month initial qualifying period. This helps to mitigate the impact of having a longer qualifying period when compared to Child Disability Payment and Adult Disability Payment.

Therefore, this approach takes into consideration the different circumstances of older disabled people. By not considering the length of time an individual's condition is expected to last into the future, this proposal aims to advance equal opportunities between people who share and people who do not share relevant protected characteristics.

### **Terminal illness**

In May 2023, 3,874 people receiving Attendance Allowance had their main condition or disability listed as a terminal illness.<sup>30</sup> It is anticipated that the new definition of terminal illness within Scottish Government disability benefits will support the

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<sup>29</sup> [Disability Assistance qualifying periods: policy position paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-assistance-qualifying-periods/policy-position-paper/pages/1-to-10.aspx)

<sup>30</sup> [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore/home)



recognition of a wider number of illnesses and conditions than under the UK Government definition. The Scottish Government expects this to be of significant benefit to disabled people in Scotland, particularly within the age cohort of those entitled to Pension Age Disability Payment.

Estimates published in August 2021 suggested that there could be a 90% increase in the number of successful applications for Pension Age Disability Payment due to having a terminal illness.<sup>31</sup> It is worth noting that these estimates are based on projections for Adult Disability Payment due to a lack of data on the health conditions of those entitled to Attendance Allowance under terminal illness rules. The methodology utilised was also based on the previous six month life expectancy rule used by the DWP. This has now changed to a 12 month life expectancy rule. Therefore, these projections do not reflect the impact of the Scottish Government's terminal illness policy compared to the current DWP policy position.

However, the implementation of the Scottish Government's definition of terminal illness through Pension Age Disability Payment will have a more positive impact on disabled people over State Pension age in Scotland than that of the current social security system.

### **Alternative accommodation rules: hospitals and care homes**

Many people with disabilities and long-term health conditions may often experience stays in hospital, sometimes for a lengthy period. As with the current Attendance Allowance rules, Pension Age Disability Payment will continue to be paid to an individual in hospital or a publicly funded care home for 28 days. Beyond 28 days, payment of Pension Age Disability Payment will be reduced to £0. Pension Age Disability Payment is not intended to be an income-replacement benefit. Payments to support those over State Pension age on a low income are provided by the UK Government through Pension Credit.

As part of this Equality Impact Assessment, the Scottish Government has considered the impact of this rule. The intention of Pension Age Disability Payment is to provide financial assistance to mitigate the costs that individuals and their families incur as a result of a health condition or disability. Continuing to pay Pension Age Disability Payment where an individual's care needs are met in full through alternative public funding, for instance in a care home, hospital or secure accommodation, would lead to funding duplication in meeting the individual's care needs. In the majority of instances when an individual is in hospital, their additional care needs are met by the NHS.

Child Disability Payment is not stopped when a child or young person undergoes a stay in hospital for longer than 28 days. This is because, when children are in hospital they continue to require care and support, usually from a parent or guardian, over and above that which is provided in clinical settings because of their young age. Adult inpatients are not expected to need this kind of pastoral input, and NHS staff are expected to meet essential care needs.

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<sup>31</sup> [Estimating the impact on successful applications - Estimating the impact of the new definition of terminal illness for disability assistance in Scotland: research - gov.scot \(www.gov.scot\)](https://www.gov.scot/research/estimating-the-impact-on-successful-applications)



The purpose of the '28 day rule' is to ensure that longer term periods in alternative accommodation are not subject to funding duplication, by receiving Pension Age Disability Payment while the costs of that care are being covered. The 28 day window ensures that people cared for in temporary respite do not lose access to payments as well as recognising that where care placements break down or periods within alternative accommodation end at an early stage, the individual does not experience the additional disruption of losing access to Pension Age Disability Payment. As set out previously, individuals residing in legal detention will have their payment reduced to £0 after they have been in legal detention for a full 28 calendar days.

In many instances where an individual undergoes frequent short periods in hospital, their payment of Pension Age Disability Payment will be unaffected. Decision Making Guidance will assist Social Security Scotland in applying linking rules where an individual spends two or more separate periods in hospital.

