

Disability and Carer Benefits Expert Advisory Group: Beyond a safe and secure transfer

March 2023

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To: Ben Macpherson – Minister for Social Security and Local Government

By e-mail

03 October 2022

Dear Mr Macpherson,

Beyond a safe and secure transfer

As outlined in our letter to the Cabinet Secretary on 24 March 2021, the Disability and Carer Benefits Expert Advisory Group have been pleased to see our advice influencing Scottish Government policy in a number of ways.

Over time it has become increasingly clear that the changes that the Scottish Government can make in the short term are limited. We understand this is primarily driven by the decisions taken on case transfer and the desire to avoid creating substantially different forms of assistance in Scotland while some Scottish people continue to receive the current benefits through the Agency Agreements in place with the Department for Work and Pensions.

Our advice to date has necessarily been targeted to those areas requiring attention. This has focused our immediate consideration on practical changes planned to the existing system of entitlements that the Scottish Government is more likely to be able to implement in the near future and some wider policy issues, including further moves towards embedding equality and rights-based approaches. We have considered the longer-term and more holistic changes to disability and carer benefits needed in order to deliver more fully on the principles set out in the Social Security (Scotland) Act 2018. However, we have been unable to examine these in detail or provide meaningful or effective related advice to date.

This proactive advice outlines a number of recommendations we would like to make on the additional positive impact which disability and carer's assistance could make, following the safe and secure transfer of all clients on to new forms of Scottish assistance.

We understand that our advice may incur risks, implications and challenges for the Scottish Government. Where possible these are made explicit in the current advice note and we aim to outline a proposed solution. Clearly, information and the current policy

landscape may quickly change in ways that cannot be foreseen at this time. It is also challenging to predict what may happen in the context of the cost-of-living crisis, inflation rises and increasing international instability. Therefore, the advice we give now is with the caveat that this too may change in light of developments.

This advice was prepared following a series of separate workstream discussions over the course of a year, between September 2021 and September 2022. Whilst a significant amount of time and resource was dedicated to the development of this advice, we would recommend that this be revisited before the completion of the safe and secure transfer to ensure it remains accurate and comprehensive. Our recommendations are summarised at the end of this letter.

DACBEAG members invited a number of external colleagues to join the workstream discussions to support the formulation of this advice. These additional participants provided invaluable input, appreciated by group members and the Secretariat. They contributed expert policy perspectives based on professional expertise, and some were also able to offer direct and personal lived experience reflections and advice. We extend our thanks to: Rob Gowans, Policy and Public Affairs Manager, Health and Social Care Alliance Scotland (the ALLIANCE); Catherine Hale, Director, Chronic Illness Inclusion; Keith Park, Policy, Public Affairs and Campaigns Manager, MS Society Scotland; Marianne Scobie, Deputy CEO, Glasgow Disability Alliance; and Etienne d'Aboville, previously Chief Executive, Glasgow Centre for Inclusive Living.

The Group also hosted a seminar, titled *'Models of social security assistance: drawing lessons from other countries'* on 28 March 2022. This is referred to later in this advice document. A number of international speakers presented during this seminar to showcase comparisons from their own countries. We extend our thanks to the presenters: Garima Talwar Kapoor, Director of Policy and Research, and Michael Mendelson, Maytree Fellow, Maytree, Canada; Markus Raivio, CEO and Co-Founder, Kukumori, Finland and; Annie Harper, PhD, Program for Recovery and Community Health, Department of Psychiatry, Yale School of Medicine, USA.

A number of other valuable reports and recommendations are referred to throughout this advice and will further assist in developing a human rights based, world leading system of social security:

- The United Nations Office of the High Commissioner for Human Rights on the Right to Social Security¹

¹ [OHCHR | OHCHR and the right to social security](#)

- The report of the UN Special Rapporteur on the rights of persons with disabilities²
- The Scottish Campaign on rights to social security: Beyond a safe and secure transition³

I hope this advice is helpful. I look forward to your response and would be pleased to discuss this further.

With best wishes,

A handwritten signature in black ink, appearing to read "Jim McCormick". The signature is fluid and cursive, with the first name "Jim" and the last name "McCormick" clearly distinguishable.

Dr. Jim McCormick
Chair

² [United Nations Official Document](#) (pages 24-25)

³ [SCoRSS report Beyond a Safe and Secure Transition.pdf \(cpag.org.uk\)](#)

Disability and Carer Benefits Expert Advisory Group

Beyond a safe and secure transfer advice

03 October 2022

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Summary

The Scottish Government will have transferred over 500,000 existing cases from the Department for Work and Pensions following the establishment of the newly devolved social security benefits by 2025⁴. The commitment to a safe and secure transfer has been outlined to ensure that clients continue to receive the right payments at the right time throughout the process. During this time, and as a result of the decision taken to follow this method of transfer, the Scottish Government's system will largely mirror the existing UK system to support the maintenance of payments and to prevent what has been described as a 'two-tier' system.

Whilst the Scottish Government has introduced some improvements at this time including a system based on the principles of dignity, fairness and respect; reducing face-to-face assessments for disability benefits; improving communications and processes; offering disabled people that need help with the application process independent advocacy; introducing Short-term Assistance; and involving people with diverse lived experiences of social security in developing policy there are many aspects that remain unchanged, unfair and problematic.

Beyond a safe and secure transfer, the Scottish Government has the opportunity to introduce transformational changes to the Scottish social security system to create a world-leading rights-based system of support. Throughout this advice document we have provided 6 calls to action with related recommendations under each which we believe Scottish Ministers should accept to make this a reality.

These calls to action can be summarised as follows:

1. Given the well-established direct links between poverty, being disabled and being a carer, payments must be increased in amount in line with the human rights principle of adequacy⁵. Additional resources should be dedicated to improving take-up by those that are eligible ensuring that people can realise their right to an adequate standard of living.
2. In recognition of the fact that all poverty cannot be addressed by disability and carer benefits alone, the Scottish Government should commit to developing and implementing a Disability Poverty Action Plan and a Carer's Poverty Action Plan. These should be interdependent with ambitious targets to truly lift people out of poverty. Both direct and secondary costs should be addressed.

