

Pension Age Winter Heating Payment

Business and Regulatory Impact Assessment

Business and Regulatory Impact Assessment (BRIA): Pension Age Winter Heating Payment

Purpose and Intended Effect

1. A Business and Regulatory Impact Assessment is used to analyse the cost and benefits to businesses and the third sector of any proposed legislation or regulation, with the goal of using evidence to identify the proposal that best achieves policy objectives while minimising costs and burdens as much as possible.

Background

2. In July 2016, the Scottish Government launched a public consultation which went on to inform the content of the Social Security (Scotland) Act 2018. This legislation provided Scottish Ministers with the legislative power to deliver new Winter Heating Assistance in Scotland, with the intention of replacing the UK Government's Cold Weather Payments (CWP) and Winter Fuel Payments (WFP).

3. In 2020 we launched Child Winter Heating Payment (CWHP, previously known as Child Winter Heating Assistance) which extended eligibility for WFP to help mitigate the additional heating costs that the households of the most severely disabled children and young people face in the winter months.

4. In February 2023, we launched Winter Heating Payment (WHP), replacing CWP in Scotland with a guaranteed payment each winter, targeting low-income households who have additional need for heat, including households with young children, disabled people and older people, providing stable, reliable support every winter.

5. We now propose to introduce Pension Age Winter Heating Payment (PAWHP) mirroring the UK Government's decision to restrict WFP eligibility, ensuring continued support is provided to people in receipt of relevant benefits who have reached the state pension age. This will be delivered by DWP in winter 2024-25.

6. In July 2024, the Chancellor of the Exchequer Rachel Reaves announced the UK Government's intention to restrict eligibility to Winter Fuel Payment (WFP) to those in receipt of relevant benefits. The UK Government's decision reduced the Block Grant Adjustment by an estimated £150 million in 2024-25, over 80% of the cost of PAWHP.

7. On 14 August 2024, given no prior consultation on UK Government's decision and following careful consideration of the options available to Scotland, including the significant reduction in budget, the Scottish Government announced that it had taken the difficult decision to replicate the restricted eligibility of WFP for PAWHP.

8. The timing of the UK Government announcement has meant it is not practicable for the Scottish Government to deliver PAWHP in winter 2024/2025. This winter, our proposed new benefit will be delivered by the Department for Work and Pensions under an agency agreement with Scottish Ministers.

9. This approach will ensure that payments will be made to eligible pensioners in winter 2024-25 following the UK Government's announcement to restrict WFPs to those in receipt of relevant benefits.

10. The Scottish Fiscal Commission (SFC) has a statutory duty to provide independent and official forecasts of Scottish GDP, devolved tax revenues and devolved social security expenditure. The Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government notes that the SFC may produce forecasts where it considers the policy, or policies, to have a "non-negligible impact on receipts or expenditure". Having considered the measures in these regulations, the SFC forecast that 137,000 households will receive PAWHP in 2024-25. The SFC forecasts that the total spending on PAWHP will be £32 million in 2024-25, which is £148 million lower than the previous forecast in December 2023 before the policy change.

11. The Scottish Government is committed under the 'Fairer Scotland for Older People' strategy to seek to ensure the financial security of older people in Scotland. PAWHP will contribute to that ambition together with a wider range of initiatives to mitigate fuel poverty, such as our energy efficiency delivery programmes – Warmer Homes Scotland and Area Based Schemes – which have supported over 150,000 households living in, or at risk of fuel poverty in the past decade, as well as our Islands Cost Crisis Emergency Fund which helps island authorities support their island communities through cost-of-living pressures. Additional support through Winter Heating Payment is available to pensioners in receipt of Pension Credit.

12. Support in addition to social security payments, and the support mentioned above, is available through the Scottish Governments investment in our Council Tax Reduction Scheme and free bus travel for all older people over the age of 60 in Scotland. The Scottish Government has also provided over £2 million from our Equality and Human Rights Fund, supporting older people's organisations to deliver work focused on tackling inequality and enabling older people to live independent and fulfilling lives. The Minister for Climate Action has also secured the agreement of energy suppliers to participate in a working group aimed at co-designing a social tariff.