People are entitled to continue receiving their entitlement for the first 28 days of a hospital stay in order to meet any outstanding additional costs incurred prior to their hospital stay. Although payment will stop after 28 days of an individual being in a publicly funded hospital or care home, entitlement is unaffected. Therefore, if and when an individual leaves such accommodation, payments will resume, subject to continuing to meet the eligibility criteria for Pension Age Disability Payment.

Where a case is transferred and the individual has been in a care home or hospital for less than 28 days, Social Security Scotland will ensure that the remainder of the 28 days' benefit is paid from the point of transfer. Therefore, case transfer is expected to have neither a positive nor negative impact in these circumstances.

This rule does not apply to those who are both residing in a hospice and have a terminal illness. In these circumstances, an individual's payment of Pension Age Disability Payment will continue, and the 28 day rule will not apply. This is likely to have a positive impact by ensuring that people who are already in extremely difficult circumstances will not see their income reduce as a result of residing in a hospice.

### **Decision to not introduce a mobility component – mitigations**

As set out under the age section of this Equality Impact Assessment, the Scottish Government will not be introducing a mobility component as part of Pension Age Disability Payment. This section sets out a number of mitigations for disabled older people in Scotland that can assist with their mobility needs.

The Scottish Government recognise that these mitigations may have an intersectional impact on the mobility needs of people based on a disability or health condition and also due to mobility needs increasing on the basis of age.

#### **i) Disabled Person's Bus Pass**

Anyone resident in Scotland over the age of 60 is entitled to free bus travel through the National Entitlement Card scheme. Following a public consultation in

2017, the Scottish Government committed to maintaining free bus travel.<sup>32</sup> This scheme provides free travel on registered local and long-distance bus services throughout Scotland, at any time of day for any number of journeys. In recognition of the impact of age, the provision of free bus travel allows older people improved access to services, facilities and social networks, therefore promoting social inclusion.

However, the Scottish Government also provides entitlement to a disabled person's bus pass. At present, Attendance Allowance is a qualifying benefit for a disabled person's bus pass. The Scottish Government is legislating to ensure that Pension Age Disability Payment provides access to the disabled person's bus pass as part of the commitment to a safe and secure transfer.

Where an individual is entitled to a disabled person's bus pass, the National Entitlement Card scheme allows for free travel of a companion. A companion can make travel much easier. For example, a companion can help an individual to get on and off buses, carry shopping and communicate with the driver.

Therefore, if an older disabled person requires support with their mobility needs and receives Pension Age Disability Payment, provision will be in place to ensure a companion can assist with this when travelling by bus, helping older people retain their independence while having an option to bring a companion.

## **ii) Blue Badge Scheme**

An award of Attendance Allowance does not provide automatic entitlement to a Blue Badge. This is because Attendance Allowance does not have a mobility component.

However, eligibility for a Blue Badge is based on an individual's own functional mobility, not a pre-defined list of eligible disabilities or conditions, whether physical or 'hidden'. This is mainly because not everyone who has a particular condition needs a parking concession. Anyone with any medical condition can apply for a Blue Badge, the test being if they are unable or virtually unable to walk.

Therefore, although receipt of Pension Age Disability Payment will not provide automatic entitlement to a Blue Badge, eligible disabled people irrespective of whether they are travelling as a driver or a passenger can apply through their local authority. Using the Blue Badge means that people with the most significant mobility challenges are enabled to maintain or regain a degree of independence with their travel.

In 2022, local authorities were provided with a shortened application form and new guidance to be used in cases where the applicant will always be eligible and only needs their personal details confirmed.

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<sup>32</sup> [Concessionary travel consultation | Transport Scotland \(transport.gov.scot\)](#)

### **iii) Free Personal Care**

Free Personal Care has been available in Scotland for adults aged 65 or over since 2002. The Scottish Government has also legislated to ensure that by 1 April 2019 adults of any age, no matter their condition, capital or income, who are assessed by their local authority as needing this service, are entitled to receive this without charge.

The Community Care and Health (Scotland) Act 2002 sets out a list of personal care tasks that may not be charged for by a local authority. For example, this can be support with:

- personal hygiene
- mealtimes
- immobility problems
- medication
- general wellbeing.

Free Nursing Care is similar and has been available to all who are assessed as requiring nursing care services, regardless of age, without charge. Nursing care is care that involves the knowledge or skills of a qualified nurse and includes activities such as administering injections and managing pressure sores.