⁴ [Social security case transfer: policy position paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-case-transfer/policy-position-paper/html/index.html)

⁵ [OHCHR | OHCHR and the right to social security](https://www.ohchr.org/en/instruments-treaties)

3. Changes are needed to the stated purposes of disability and carer benefits to express the intent of improving support over time in order to advance equality and progressively realise rights for disabled people and carers of all ages. This should enable them to participate equally and fully in society and communities.
4. The social security system should be transformed in line with the social model of disability, taking a human rights-based approach.
5. There should be a reduction in the myriad of complications associated with benefit eligibility rules and the way they interact with reserved benefits, particularly around carer benefits. Any unintended consequences of the new system should be fully and thoroughly assessed to ensure no one is ever worse off than they are in the current DWP system. Close and collaborative cross government working should continue given the number of interactions between the two systems towards effective future-proofing.
6. From the Group's inception DACBEAG members have continually recommended that services, support and advice should be fully integrated with active referral paths implemented and streamlined for a truly 'no-wrong door' approach. To compliment and support this, benefit assessments should be holistic at every stage of the process for income maximisation.

We ask that Scottish Ministers commit to these changes in order to truly deliver on the principles set out in the Social Security (Scotland) Act 2018.

1. Purpose of disability and carer benefits

Currently, the Scottish Government states the purpose of disability benefits is⁶:

- **Child Disability Payment (CDP):** This assistance aims to support children and young people with disabilities, as well as their families, to mitigate the increased costs they incur as a result of having a disability or long-term condition.
- **Adult Disability Payment (ADP):** This assistance aims to support working age people with a disability or long-term ill-health and to mitigate some of the extra costs they incur as a result of having a disability or long-term condition.
- **Pension Age Disability Payment (PADP):** This assistance supports older people who have a disability that means they need assistance with looking after themselves, or supervision to keep them safe.

The stated purpose for carer benefits is⁷:

- **Carer's Assistance:** To help carers protect their health and wellbeing, so they can continue to care if they wish, and have a life alongside caring. Carer benefits, while not a payment for care, can help achieve this.

We largely agree with the purposes stated, as they acknowledge that disabled people face additional barriers and there is a cost associated with systemic barriers created by the rest of society. However, we do believe some adjustments should be made. Disability and carer benefits also act as entitlement to a number of other benefits and schemes covered in the '*Passported benefits*' section later in this document.

Recommendation 1: Changes are needed to express the intent of improving support over time in order to advance equality and progressively realise rights for disabled people and carers of all ages.

Recommendation 2: There should not be any changes made to the definition or purpose of disability and carer benefits that result in a constraint on investment into these benefits.

1.1 Consistency

In the current stated purposes, where CDP 'mitigates the increased costs', ADP 'mitigates some of the extra costs', PADP 'supports older people'. This presents

⁶ [Social Security Policy Actions: Disability Assistance](#)

⁷ [Social Security Policy Actions: Benefits for carers](#)

differences in the costs that disability benefits are intended to address depending on the age of the individual entitled.

As is currently in the Carer's Assistance purpose, enhancing health and wellbeing should be replicated in the purpose of the disability benefits. This is more appropriate than talking about supervision and safety, regardless of age.

We believe it is of concern that the Pension Age Disability Payment purpose currently contains the word 'supervision'. Whilst supervision may be the appropriate word choice when discussing specific impairments of older people such as dementia and Alzheimer's disease, these conditions do not exclusively affect those of pension age, and therefore from a human rights perspective consistency of language is needed. 'Care-giving support' should be considered as a replacement, which for some may be intensive or around the clock. In addition, the current stated purpose of PADP does not contain any reference to the extra costs of disability. This is logically flawed and suggests a presumption that these costs either stop at pension age or are mitigated by care-giving.

Recommendation 3: There should be further clarity and consistency in the defined purpose of all disability benefits, particularly on the costs they will address, with any inconsistencies justified.

1.2 Language

This Group supports the transformation of the system to reflect a human rights-based model of social security. The language we use is important. Although language won't solve the problems of the current system, it would be a step towards changing the emphasis to reflect that societal barriers disable people who have impairments.

The social model of disability explains that individuals are disabled by the barriers they face, rather than their impairments themselves.

We recognise that although the basis of disability benefits is compensatory in the face of economic and societal barriers, the real focus should be on reducing the disabling experience in the first place by improving the way the Scottish economy and society are designed, changing the role in the long term for compensatory benefits. This should be something that is continually revised.

Recommendation 4: The language used in the Scottish Government's purpose of disability and carer benefits should be updated to reflect the social model of disability and a human rights-based approach to social security.

For example, suggested re-phrasing to the stated purposes of disability benefits could be as follows:

- **Child Disability Payment (CDP):** This assistance aims to support disabled children and young people, as well as their families, to mitigate the increased costs they incur as a result of being disabled or having long term ill-health.
- **Adult Disability Payment (ADP):** This assistance aims to support working age disabled people or those who have long term ill-health and to mitigate the increased costs they incur as a result.
- **Pension Age Disability Payment (PADP):** This assistance aims to support older disabled people or those who have long term ill-health to mitigate the increased costs they incur, enabling them to look after themselves or be supported to keep safe.

These changes better reflect a social model of disability and are in keeping with our fourth call to action. Unfortunately, they do still demonstrate medical model language which does not focus on the barrier to removal, but rather locates disability intrinsically with disabled people - as opposed to being about barriers and discrimination. The above suggested language changes still align with the current descriptors which we would like to see reviewed.

1.3 Poverty reduction and adequacy

There should be further clarity within the purpose and definitions used that the costs intended to be covered by these benefits are to compensate eligible individuals. There are a variety of additional direct costs to consider with variability between different impairment groups (e.g. purchasing a wheelchair, heating and energy, other housing costs, premiums on items for people with disabilities, extra laundry/washing machine energy costs and special software like JAWS for those with visual impairments). There are also secondary reasons, such as those associated with reduced access to education, employment and discrimination. This presents a poverty of opportunity which is currently not well measured. The Family Fund⁸ and CIRCLE project at University of Sheffield⁹ present initial methodologies used to gather data in this area.

Recommendation 5: Existing and further research should be gathered to better understand the needs of carers and disabled people and the additional costs that they have.