13. The Scottish Government continues to support vulnerable households from fuel poverty through a range of actions within our limited devolved powers. This year alone, we are spending £134 million on activities to mitigate UK Government policies through schemes such as Discretionary Housing Payments and the Scottish Welfare Fund, which provide vital support to households struggling to meet their housing and energy costs.

14. The Scottish Government is committed to tackling fuel poverty and has consistently supported vulnerable households through a range of actions, including delivering our Winter Heating Payment which, in contrast to the UK Governments Cold Weather Payment, guarantees a reliable annual payment of £58.75 to people on low-incomes, including those pensioners in receipt of Pension Credit each winter.

15. Similarly, ending child poverty is our single greatest priority. We've already consistently up-rated all benefits in line with inflation, and our intention now is to

provide certainty to families and put more money in their pockets by making it a legal requirement to annually up-rate all devolved benefits – including Best Start Grants, Best Start Foods and our winter heating payments. This is an estimated investment of at least £6 million for 2025-26, rising to at least £12 million in 2029-30, according to the latest published SFC forecasts.

Rationale for Government Assistance

16. The rationale for introducing PAWHP is to provide older people on low incomes with additional support to meet increased heating costs during the winter, with the intention of helping them to heat their homes for longer.

17. These households are likely to have a greater need to keep their home warm due to being older and it being harder for them than younger people to regulate their body temperature.¹ Cold weather can be particularly dangerous for those with pre-existing health conditions. Older people are also more likely to live in ‘colder’ and ‘harder to heat homes’,² spending more time indoors according to a recent survey carried out by Age Scotland.³

18. The policy closely aligns with the Scottish Government’s Wealthier and Fairer Strategic Objectives, but also links with the Scottish Governments key priorities to tackle fuel poverty, ensuring financial security in older age as well as supporting people through the cost-of-living crisis

19. The policy will contribute towards the following National Outcomes:

- **Economy: We have a globally competitive, entrepreneurial, inclusive and sustainable economy.** This policy will provide continued investment in financial support for older people on low incomes in Scotland.
- **Communities: We live in communities that are inclusive, empowered, resilient and safe.** This additional support recognises older people have particular needs in relation to heating and will help towards ensuring older people on low incomes are living in a warm home.
- **Health: We are healthy and active.** The policy may reassure vulnerable older people on low incomes that they can afford to maintain a safe temperature at home during the winter, reducing the health risks due to living in cold environments.
- **Human Rights: We respect, protect and fulfil human rights and live free from discrimination.** Social Security is a human right and through provision of a new benefit we help progress the support that is available.
- **Poverty: We tackle poverty by sharing opportunities, wealth and power more equally.** The policy intention of PAWHP is to provide financial support to people of pension age on low incomes who have a greater need for heat during

¹ [Age UK calls on everyone to look out for their older family members and friends this wintertime](#)

² [Age Scotland: “Turn up the heat this winter to save lives and protect our NHS and social care” \(ageuk.org.uk\)](#)

³ [The impact of rapidly rising energy bills on older people in Scotland \(ageuk.org.uk\)](#)

the winter months. PAWHP in particular specifically targets households who are on low incomes and, due to their age, may require an enhanced heating regime, and therefore may incur greater energy costs.

Consultation

20. Prior to the UK Government decision to restrict eligibility of WFP, we consulted on our policy proposals for PAWHP as a universal payment. The purpose of the consultation and associated stakeholder engagement was to gather views on the proposed like-for-like delivery of winter fuel payments, considering eligibility criteria, payment format, to collect additional evidence for those who will receive PAWHP and who are off-gas grid and to identify any unintended consequences of introducing the new payment including the impact of the new benefit on businesses and key stakeholders.