Although legislation has extended this provision to adults of all ages who need this service, given the impact of age and that the criteria is based on individual need, it is likely that this will continue to be of significant importance to support older people. As Free Personal Care can support with a number of needs, including immobility problems both at home and within a care home, this service ensures that those eligible can receive support with their mobility needs in an environment that suits their needs.

Given the mitigations that have been set out above, the Scottish Government believes that although Pension Age Disability Payment will align with Attendance Allowance by not introducing a mobility component, there are a number of alternative forms of support available in Scotland to assist older people who have mobility needs, recognising the specific impact that age has on an individual's circumstances, including their mobility needs.

### **Gender reassignment**

There is no robust data relating to the proportion of people in Scotland to whom the gender reassignment protected characteristic applies. However, the Scottish Government recognises that a potential barrier to trans and non-binary people accessing disability assistance is a requirement for individuals to provide their gender when making an application.

This is often discriminatory as individuals are asked to tick a box to indicate their gender. This tends to involve a male-female binary which does not apply to

individuals whose gender does not fit into one of these categories, such as individuals who are non-binary, agender or genderfluid.

Social Security Scotland staff will embody the values of dignity, fairness and respect. All training for staff will include LGBT awareness and be underpinned by human rights principles.

Information on an individual's gender is not required to make a determination of entitlement for Pension Age Disability Payment. Therefore, this has been taken into consideration through the design of the Pension Age Disability Payment application form which will not collect information on an individual's gender.

Although it is not yet possible to determine the impact that the Pension Age Disability Payment application process will have due to a lack of data, the Scottish Government is confident that this approach is consistent with best practice by only requesting information where it is proportionate or necessary.

Information on an individual's gender identity will only be gathered through the Equalities Monitoring form. This form is optional to complete, and any data gathered through this will be stored separately from an individual's application for Pension Age Disability Payment, providing reassurance that this data will not impact on an individual's determination of entitlement. This approach is consistent with that of Child Disability Payment and Adult Disability Payment.

Data gathered under the Equalities Monitoring and feedback processes will allow the Scottish Government to evaluate how its policies and processes work in practice for those with a protected characteristic, including gender reassignment. This will allow the Scottish Government to seek opportunities for continuous improvement of Pension Age Disability Payment processes and, where appropriate, to advance equality and non-discrimination, in line with the Scottish social security principles set out in the 2018 Act.

## **Pregnancy and maternity**

This Equality Impact Assessment has not identified any barriers from Pension Age Disability Payment that have an impact on the protected characteristics of pregnancy and maternity. As an individual is only entitled to Pension Age Disability Payment having reached State Pension age, it is unlikely that they will possess this protected characteristic.

## **Race**

Just under 4% of Scotland's population belong to minority ethnic groups, and 7% of the total population communicate in home languages other than English. Although there are not statistics showing the number of people within Scotland who are in receipt of disability benefits and who belong to minority ethnic groups, it is known that they generally make up 3.7% of those with a reported learning disability or developmental disorder.<sup>33</sup>

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<sup>33</sup> 2011 Census in Scotland

There are particular barriers for individuals from minority ethnic groups in applying for disability benefits, especially those with English as a second language, as there may be difficulties in accessing or understanding their entitlements due to language or other communication barriers. In particular, participants in Experience Panels stated that they were not confident in using online resources or other materials because, while they felt they could speak English conversationally, they did not feel comfortable making sense of the complicated and technical language often used by authorities.<sup>34</sup>

To address this, work has been undertaken with ethnic minority groups alongside the main Experience Panels as part of the Benefit Take-up Strategy. Experience Panel engagements with people who use English as a second language also showed that there is often an assumption around the most commonly translated languages.

There is an expectation that Social Security Scotland will mirror provision by other public sector organisations, and speakers of less common languages have shared that they will generally opt for letters in English, on the assumption that there are no materials available in their home language. This removes individual agency, forcing some individuals to rely on support to apply, and creating a barrier to take-up. Additionally, many individuals have also expressed concerns that they would misinterpret information and, as a result, they would be sanctioned or prosecuted because of language barriers.