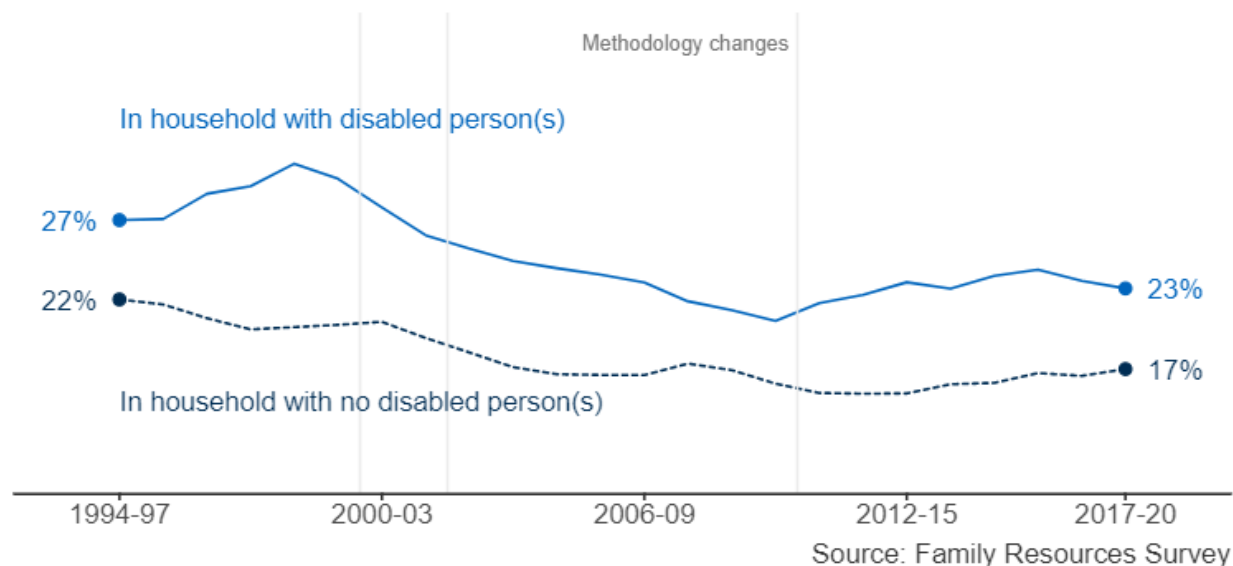
⁸ [The Impact of Coronavirus – A year in the life of families raising disabled and seriously ill children and young people report by Family Fund](#)

⁹ [Centre for International Research on Care, Labour and Equalities Homepage](#)

Recommendation 6: Additional costs should be defined as the costs of overcoming barriers, enabling participation in family, community and economic life as human rights, meeting the commitment set out in the Social Security Charter and the rights enshrined in the UNCRPD.

It is well established and widely known that there are direct links between poverty and disability.

Proportion of people in relative poverty after housing costs, Scotland



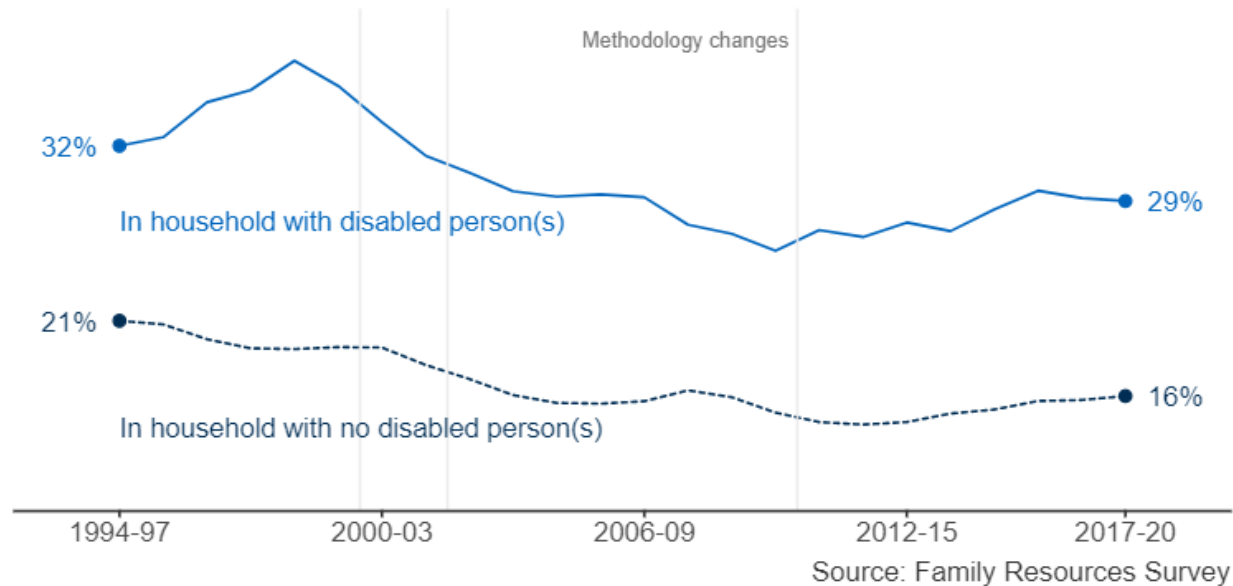
This line graphs compares the proportion of people in relative poverty after housing costs. There are two lines, one for 'in household with disabled person(s)' and the other for 'in household with no disabled person(s)'. The poverty rate for households with disabled persons is consistently higher than for households without disabled persons.

In 2017-20, the latest data release, the poverty rate after housing costs for people in households with a disabled person was 23% (500,000 people each year). This compares with 17% (540,000 people) in a household without disabled household members.¹⁰

The poverty is higher for individuals in households with a disabled person when disability-related benefits are not included in the household income. After housing costs, the poverty rate was 29% (640,000 people each year) for people living with a disabled household member, and 16% (500,000 people) for those without.

¹⁰ [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot/publications/poverty-and-income-inequality-in-scotland-2017-20/)

Proportion of people in relative poverty (disability benefits removed from household income) after housing costs, Scotland



This line graph compared the proportion of people in relative poverty after housing costs, with disability benefits removed from household income. There are two lines, one for 'in household with disabled person(s)' and the other for 'in household with no disabled person(s)'. The graph shows that the proportion of people in relative poverty is consistently higher for households with disabled persons compared to those without. The gap between the two groups has widened over time, particularly after the methodology changes in 2006-09.