21. Given the manner of the UK government's announcement, with no prior consultation, and urgency in laying of these regulations, to ensure payments are made to pensioners in Scotland this winter, it has not been possible to consult further on the revised policy.

22. There was broad support for maintaining the universal approach to eligibility for all who have reached state pension age, with 80% of all respondents in favour of this approach. However, some stakeholders disagreed, with five organisations calling for the benefit to be targeted more effectively at those in fuel poverty. This was on the basis that any savings could provide additional funding to support other fuel poverty initiatives.

23. During our public consultation on PAWHP, some individuals commented on the potential impact on energy companies. Some people recognised energy companies could benefit as a result of PAWHP as people are likely to be able to pay their bills on time, stating that otherwise these businesses may lose out due to non-payment.

Social Security Experience Panels Survey

24. We also invited members of our Social Security Experience Panels for their views on the key policy considerations for this new benefit alongside the public consultation.

25. Many suggested PAWHP should be provided for people with disabilities, extending coverage through lowering the eligible age for those with disabilities and, for those who are unable to work due to a disability. Some also suggested a universal payment without age limits.

26. Slightly more agreed (41%) than disagreed (34%), that the value of payments was appropriate. However, some suggested island communities should receive a higher value payment to reflect the higher heating costs and weather conditions costs incurred with island or rural life, and widening eligibility to cover all households that were off-gas grid, including disabled or vulnerable households, or assessing cases on an individual basis.

27. Almost all (91%) survey respondents agreed that PAWHP should continue to be provided as a one-off payment each winter. Those in support stated it would help with advance planning for the winter months and would help with budgeting decisions over the Christmas period.

Options

28. As part of our policy development for PAWHP, we examined WFP under its previous universal eligibility including any potential improvements.

29. However, due to the UK Government's decision to restrict WFP eligibility, and the accompanying reduction of the Block Grant Adjustment funding in 2024/2025, the Scottish Government has announced its intention to replicate the approach taken by the UK Government, with PAWHP delivered by DWP under an agency agreement this winter. This approach will ensure that payments will be made to eligible pensioners in winter 2024-25.

30. Below is a brief examination of policy options considered when developing PAWHP.

Option 1: Universal Eligibility

31. Prior to the UK Government's announcement and the accompanying reduction in Block Grant Adjustment funding, PAWHP was due to be introduced as a universal payment. This payment would be not be targeted and tax free.

32. The universal entitlement to, and automatic payment of the benefit was intended to ensure that take-up would continue to be high and to ensure all older people would receive additional money during winter which would encourage them to heat their homes for longer. We know that living in a cold home can be detrimental to many older people and that reduced muscle mass and poorer circulation can have an impact on the ability to stay warm. This can impact on the immune system, amplifying any pre-existing condition,⁴ therefore continuing entitlement to all older people was intended to ensure continued positive health effects for older people.

33. However, given the recent reduction in Block Grant Adjustment funding for 2024/2025 following the UK Government's decision to restrict eligibility to those in receipt of relevant eligible benefits, this funding is no longer sufficient to support a universal approach.

34. Based on estimations of eligible claimants under universal eligibility, this option would have been an investment of around £180 million in the first year (2024-25), providing support to over one million eligible people.

35. Following the UK Government's restriction of eligibility to those in receipt of relevant eligible benefits, the Block Grant Adjustment was reduced by an estimated £150 million in 2024-25, over 80% of the cost of PAWHP. Any resulting increase in

⁴ [Fuel Poverty \(Target, Definition and Strategy\) and Fuel Poverty Strategy: health impact assessment+](#)

expenditure would need to be met from the largely fixed Scottish Budget. Due to this significant reduction of budget, the option to deliver Pension Age Winter Heating Payment as a universal payment is no longer practicable.

Potential alternatives to delivering a universal benefit

Option 2: Universal eligibility with a flat rate of payment

36. Prior to the recent restriction of eligibility, WFP delivered four different payments of either £100, £150, £200 or £300 for individuals. Keeping the same eligibility criteria but introducing a flat rate of payment would simplify the process.