As part of the process of applying for Pension Age Disability Payment and when communicating about the case transfer process, Social Security Scotland will ensure that appropriate communication support is provided to meet individual needs both for accessibility and for language barriers. This includes the use of translator services during telephone calls and translation of decision reports when a determination of entitlement is made.

Social Security Scotland will create a range of Pension Age Disability Payment stakeholder resources and content in accessible formats. These resources will be proactively supplied to relevant stakeholder organisations through the National Engagement Team for organisations to distribute to people in local communities. The languages that Social Security Scotland proactively translate materials into were selected through stakeholder consultation. These are: British Sign Language, Farsi, Mandarin, Cantonese, Urdu, Gaelic, Polish, Arabic, braille and easy read formats. Materials in other languages are available on request.

Social Security Scotland's communications team will work with community radio and foreign language press to provide messaging on Pension Age Disability Payment to communities. In some circumstances, printed marketing materials may not be the right way to engage with these communities and where this is the case, Social Security Scotland will provide an engagement approach through work carried out by the National Engagement and Local Delivery teams.

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<sup>34</sup> [Social Security Experience Panels: Ethnic Minorities \(www.gov.scot\)](http://www.gov.scot)

Social Security Scotland will continue to work with experts who have experience of benefit take-up in specific communities, such as Black, Asian and Minority Ethnic women and the Gypsy/Traveller community. The purpose will be to monitor and provide management information to effectively target take-up activity and assist the production of take-up resources for Social Security Scotland staff and stakeholders. The Scottish Government will draw on best practice from take-up initiatives and campaigns undertaken across Scotland and elsewhere in the United Kingdom.

### **Gypsy/Traveller community**

Within the broader classification of ethnic minority, just over 4,000 people in Scotland (0.1% of the population) identified their ethnic group as 'White: Gypsy/Traveller'.<sup>35</sup> Although there are not statistics held on the number of Gypsy/Traveller people who receive disability benefits under the current system, the census showed that 28% of Gypsy/Travellers reported having a life limiting long-term health problem or disability, compared to 20% of the general population. It is thus more likely that this group will need to access disability benefits, but also likely that this group may experience additional barriers to accessing benefits.

The Scottish Government was also informed anecdotally that the Gypsy/Traveller community operate within the 'cash economy' and that they are more likely to have a post office account than a bank account. This can be problematic in terms of receiving payments. The payment method of Pension Age Disability Payment will be important for some people, and in particular the Gypsy/Traveller community. In addition to Post Office and Credit Union accounts, payments can be made using iMovo which is a secure digital voucher system that can be delivered to individuals in several forms, such as SMS and email. These can be redeemed at one of 2850 PayPoint outlets in Scotland.

Only awards of those deemed to be "ordinarily resident" in Scotland on the day their case is reviewed for transfer will be subject to the transfer process. This will likely impact those that live more transient lifestyles, especially those regularly moving between Scotland and other parts of the UK, more so than those with a more settled lifestyle.

This residence requirement is therefore more likely to impact on the gypsy/traveller community. However, there is insufficient data to determine how many of the just over 4,000 people in Scotland (0.1% of the population) who identified their ethnic group as "White: Gypsy/Traveller" regularly travel between Scotland and the rest of the UK. As a result, it is difficult to determine what, if any, negative impact this may have on this community.

### **Refugees**

The ethnic minority population also includes refugees. Refugees are eligible for benefits such as disability benefits, but typically experience additional barriers in comparison to the general population in accessing them. Specific research has been

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<sup>35</sup> 2011 Census in Scotland

undertaken with this group as part of the Experience Panels to highlight barriers and challenges in accessing social security by Mobile Populations.<sup>36</sup>

Participants felt stigmatised, misunderstood, judged and discriminated against by government officials under the current system. Refugees highlighted the need to learn more English to access services and interact effectively with government officials to be a barrier. It was highlighted that many refugees have a strong reliance on translators and interpreting services to communicate with government officials.

Social Security Scotland will ensure that individuals who require the use of translator services during telephone calls have access to this support. Decision reports when a determination of entitlement is made will be translated for individuals who require this information in another language. Social Security Scotland staff will also undertake training in inclusive communications to ensure individuals can interact in ways that work for them. This approach will help to reduce the stigma felt by refugees in their interactions with Scotland's social security system.