This Group believes that even in the cases of non-means tested benefits, the secondary links between disability and poverty should be recognised. For example, individuals could be in employment and still be financially disadvantaged compared to non-disabled people in employment. Examples of additional costs for working disabled people include contributing towards Motability and more expensive equipment such as ergonomic wheelchairs, social care charges and other essentials which contribute to disabled people's poverty.

As outlined in the 2018 Act and the Charter, Scottish social security powers should contribute towards reducing poverty in Scotland. We know that disabled people and carers are more likely to experience poverty, and many more would be in poverty if they did not receive financial assistance. However, there are significant challenges in terms of both adequacy (benefits that don't pay enough to reduce poverty) and take-up. We would wish to see greater data transparency and commitment to action on both fronts, but we would not wish to stipulate that the purpose of these benefits is solely to mitigate poverty.

Recommendation 7: The Scottish Government should continue to make clear that social security benefits will contribute to reducing poverty.

There is other support in place for other costs, for example, Access to Work which is a government scheme supporting disabled people to stay in work through practical support which can pay for transport, support workers, adaptations or communication support. This comes with the acknowledgement that there are significant flaws and gaps in these types of support.

This Group believes that more work should be done to understand the long-term and lifetime costs experienced by disabled people and carers. This should identify gaps in evidence and information, including any lost income and lost opportunity. Disability is cumulative and intersectional¹¹ and is associated with more barriers over time. This research should be conducted on a continual and ongoing basis. Asking disabled people to quantify the costs associated with their impairment is fraught with difficulty as many go without items, aid and services they need due to poverty. We therefore recognise that this could be complex, but it is not impossible.

In addition to adequate social security benefits, additional funding for specific items from other parts of the 'system' should be available. For example, an expanded Independent Living Fund to support disabled people with high support needs.

Recommendation 8: Disability and carer benefits should be increased to adequately meet their stated purpose.

1.4 Poverty Action Plans

We recognise the links between disability, providing unpaid care and poverty. However, this poverty cannot be addressed by disability and carer benefits alone. Interdependent and connected poverty action plans should be set out for disabled people and carers.

These should:

1. identify the causes and main drivers of poverty for disabled people and carers;
2. highlight the issues and barriers that these groups face;
3. explore ways to overcome them through direct and secondary costs;
4. set ambitious poverty reduction targets; and
5. confirm a delivery plan to achieve them.

¹¹ By intersectional, we mean that disabled people can also identify in different ways according to their race, ethnicity, sex, gender identity, sexual orientation, religion, etc. Disabled people are not a homogenous group and the experiences of every disabled person are different.

Other examples include the Scottish Government's Disability Employment Action Plan¹² with commitments to reduce the employment rate gap and the Tackling Child Poverty Delivery Plan¹³ with long-term plans for parental employment opportunities, strengthened social security and support to reduce household costs.

To truly lift people out of poverty, the purpose should be people living fulfilling lives, participating in opportunities with support needed, whether they are in work or not, and for longer with increased self-worth and well-being.

Recommendation 9: The Scottish Government should commit to developing and implementing a Disability Poverty Action Plan and a Carer's Poverty Action Plan.

1.5 Passported benefits

Entitlement to disability and carer benefits can act as entitlement to other benefits or schemes. Examples include:

1. payments provided by the DWP or HMRC;
2. payments and other support from local authorities;
3. reductions in Council Tax;
4. help with the costs of transport and utilities;
5. access to some forms of charitable support; and
6. additional payments from Social Security Scotland.

Both *ad hoc* and formal data sharing arrangements have allowed claimants to access these further supports. Now that in Scotland disability and carer benefits are paid by Social Security Scotland this has added an additional layer of complexity to these 'passported' entitlements. This has the potential to create difficulties for claimants.

The first issue is equivalence - will an entitlement to a disability or carer benefit paid by Social Security Scotland allow the claimant to access the same support as entitlement to the comparable DWP benefit? This is important for the statutory additional benefits provided by the DWP, HMRC and local authorities, but also applies to the wide range of other supports that are available. We supported the 'safe and secure' transfer process to maintain broad equivalence, and to allow this continued equivalence.

After a safe and secure transfer, the Scottish Government may make changes to the eligibility and entitlement criteria to disability and carers benefits which may affect this

¹² [A Fairer Scotland for Disabled People: employment action plan - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹³ [Tackling Child Poverty Delivery Plan 2022-26 - gov.scot \(www.gov.scot\)](http://www.gov.scot)

equivalence. It is important that claimants in Scotland can continue to access these supports, but also that the Scottish Government is able to make changes to these benefits in Scotland. The Scottish Government must work with a wide range of stakeholders to ensure these passporting arrangements continue, and any resultant impact on reserved benefits is fully understood.

Secondly, it is important that it is as easy as possible for claimants to get all of the additional supports that they are entitled to. At present a claimant may have to make many different and separate claims to get these different supports, which is both administratively ineffective and creates a barrier to take-up. There is an opportunity to ensure that data is shared and, where possible, applications automated to reduce administrative costs and boost take-up of these additional provisions towards income maximisation. This is covered in more detail at the '*Full integration of services and advice*' section later in this document. The Scottish Government could also explore what further support could be made available to those entitled to disability and carers benefits.

Recommendation 10: The Scottish Government should agree a Memorandum of Understanding between Social Security Scotland, the DWP and HMRC so that, when considering changes to the eligibility criteria for disability and carers benefits, the impact on reserved benefits can be understood and detrimental consequences are prevented.

Recommendation 11: Social Security Scotland should have the necessary data sharing agreements in place to efficiently passport benefits. This should make the process as easy as possible for claimants.

2. Review of disability benefits

In our advice on Adult Disability Payment, formerly Disability Assistance for Working Age People (DAWAP), in December 2019¹⁴, the Group recommended the following:

‘The Scottish Government should set, in law, a regular review date to re-examine DAWAP [now Adult Disability Payment]. The first date should be within the next three years. This should require a consultation with people claiming DAWAP, relevant bodies and key stakeholders to explore what more significant changes could be made to DAWAP in light of evaluation evidence and a better understanding of the relationship between reserved and devolved benefits.’