37. We committed to no one being worse off when introducing the replacement benefit, and therefore, to meet that commitment, the flat rate payment would need to be maintained at £300 to individuals over the state pension age, regardless of household composition (i.e., to the same level currently provided to a household if one or both members are aged 80 or over).

38. Consideration was also given to a flat rate of £200. However, at that time, around 160,000 people would receive less than they would under the current system and around 440,000 would receive more. The reduction would impact those aged 80 and over and living either alone or with no-one else over the State Pension Age.

39. Both options would have a significant increase in the cost of the benefit. The Scottish Government acknowledges that other people of pensionable age may also face financial difficulties and would benefit from this support. The UK Government decisions means it is not possible to extend the payment on a universal basis but, even if the resources were available to do so, it would not be practicable to make payments this winter other than on the basis of the revised eligibility criteria set out in the regulations.

Option 3: Targeted approach

40. Prior to the recent restriction of eligibility to those in receipt of relevant eligible benefits, WFP was a universal payment to older people and had been criticised for the lack of targeting at those who are fuel poor.

41. DWP will be delivering PAWHP through an agency agreement with Scottish Ministers this winter and PAWHP will be legislated for under the powers in section 30 of the Social Security (Scotland) Act 2018. This does not give provision for establishing an individual's entitlement based on their financial circumstances but may make entitlement depend on another form of assistance.

42. Research has shown the majority of pensioners tend to have a relatively low income but also low housing costs as they own their home.⁵ This means that those in relative poverty after housing costs is slightly reduced in comparison to before housing costs. However, low levels of income alongside the likelihood of being on a

⁵ [Poverty and Income Inequality in Scotland 2019-22](#)

fixed income makes it harder to pay more for heating during the winter, particularly given the significant increase in energy prices amid the cost-of-living crisis.

43. Consideration was also given to a more targeted approach such as using the funding towards increasing the value of the Warm Home Discounts scheme or limiting the payment to people who have been identified as fuel poor. However, additional support is already available to support householders improve energy efficiency, such as Area Based Schemes, Warmer Homes Scotland and Home Energy Scotland which will reduce the costs of heating homes in the future. The Minister for Climate Action has also secured the agreement of energy suppliers to participate in a working group aimed at co-designing a social tariff.

Sectors and groups affected

44. In consulting on the proposed introduction of PAWHP, we considered the potential impact on businesses and organisations that have a particular focus on the following:

- organisations supporting older people
- welfare rights organisations
- advice giving organisations
- energy advice and support organisations

45. Prior to the change in policy, stakeholders and organisations were invited to consider the impact of the proposed policy intent, both on their organisations, as well as on any client groups they support. We met with key stakeholders during the consultation to discuss our proposals. Given the manner of the UK Government's announcement, with no prior consultation, and urgency in laying of these regulations, to ensure payments are made to pensioners in Scotland this winter, it has not been possible to consult further on the revised policy.

46. The DWP will have to administer appeals to the First-tier Tribunal for Scotland (Social Security Chamber) and act on behalf of the Scottish Ministers at appeal hearings. There will be impacts on, and associated costs for, the Scottish Courts and Tribunals Service as they deliver these appeals.

Costs

47. The UK Government's decision to restrict eligibility to those of pension age in receipt of relevant eligible benefits has a significant financial impact. The Scottish Government estimates that this will reduce the Block-Grant Adjustment associated with devolution of the UK's Winter Fuel Payment by an estimated £150 million in 2024-25, over 80% of the cost of the Scottish Government's new replacement benefit, PAWHP.

48. The Scottish Fiscal Commission (SFC) has a statutory duty to provide independent and official forecasts of Scottish GDP, devolved tax revenues and devolved social security expenditure.

49. The Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government notes that the SFC may produce forecasts where it considers the policy, or policies, to have a "non-negligible impact on receipts or expenditure". Having considered the measures in these regulations, the SFC forecast that the restriction of eligibility to those of pension age in receipt of relevant eligible benefits in Scotland reduce the spending to £32 million in 2024-25. The SFC forecast that PAWHP is expected to ease the financial pressures of increased winter heating bills for 137,000 households in 2024-25.