Participants felt that they could not find correct information on benefits and eligibility from official government channels under the UK Government system. Many perceived the social security system to be complex and difficult to understand. It was also noted by some participants that they encountered barriers in accessing information and application processes that are online, because they did not have internet access or digital services.

As previously noted, Social Security Scotland will proactively provide stakeholder organisations with Pension Age Disability Payment resources and will provide a multi-channel application process, including paper-based, telephone and face-to-face applications. The application form for Pension Age Disability Payment has been designed through user research to ensure it is accessible and reduces some of the complexities associated with the social security system. This approach should help to mitigate barriers in accessing information and the application process for refugees and other Mobile Populations.

## **Residence and presence**

The current rules for Attendance Allowance set out that an individual would be required to be present for 104 out of the previous 156 weeks. Since the Disability Assistance public consultation launched, a change has been made to Scottish Government policy to reduce the past presence test from 104 out of 156 weeks to 26 out of 52 weeks.

This position has been settled upon to ensure compliance with recent developments in case law in relation to the United Kingdom's social security system.<sup>37</sup> Removing the test entirely, would carry a financial cost as well as a number of delivery implications. The test also provides for a number of exceptions such as for

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<sup>36</sup> [Social Security Experience Panels: Seldom Heard Programme of Research: Mobile Populations \(www.gov.scot\)](http://www.gov.scot)

<sup>37</sup> [Upper Tribunal Administrative Appeals Chamber - Case Number CDLA/2208/2018 and CDLA/2019/2018 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)





assisting with the additional costs relating to their care needs as a result of a disability or health condition.

For case transfer, where an individual has lived at a Scottish postcode for at least the last six months, this will be deemed sufficient to establish ordinary residence in Scotland. Where it is not clear if the individual has lived at a Scottish postcode for six months or more, ordinary residence will be assumed whilst Social Security Scotland staff carry out further checks to ascertain whether or not the individual is ordinarily resident in Scotland. This will avoid delaying payment and disadvantaging those individuals whose DWP records are not clear or up to date with regard to their ordinary residence.

## **Terminal illness**

It is known that there is a low uptake of palliative and end of life care services for Black, Asian and Minority Ethnic groups in the United Kingdom. This was also identified in the 'Palliative and end of life care for BAME groups in the United Kingdom' report,<sup>41</sup> which identified 45 literature reviews in this area. Some suggested factors for low uptake included a lack of referrals, lack of knowledge about services or the impact of family and religious values interacting with the idea of palliative and hospice care.

It is likely that some of the reasons for a low uptake of palliative care could also lead to a low uptake in disability benefits when terminally ill. As population projections are suggesting that there will be a general increase in population for those over State Pension age and continued international migration to Scotland,<sup>42</sup> this may present a challenge to ensure that Pension Age Disability Payment is accessible for those who are terminally ill and from minority ethnic groups.

There is some evidence that ethnic minority groups can vary in the extent to which individuals would wish to know about their terminal diagnosis. This has been highlighted in a cross-cultural study involving some East Asian countries.<sup>43</sup> The research around this is not specific to any particular age group. The terminal illness policy has been developed in a way that is supportive of individuals from minority ethnic groups where explicit knowledge of a terminal diagnosis may be considered not to be in the best interests of the individual.

The Scottish Government has worked with people with lived experience to refine the way that terminal illness is spoken about. Scottish Ministers' commitment to accessible communication includes making sure that language barriers are not created for people who communicate in languages other than English.

The Chief Medical Officer's guidance contains important information for practitioners to support sensitive communication with individuals relating to their diagnosis. It also

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<sup>41</sup> [Report: Palliative and end of life care for Black, Asian and Minority Ethnic \(BAME\) groups in the UK \(mariecurie.org.uk\)](https://mariecurie.org.uk)

<sup>42</sup> [2020-based interim national population projections: year ending June 2022 estimated international migration variant - Office for National Statistics](https://www.ons.gov.uk)

<sup>43</sup> [A Cross-Cultural Study on Behaviors When Death Is Approaching in East Asian Countries - PMC \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov/)

makes allowance for situations where sharing the terminal diagnosis with the individual would be harmful to them.