We are pleased that the Scottish Government plans to set up an independent review of ADP in summer 2023, one year after the national launch of ADP. We believe the following general areas should form the basis of the review: the assessment process; the eligibility criteria; the adequacy of payments; the interactions between disability benefits; and ages of awards. We wish to highlight several related issues at this stage.

Recommendation 12: The Scottish Government should commit to a further fundamental review of disability assistance covering Child Disability Payment, Adult Disability Payment and Pension Age Disability Payment.

2.1 Purpose of the independent Adult Disability Payment review

It is well understood that the reform from DLA to PIP was to reduce the cost of welfare by 20%.¹⁵ This Group wishes to make clear that any similar purpose of this ADP review would be entirely contradictory to the human rights-based approach set out within the Social Security Principles.

We believe, in relation to understanding the scope of any review, the Scottish Government should set out what the purpose of the review is, and specify what they want to explore. We believe that it should be made explicit what processes will be in place for lessons learned to be incorporated into the system, to make improvements, and influence change.

The purpose of the review should also be approached in terms of trust and confidence in the process. If people are going to be continually consulted on this topic, change has to be implemented to prevent trust being damaged. Therefore, the Scottish Government

¹⁴ [Disability and Carers Benefits Expert Advisory Group – DAWAP: advice - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultation-papers/collections/documents/DAWAP-advice-2019.pdf)

¹⁵ [Welfare reform: Disability Living Allowance for the 21st century - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/welfare-reform-disability-living-allowance-for-the-21st-century)

should outline what their commitment to any review is before it is completed, and what they intend to do with any results.

The recommendations from this review should move us closer to a social security system which follows the social model of disability, with equalities and human rights as the main drivers.

Recommendation 13: The Scottish Government should make clear the purpose of the proposed review and outline how the results will be actioned.

At **Appendix A** we have highlighted a number of publicly available review reports that can be regarded as examples of promising practice. Different elements of each could be replicated in the upcoming independent Adult Disability Payment review.

2.2 Scope of the independent Adult Disability Payment review

Recommendation 14: Prior to the 2023 ADP review commencing, the Scottish Government should share what the scope of the review will be.

Stakeholder views should be sought on the Scottish Government's plans with an acknowledgement that the mobility component of ADP will be reviewed in 2022. During the development of this advice, we defined a number of items we suggest should be in immediate scope for this review in 2023.

Recommendation 15: The following should be in the immediate scope of the 2023 review:

15a: The review should identify advantages and challenges of Adult Disability Payment. This should be with insights from those with lived experience and cover the entire benefit process. Evidence should be provided from both successful and unsuccessful applicants.

15b: The review should assess disability assistance through the lens of the social model of disability, equality and human rights law, principles and standards. It should include an analysis of how equality, human rights and the social model have been taken into account with the design of the system, and what needs to change so that it can best reflect these.

For example:

1. references to the right to social security;
2. the right to an adequate income;

3. the right to fully participate in family, community and economic life;
4. the right to independent living;
5. relevant human rights principles that are a core component of the right to social security, including minimum core, maximum available resource, progressive realisation, and non-retrogression¹⁶;
6. UNCRPD rights; and
7. UNCRC General Comment No. 19 etc¹⁷.

This should also analyse the Scottish system against the Equalities Framework and the Fairer Scotland Duty¹⁸.

15c: A full review of the eligibility criteria that includes an analysis of whether this new system is a world leading human rights-based system of disability social security. This should include an assessment of whether it enhances attainment of human rights, including those contained within the ICESCR, UNCRPD and UNCRC.

It would be helpful to identify if there are other countries that have disability and carer benefits or assistance schemes that follow a truly rights-based approach that could be used as good practice examples. Further details of our own engagement on this are covered at the 'Other models of social security: international comparisons' section later in this document.

15d: A full review of the activities and descriptors that determine entitlement. This should be towards ensuring that regardless of an individual's conditions, they can get the assistance they require.

We are aware that some groups, such as those with fluctuating and variable conditions, mental health conditions and learning difficulties are unable to get the support they need from the current disability system. These barriers must not be replicated in the Scottish system. This review should also take into account developments in UK case law related to activities and descriptors.

15e: A full review of the assessment process, guidance for assessors and the decision-making guidance to ensure a social and rights-based model of disability is applied.

¹⁶ [OHCHR | Economic, social and cultural rights](#)

¹⁷ [General Comment No. 19 of the Committee on Economic, Social and Cultural Rights: The right to social security \(Art. 9\) - Social Protection and Human Rights \(socialprotection-humanrights.org\)](#)

¹⁸ [Fairer Scotland Duty: guidance for public bodies - gov.scot \(www.gov.scot\)](#)

This should truly reflect that decisions are not based on a diagnosis, but based on the impact of impairments on everyday life. Many variable conditions do not fit within an either/or scenario. This should make use of data and evidence gathered from the system.

15f: A review of the funding of Social Security Scotland. This should include an analysis of the adequacy of benefits.

Adequacy of benefits should be analysed in terms of measured and published poverty thresholds and minimum income standards. The amount of payment when given an award should be sufficient to meet the defined purpose.

Whilst the Group is keen for the scope of this review to be appropriately wide, we believe that it is essential for the Scottish Government to commit that any changes made as a result of the review do not result in detriment to any current claimants. As noted above, policy changes should not be driven by reducing eligibility or entitlement. Re-assessment criteria should take this point into consideration and should not have a negative impact on any current entitlements.

As more groups of disabled people are recognised and there is a widening understanding of disability, this has to come with the acceptance that this will come with increased awareness, take-up costs and benefits. We can do much more to reduce the transactional costs, time and frustration between fragmented systems through greater embedding of social security advice where people access other types of support.

15g: An analysis of whether improvements can and should be implemented more quickly, before the completion of case transfer.

There needs to be a balance struck between implementing improvements as quickly as possible and additional complexity introduced to the system as a result of any changes made during the 'transfer window'. Changes can be made, but this could bring risk. For example, eligibility changes could negatively affect passported supports from the reserved system or cause a more complex decision-making process as a result of a fragmented system.