50. The payments are not restricted to payment of energy costs and therefore other sectors may also benefit from the investment.

Scottish Firms Impact Test

51. There may be some impact on businesses and third sector organisations operating in Scotland in relation to the way the Social Security Scotland agency delivers the devolved benefits compared to DWP. For PAWHP, the demands placed on third sector organisations to provide advice and support for people receiving and enquiring this new payment may change slightly. However, DWP will continue to deliver this benefit under agency agreement in winter 2024/2025. Given the like for like approach in the rest of the UK and the automated nature of the benefit, this should not require provision of complex advice.

Competition Assessment

52. The Scottish Government does not believe that PAWHP will have an adverse impact on the competitiveness of businesses or the third sector in Scotland, the UK, Europe, or the rest of the world. PAWHP does not directly or indirectly limit the number of suppliers, nor does it limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. Additionally, the Scottish Government does not expect there to be any significant impact on the operational business of local authorities or health boards as a result of introducing this provision.

Competition Assessment Questions

- I. Will the measure directly or indirectly limit the number or range of suppliers?
No
- II. Will the measure limit the ability of suppliers to compete?
No
- III. Will the measure limit suppliers' incentives to compete vigorously?
No
- IV. Will the measure limit the choices and information available to consumers?
No

Consumer Assessment and Adherence to the Consumer Duty

The Consumer Duty

53. As of April 2024, the 'Consumer Duty' has replaced the 'Consumer Assessment' section of the BRIA. This is a statutory duty introduced by the Consumer Scotland Act 2020 which came into force on 1 April 2024.⁶ It places a duty on relevant public authorities in Scotland, including the Scottish Government, to improve the extent to which consumers are considered in strategic decision-making.

54. A key principle of the Duty is to ensure all public bodies are working towards improving outcomes for consumers as part of their strategic decision-making process.

55. The Scottish Government has a duty when making decisions of a strategic nature about how exercise their functions, to have regard to:

- the impact of those decisions on consumers in Scotland;
- the desirability of reducing harm to consumers in Scotland.

Requirements on relevant public authorities

56. The Act sets out four requirements on relevant public authorities:

- when making decisions of a strategic nature, have regard to the impact those decisions have on consumers;
- when making decisions of a strategic nature, have regard to the desirability of reducing harm to consumers;
- publication of information about the steps taken to meet the duty;
- having regard to this guidance.

57. The Scottish Government does not believe that PAWHP will have any impact on a 'consumer' - an individual or small business – who buys, uses or receives goods or service in Scotland, or could potentially do so, supplied by a public authority or other public body.

58. PAWHP does not directly or indirectly limit the choices of consumers. Nor does it impact on decisions made on consumers in Scotland, or limit the ability of consumers to compare the quality, availability or price of goods or services in a market. Furthermore, PAWHP will not impact a consumer's ability to understand their rights.

59. Consumer Assessment questions considered:

- I. Does the policy affect the quality, availability or price of any goods or services in a market?
No
- II. Does the policy affect the essential services market, such as energy or water?
No

⁶ [Consumer Scotland Act 2020](#)

- III. Does the policy involve storage or increased use of consumer data?
No
- IV. Does the policy increase opportunities for unscrupulous suppliers to target consumers?
No
- V. Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?
No
- VI. Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?
No

Test run of business forms

60. We foresee no need for new business forms as a result of this policy.

Legal Aid Impact Test

61. The right to appeal to a the First-tier Tribunal (Social Security Chamber) is provided for in the Social Security (Scotland) Act 2018. Civic legal aid will continue to be available to individuals to appeal an entitlement decision to the Upper Tribunal, Court of Session or Supreme Court.