To support terminally ill people, it will also be possible for a third party to complete the application form, and this will similarly be supportive of individuals where explicit knowledge of a terminal diagnosis is deemed not in their best interests. In these ways the terminal illness policy is supportive of those from minority ethnic groups.

Figures for terminally ill people are not collected by ethnic group. As the numbers are small, caution would be needed as release of these statistics could identify individuals. To mitigate this, although ethnicity monitoring is not compulsory, it will form part of the application process through the Equalities Monitoring form, and individuals will have to 'opt out' if they wish not to submit this information. This should lead to collection of better data which can be used to inform changes to Pension Age Disability Payment, and where relevant, terminal illness policy.

## Religion and belief

According to data published by the Scottish Surveys Core Questions in 2019, 50.7% of respondents identified as having no religion, while 46.4% identified as Christian (Church of Scotland, Roman Catholic or other Christian). 1.1% identified as Muslim, with 1.7% belonging to other religions.<sup>44</sup>

Although religion and belief may vary with age, the Scottish Government has not identified any particular barriers resulting from Pension Age Disability Payment which may affect people with the protected characteristic of religion and belief.

## Sex

Data from the Papworth Trust found that women are slightly more likely than men to be disabled in the United Kingdom.<sup>45</sup> 23% of women are noted as having a disability, compared to 19% of men.

A report by the Women's Budget Group has also found that, overall, women are twice as likely to rely on social security as men.<sup>46</sup> This higher percentage of disabled women compared to men is also reflected in the ratio of those in receipt of Attendance Allowance. In August 2022, 37.1% of those receiving Attendance Allowance in Scotland were men, and 62.9% were women.<sup>47</sup> However, this may in part be explained by the differences in life expectancy in Scotland. Between 2019 and 2021, life expectancy in Scotland was 76.6 years for men and 80.8 years for women.<sup>48</sup>

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<sup>44</sup> [1.1 Source Surveys and Core Questions - Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-surveys-core-questions-2019/pages/1-1-source-surveys-and-core-questions.aspx)

<sup>45</sup> [papworth-trust-disability-facts-and-figures-2018.pdf \(papworthtrust.org.uk\)](https://www.papworthtrust.org.uk/papworth-trust-disability-facts-and-figures-2018.pdf)

<sup>46</sup> [Social Security, Gender and Covid-19 - Womens Budget Group \(wbg.org.uk\)](https://www.womensbudgetgroup.org.uk/social-security-gender-and-covid-19)

<sup>47</sup> [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

<sup>48</sup> [Life Expectancy in Scotland, 2019 - 2021, Report \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/publications/life-expectancy-in-scotland-2019-2021-report)

There is evidence that gender inequalities are likely to have become even more pronounced in light of the COVID-19 pandemic. When healthcare systems come under pressure, it becomes increasingly likely that women will take on further caring responsibilities.<sup>49</sup>

Although some disabilities and health conditions have a different impact on men and women, Social Security Scotland's approach to decision-making is guided by the social model of disability and will be person-centred through the values of dignity, fairness and respect. People employed by Social Security Scotland will be required to undertake equalities training which will help to ensure that people applying for and receiving Pension Age Disability Payment do not face discrimination, including discrimination on the basis of sex.

## Sexual orientation

In 2019, around 3% of people in Scotland identified their sexual orientation as 'lesbian', 'gay', 'bisexual' or other.<sup>50</sup> This is likely to be an under-report, as younger people are more likely to self-identify their sexual orientation in surveys than older people.<sup>51</sup> Age UK suggest that some LGBT older people conceal, or avoid disclosing, their sexual identity for fear of discrimination due to social, political and medical environments in their early adult years.<sup>52</sup>

In 2021, 17% of those who identified as gay, lesbian or bisexual had experienced discrimination, compared to 8% who identified as straight.<sup>53</sup> LGBT older people are also more likely to experience disability and ill health compared to straight older people<sup>54</sup>, including mental health challenges.<sup>55</sup>

A report by the Equality Network found that disabled people who identify as LGBT were more likely to experience discrimination than LGBT people without a disability. 59% of disabled LGBT people had experienced prejudice or discrimination within the last month at the time of publication in 2015, compared to 47% of non-disabled LGBT individuals.<sup>56</sup>