Although these present risks to overcome, we do not believe this should be the reason for not implementing any improvements quickly, before the completion of the 'safe and secure transfer'. By the time any of the devolved benefits are launched, and then embedded, it could be another several years into the future before any changes are made. We should be considering, what is the risk of not making improvements now?

Progressive realisation is a core component of economic, social and cultural rights like the right to social security. The UN notes that, "States are required to progressively achieve the full realisation of these rights over a period of time. Regardless of resource availability, States have an immediate obligation to take appropriate steps to ensure continuous and sustained improvement in the enjoyment of these rights over time."¹⁹

The Scottish Government could consider ways to overcome the risks presented. For example, implementing transitional payments to bridge the inequality created by introducing changes to the eligibility criteria.

The Group also identified a number of issues that we believe the Scottish Government should commit to reviewing in the medium to longer term, acknowledging that the 2023 independent review of Adult Disability Payment is not the end of the process.

Recommendation 16: On an ongoing basis and beyond the 2023 review the Scottish Government should:

16a: Collect, analyse and report rights-based data used to make decisions.

This should be used to identify if there are specific conditions or impairments that are regularly not awarded payments. If this is the case, it should be investigated - if decisions are made based on impact and need rather than medical diagnosis, then why is this happening? This should also be used to report on the accuracy of decision making. At present, we have heard that under the current PIP system specific conditions or impairments are regularly not awarded payment as a result of decision makers not taking into account the impact on daily living.

16b: As well as using data that exists, there should be a review to identify existing data gaps.

From this it should be concluded what these data gaps mean. For example, currently in the DWP system, data is interrogated based on the gender and age of those awarded disability benefits but not on the basis of ethnicity and race. We would like to understand if this will be addressed in the new Scottish system as it is currently difficult to establish whether Black, Asian and minority ethnic people face systemic discrimination in the assessment process.

16c: When making policy decisions, the financial analysis should extend beyond just the cost of implementing the benefit. This should assess the wider cost of not

¹⁹ [OHCHR | Economic, social and cultural rights](#)

implementing it on other areas of the system. This should also go beyond the financial costs to include the wider benefits for the individual and society.

This could include health, wellbeing, self-worth, family and community cohesion. This would go beyond the 'business case' to support individuals in attaining their rights. We understand that this does not happen currently and we believe that it should.

For example, significant financial implications was one of the risks identified in introducing a mobility component to Pension Age Disability Payment.²⁰ However, there was no cost analysis provided on the impact of not introducing the mobility component on individuals, their families, and the wider system. The costs incurred due to severely reduced mobility, which can increase loneliness and social isolation, affect people's health, wellbeing and self-management, and leave them to rely – if they can – on support from others to shop, attend appointments, and so on could be more significant.

16d: Review, analyse and report on how policy makers have taken the human rights focused Social Security Principles in the Social Security (Scotland) Act 2018 into account in decision making. This should also detail to what extent this has, and continues to, inform the development of the system.

The Group would expect this to include information on the framework used, and whether equal consideration is given to all the Social Security Principles in the 2018 Act. If not, what is the priority among them and why? This comes from the Group's ongoing concern that the principle of efficiency and value for money is prioritised over the poverty reduction, take-up, human rights, equality, and non-discrimination principles. Therefore, a clearer sense of the role of the principles in decision making and an understanding of the framework against which they are checked would be helpful, in the same way as was done for EQIA.

16e: Carry out an independent evaluation of the Experience Panels, how they are made up in terms of the protected characteristics represented, and how 'well' they work. This should identify if there are any seldom heard voices still missing from the Experience Panels and what action will be taken to amend this.

We believe that Experience Panels should include participants from all impairment types/groups, including those who have historically struggled to be identified as disabled due to stigma. For example, those with mental health conditions and energy limiting conditions. Disability is a very heterogeneous category of experience and there should be inclusive representation of the range of impairment experiences.

²⁰ [Disability Assistance for Older People: position paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/position-papers/2018/01/01-disability-assistance-for-older-people/position-paper-1/20180101-disability-assistance-for-older-people-position-paper-1.pdf)

2.3 Process and methods for the independent Adult Disability Payment review

The processes followed and methodologies used for any review are just as important as the identified scope. These should involve an entire spectrum of stakeholders, including front line workers and organisations supporting individuals through the system, with a range of rights based participatory methodologies used.

Recommendation 17: The review should be co-produced with disabled people and human rights experts and gather evidence from a wide range of people across the social security system.

For example this should include:

1. people accessing the social security system;
2. people trying to access the social security system;
3. people working in the system including Welfare Rights workers;
4. policy makers;
5. National Human Rights Institutions (NHRIs); and
6. civil society organisations.

With the knowledge that this review will be in 2023, this provides an opportunity to make use of surveys, diaries and relevant mobile apps to collect data from now. These tools should be deployed to relevant individuals to capture lived experience and gain an understanding of how people are actually experiencing the process.

When considering both who data is captured from and who data is analysed by, this should specifically acknowledge intersectionality and be based on lived experiences of the process of caring and disabled people. This should involve a diverse group.

Recommendation 18: The processes followed and methodologies employed for the review should be appropriately diverse. They should follow a human rights based approach grounded in the PANEL principles.

Recommendation 19: The review should have an advisory group or panel of reviewers. It should be co-chaired, rather than led by a single independent professional.

2.3.1 Anonymity of contributors

People need to feel safe and have no fear of negative consequences as a result of being involved in any review. This should be regardless of whether they are organisations, people applying or independent advocacy groups. If contributors are involved in or employed by the social security system or reliant on public funds, they

should experience no negative consequences as a result of participating. Their participation should be appropriately recognised and rewarded.

Recommendation 20: All contributors to the review should have the option to remain anonymous and receive the assurance that participation will not result in any negative consequences.

2.3.2 Resources

Involved and participating stakeholders should have additional resources allocated and be paid for their time, with expenses covered as a bare minimum. Staffing should include professionals to support families involved in the review process. All necessary accessibility support should be provided and covered financially too.

Recommendation 21: The review should be fully resourced, both in terms of finances and staffing.