62. The Scottish Government expects the impact on the Legal Aid budget to be minimal as a result of the introduction of PAWHP. Current recipients are already able to access legal aid to appeal entitlement decisions and the circumstances in which somebody could make an appeal are rare. Given that the majority of the caseload for this assistance will be paid automatically, the number of manual applications is expected to be fairly low. Due to the restriction of eligibility to those in receipt of relevant eligible benefits, there may be an increased number of appeals from those who are not entitled, however we do not anticipate the numbers to be significant.

Enforcement, sanctions, and monitoring

63. Section 97(2) of the Social Security (Scotland) Act 2018 requires the Scottish Ministers to inform the Scottish Commission on Social Security (SCoSS) of these proposals in the form of draft regulations. The Scottish Ministers provided draft regulations on our previous policy of universal eligibility to SCoSS shortly before laying this draft instrument in compliance with section 97(2).

64. As the exceptional circumstances require this instrument to be laid as a matter of urgency, it has not been possible to meet SCoSS requirements for the necessary time to scrutinise and publish a report on the regulations.

65. As such we are laying this draft instrument under section 97(9)(b) of the Act without a report from SCoSS having been prepared. The Scottish Ministers will

respond to that report when it is published in accordance with section 97(10) of that Act. SCoSS has been informed of the urgent nature of these regulations, resulting from the UK Government's recent decision to restrict eligibility to WFP, and it is content to scrutinise the regulations retrospectively.

66. The revised PAWHP regulations will be subject to affirmative procedure, which will require a plenary vote and the attendance of the Cabinet Secretary of Social Justice before the Social Justice and Social Security Committee.

67. The Social Security (Scotland) Act 2018 places a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system during the previous financial year. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the charter.

68. The Scottish Government intends to continue policy development on PAWHP, considering the longer-term development of this post-launch. Monitoring the impact of the PAWHP will be a continuous process.

69. We will collate management information to monitor the characteristics of recipients and will undertake qualitative research to test whether PAWHP is meeting its policy intentions.

Implementation and delivery plan

70. Given the significantly reduced timescales for parliamentary procedure we will undertake an 'expedited affirmative' procedure. Through this 'expedited affirmative' procedure, we anticipate regulations will be laid before Parliament on 25 September and come into force on 20 November, following parliamentary approval. This will allow the regulations to come into force on 20 November.

71. After regulations have come into force on 20 November 2024, DWP will begin to make payments in Scotland under the Agency agreement with Social Security Scotland.

Post-implementation Review

72. Policy development will continue to explore the potential longer-term development of Pension Age Winter Heating Payment post-launch. As with all social security benefits, we will carry out an evaluation following the delivery of the benefit.

Summary and Recommendation

73. The Scottish Government's primary consideration is always about providing the right level of financial support to those who are entitled to it. However, it is also important to consider deliverability, budget and to what extent changes might result in increased spending.

74. As noted, the Scottish Government will receive funding from the UK Government through the Block Grant Adjustment. The UK Government's approach to

restrict eligibility to WFP has a significant financial impact, reducing the Block-Grant Adjustment associated with devolution of the UK's WFP by an estimated £150 million in 2024-25, over 80% of the cost of the Scottish Government's new replacement benefit, PAWHP.

75. Based on affordability and deliverability considerations laid out above and working towards our goal of ensuring financial security for older people,⁷ the Scottish Government intends to introduce PAWHP in equivalent terms to WFP for winter 2024/2025, with eligibility restricted to those in receipt of relevant eligible benefits.

76. We are focussed on delivering PAWHP safely and securely and ensuring pensioners on low incomes continue to receive this vital support each winter.

Declaration and publication

77. I have read the Business and Regulatory Impact Assessment, and I am satisfied that:

- a) it represents a fair and reasonable view of the expected costs, benefits, and impact of the policy, and
- b) that the benefits justify the costs.

78. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed on the original

Date: 25 September 2024

Minister's name: Shirley-Anne Somerville

Minister's title: Cabinet Secretary for Social Justice

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⁷ [A Fairer Scotland for Older People: framework for action](#)



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