The Scottish Government is committed to engaging with this group to build a service that meets their needs. 9% of Social Security Experience Panel members identify as lesbian, gay or bisexual and have been actively involved in the design of Social Security Scotland's services.<sup>57</sup>

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<sup>49</sup> [The COVID-19 Outbreak and Gender: Key Advocacy Points from Asia and the Pacific - United Nations \(un.org\)](#)

<sup>50</sup> [Supporting documents - Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](#)

<sup>51</sup> [Sexual Orientation in Scotland 2017: A Summary of the Evidence Base \(www.gov.scot\)](#)

<sup>52</sup> [Later Life in the United Kingdom 2019 - Age UK \(ageuk.org.uk\)](#)

<sup>53</sup> [Scottish Household Survey 2021 - telephone survey: key findings - gov.scot \(www.gov.scot\)](#)

<sup>54</sup> [Full article: Addressing the healthcare needs of older Lesbian, Gay, Bisexual, and Transgender patients in medical school curricula: a call to action \(tandfonline.com\)](#)

<sup>55</sup> [Mental health challenges within the LGBT community - UK Health Security Agency \(blog.gov.uk\)](#)

<sup>56</sup> [The Scottish LGBT Equality Report - Equality Network \(equality-network.org\)](#)

<sup>57</sup> [Social Security Experience Panels: Who is in the Panels? - 2020 Update - Full report \(www.gov.scot\)](#)

Applications for Pension Age Disability Payment will only request information that is required for processing and determining entitlement to this benefit, therefore the Scottish Government is aiming to ensure that individuals are comfortable applying for this benefit. User research has assisted with the design of the application form, ensuring that the application uses inclusive language. It is therefore expected that the Pension Age Disability Payment application form will support equal opportunities for the LGBTI community in accessing this benefit.

Social Security Scotland staff will embody the values of dignity, fairness and respect. All training for staff will include LGBT awareness and be underpinned by human rights principles.

## **Marriage and civil partnership**

There is not a requirement to impact assess against this protected characteristic unless the policy or practice relates to work, for example Human Resource policies and practices. However, the Scottish Government has not identified any particular barriers resulting from Pension Age Disability Payment which may affect people with the protected characteristic of marriage or civil partnership.

## **Recommendations and conclusion**

This Equality Impact Assessment process has identified that overall, the introduction of Pension Age Disability Payment to replace Attendance Allowance, and the transfer of Attendance Allowance cases from the DWP to Pension Age Disability Payment with Social Security Scotland, could have a positive impact for people in Scotland with protected characteristics. These impacts include:

- Those applying for Pension Age Disability Payment will benefit from an improved decision-making process that starts from a position of trust and supports individuals to receive the right determination at the first opportunity.
- The application form will be more accessible, and information about Pension Age Disability Payment will be available in multiple languages and in accessible formats.
- Awards of Pension Age Disability Payment will be ongoing and subject to light touch reviews, alleviating some of the worry caused by the review process.
- Terminally ill people will have their application fast-tracked and processed using the Scottish Government's definition of terminal illness, which removes arbitrary timescales and is based on clinical judgement.
- When an individual disagrees with a review or re-determination that has lowered their longstanding award, they will have access to Short-term Assistance during the re-determination and appeals process. This is non-recoverable and will mitigate a drop in the level of household income while reducing anxiety for those seeking administrative justice.

The Scottish Government is aware that groups who share protected characteristics may face difficulties in accessing or understanding their entitlements due to language or other communication barriers. Scottish Ministers are committed to mitigating these barriers both within Social Security Scotland and by ensuring that the independent advocacy service will be available to signpost people to third sector organisations where necessary. Interpreter services and assistance to complete application forms will be available.

The Act and the Charter recognise that social security is a human right, which informs all of the Scottish Government's work. The creation of a social security charter acts as a bridge between the principles in the Act and everyday delivery of social security in Scotland to improve the experience of individuals. In this way the Scottish Government will invest in the people of Scotland, making a positive difference to the lives of all.

**Name and job title of policy lead**

Joseph Scullion  
Disability Benefits Policy Officer  
Social Security Policy Division

**Name and job title of a Deputy Director or equivalent**

Ian Davidson  
Deputy Director  
Social Security Policy Division

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