3. Carer benefits

The stated purpose for carers benefits is²¹:

- **Carer's Assistance:** To help carers protect their health and wellbeing, so they can continue to care if they wish, and have a life alongside caring. Carer benefits, while not a payment for care, can help achieve this.

This suggests that every unpaid carer should be eligible, but this is not the case. For example, unpaid carers will not receive Carer's Assistance if they are in work and earning more than £132 a week, which is a significant number of unpaid carers. Carer's Assistance is also not sufficient money for a carer. It doesn't meet the extra costs in the same way that disability benefits do. We believe this is unfair - the additional costs associated with caring will still apply.

We were pleased to see the Scottish Carer's Assistance consultation launched on 24 Feb 2022. We look forward to seeing the published responses, analysis report and formal Scottish Government response. We particularly welcomed inclusion of considerations on a number of impact assessments including an EQIA and Fairer Scotland Duty. We also welcomed the proposed future changes to Scottish Carer's Assistance to improve access to education, recognising different caring situations, improving stability of support and recognition for a wider group of unpaid carers.

To ensure unpaid carers access all of their entitlements, premiums and add-ons they should be encouraged to apply for carer benefits. This aspect of claiming benefits should be vastly improved to be less complicated, ensuring maximum take-up.

Considering the content of the recent consultation and prior to the analysis and Scottish Government response being published, there are a number of further and separate suggestions we have for the future of carers benefits which we have outlined below.

As we have noted previously, when justifying any proposed policy change, the financial analysis should extend beyond just the cost of implementing the change. This should assess the wider cost of not implementing it on other areas of the system as well as the social security system. This should also go beyond the financial costs to include the wider benefits for the individual and society.

Recommendations 22: The following should be reviewed for Carer's Assistance:

²¹ [Social Security Policy Actions: Benefits for carers](#)

22a: The amount of money paid should be significantly increased to reflect it as an earnings-replacement benefit. This should be in line with the human rights principle of adequacy.²²

22b: Equality data regarding Scottish carers should be improved, both in terms of what is recorded, how it is recorded and how it is used.

This is key to identifying where and how improvements should be made to the system. There should be an appropriately wide investigation into how protected characteristics and seldom heard voices are affected by how Carer's Assistance will be designed and administered. Specific examples of note include gender, race and ethnicity, age and prior care experience.

22c: Possible additional passported benefits.

3.1 Impact on other benefits and tax

We would also like to highlight a number of impacts on other benefits and tax. These largely echo previously made recommendations.

As was recommended in our advice of June 2017 on Carer's Allowance Supplement (CAS):

'We would urge you to remain mindful that there are complexities and potential for people to fall through the gaps, and to ensure that communication and guidance is robust enough to anticipate the less straightforward situations. We recommend that clear guidance on the supplement, issues of overlapping benefits, tax credits, taxation etc is available for carers and advisors.'

We feel this can be mirrored for Carer's Assistance more generally.

Recommendation 23: Clear and up to date guidance on the following should be available for both carers and advisors:

1. the entire range of carer benefits available (e.g. working of premiums even when Carer's Assistance is deducted from Universal Credit);
2. issues of overlapping benefits for both the cared for person and unpaid carer (e.g. state pension)
3. other complexities of the eligibility criteria (e.g. full-time education; earnings threshold as a cliff edge)

²² [OHCHR | OHCHR and the right to social security](#)

4. tax credits; and
5. taxation.

There is a lack of public information available on the impacts of applying for Carer's Assistance when on Universal Credit. This should be presented clearly alongside how this may impact Carer's Allowance Supplement entitlement. This penalises those on the lowest incomes in our society.

Recommendation 24: Carers that are on Universal Credit should be proactively contacted by Social Security Scotland to apply for Scottish Carer's Assistance.

This would ensure they receive all of the additional supplements, premiums and payments they are entitled to.

Recommendation 25: Additions should be made to the Social Security Scotland website targeted at carers currently not in receipt of carer benefits that they are entitled to.

This should explain that Carer's Assistance can entitle individuals to Carer's Allowance Supplement and Carer's Additional Person Payment.

Recommendation 26: A further Fairer Scotland Duty assessment should be conducted on Scottish Carer's Assistance.

This should look at specific wider impacts. For example, the effects on child poverty of the underlying entitlement issue referred to above.

3.2 Changes to Carers Assistance

3.2.1 Short-term Assistance

Short-term assistance and its interactions with Scottish Carer's Assistance is an entirely new concept and payment for carers and advisors. Therefore, it is key that explanatory information is well described and clearly explained. We agree with the intent of Short-term Assistance.

Recommendation 27: Any communications to carers around Short-term Assistance should be clear, concise and in sufficient detail. This should include information on eligibility, how and when to apply.

3.2.2 Run-ons

In instances when Scottish Carer's Assistance stops, or entitlement ends, we believe the Scottish Government should continue to provide financial support. This would

decrease the unnecessary stress on clients in a number of circumstances which are likely to already be extremely mentally, emotionally, physically and financially challenging.

Recommendation 28: Payment run-ons should be implemented in instances where Scottish Carer's Assistance awards are stopped due to the underlying entitlement stopping.

3.2.3 Nil awards

We understand that the concept of 'nil awards' is being explored. This would allow carers to receive Carer's Assistance payments again sooner (compared to having to re-apply in current the DWP system) should the eligibility criteria for Carer's Assistance be met again within six months of the 'nil award'.

We would welcome further information on how any proposed nil award would work with carer premiums/additions. We would also welcome any insights into how it is envisaged other agencies would know what a nil award is, or if there are differences in entitlements, which could be further complicated through carers additions/premiums.

3.2.4 When a cared for person goes into hospital, residential care, or temporary care

Currently, when a cared for person goes into hospital, Carer's Allowance will stop after four weeks. We believe this does not align with the principles of the 2018 Act.

Hospitalisation is a peak point of financial stress for carers and cared-for persons, and is a time where carers are highly likely to have increased transport costs amongst other increased expenditure. In other words, this is likely to be a time when carers need stability in their income most. Additionally, in many cases individuals have an increased length of stay in hospital not because they are still ill, but because there is insufficient social care resource in place in the community to support their discharge. This is a strain on social care that we know is getting worse and therefore is set to become increasingly more common.

In some health boards unpaid carers are considered essential visitors, particularly when the cared-for person has notably complex needs, to continue to provide high levels of care. Therefore, it is in these most significant cases where the carer, as per the current eligibility, would be most heavily penalised.

Recommendation 29: Scottish Carer's Assistance should not be stopped, suspended or lowered to a 'nil award' in instances where the cared-for person has been in hospital, residential care, or temporary care for any number of days.

3.2.5 Past Presence test

As the past presence test predominantly impacts people that are not British nationals, this is discriminatory. We do not believe this test can be justified in the Scottish system solely for the purposes of mirroring the UK system for a safe and secure transfer. With equality and human rights underpinning the Scottish system, we would expect this to face significant challenges in future.

Recommendation 30: We would recommend that the 'past presence test' be removed due to its discriminatory nature. Any intended rationale to retain the test should be provided beyond it being replicated from the UK system.

3.3. Carer's Additional Person Payment

We are pleased to see that many of our previous recommendations on the formerly referred to Carer's Additional Child Payment, now Carer's Additional Person Payment have been accepted. However, there are a number of further issues we would like to highlight at this time.

It has been proposed that carers would have to provide evidence of at least 20 hours of care a week for each additional person they are caring for in order to be eligible for an award of Carer's Additional Person Payment, with this deemed to be a 'significant' number of additional caring hours. We believe this could result in a more onerous system than currently exists with the DWP in terms of assessing the number of eligible hours. We acknowledge that there are specific hours in the current UK legislation for Carer's Allowance, but in practice, the DWP do not ask for evidence of this.

A carer's statement of hours should be sufficient evidence to make a decision on eligibility, as is the case in the current system. This should be reflected in the supporting information, decision making guidance, and evidence used to make tribunal decisions.

Recommendation 31: A carer's statement of hours should be sufficient evidence of eligibility for Carer's Assistance and Carer's Additional Person Payment.

Recommendation 32: The Scottish Government should share the evidence that concludes 20 hours of care a week for each additional person is required to be deemed 'significant'.

We also believe that the proposed £10 per week payment is far too low and should be increased. This would go some way to better reflect and acknowledge the significant emotional and physical labour carers are under, as well as the pressures and costs they alleviate from wider social care and the NHS. This should be considered alongside the previously accepted recommendation from this Group as per our 23 December 2020 advice on Scottish Carer's Assistance:

'The relationship between unpaid carers and social care must be well understood when considering how to improve outcomes for carers. It is important that unpaid carers are not expected to take on or maintain caring roles due to inadequacies in the social care system.'

To better inform what the amount of Carer's Additional Person Payment should be increased to, it would be helpful to understand the specific intended purpose of this additional payment, and the analysis that concluded £10 per week would sufficiently meet this purpose.

Recommendation 33: The amount of Carer's Additional Person Payment should be substantially increased in line with the human rights principle of adequacy.²³

4. Full integration of services and advice

The Scottish Government and Social Security Scotland have outlined that they will do things differently to the DWP. We believe this should not be the only comparison, as this could become limiting in the longer term. We should be aiming to position social security in people's lives in the most productive way. Adopting a fully integrated model of services would allow the multiplier effect to be realised.

Recommendation 34: The Scottish Government should commit to working towards the full integration of services.

4.1 Previously made relevant DACBEAG recommendations

This Group has provided the following recommendations towards the integration of advice and services previously, with the responses at the time provided directly below:

4.1.1a. 'Social Security Scotland should provide clear information about rights and entitlements to other social security payments and services.'

²³ [OHCHR | OHCHR and the right to social security](#)

4.1.1b. Whilst Social Security Scotland will provide some information and signposting, it will not provide universal information about services and entitlements to reserved benefits or local authority services, given the complexity of the disability services landscape across the private, public and third sector, as it is not possible to provide an exhaustive list.

4.1.2a. ‘Social Security Scotland should have active referral pathways so that disabled children, young people and their carers can be referred to all appropriate services (including education, health, housing and transport) with monitoring of the effectiveness of different referral strategies (e.g. sign-posting, appointment referral, co-located and embedded support in local settings) and take up.’

4.1.2b. This recommendation involves undertaking a broader, holistic assessment of need that is within the remit of local authority social work services, as well as primary care – as such it falls outwith the remit of Social Security Scotland. However, Social Security Scotland staff will provide signposting to individuals where possible and appropriate.

4.1.3a. ‘The Scottish Government should trial a routine enquiry where all parents are referred for a benefits check at certain key milestones. This should be developed with people with direct experience and other expert stakeholders and, if successful, be rolled out across Scotland.’

4.1.3b. Our position is that whilst individuals will be offered a referral to advice agencies or support services, where appropriate, this is not within the scope of Social Security Scotland’s work. When consideration is given to the delivery of the benefits uptake strategy, officials will consider this feedback in agreeing an appropriate approach.

We acknowledge that the full integration of services will provide a number of challenges but believe this is required for a human rights-based system to be realised.

4.2 Integration of advice

We believe it is unrealistic and inefficient that Social Security Scotland client advisors can only advise on Scottish benefits. Where people’s lives and entitlements are being discussed the separation of the Scottish and UK systems are entirely unhelpful for all individuals, whether they are attempting to apply for or are already in receipt of a benefit or payment. Citizens of Scotland should be able to contact Social Security Scotland to receive information about all the social security support they are entitled to and there must be referral pathways in place for them to receive the support they need.

This should interact with all levels of entitlements, from Universal Credit to local authority free school meals. There should also be more thorough signposting to wider and relevant supports, for example, social care, disability services, DPOs, passported support, carers benefits for others in the household and Blue Badges. Ultimately we believe that regardless of who you initially get in touch with for assistance, this should be a gateway to all advice, support and services, as is described by the ‘No Wrong Door’ approach.

Recommendation 35: Social Security Scotland should be able to provide information on devolved and reserved benefits and all available entitlements.

Recommendation 36: Social Security Scotland should commit to cultivating a ‘No Wrong Door’ approach to remove existing barriers in accessing all available advice, support and services.

4.3 An integrated active referral service

In addition to the improved integration of services and advice mentioned above, we believe Social Security Scotland should transform the way it interacts with the advice sector, including individual advisers assisting people to claim benefits. This would be towards an integrated active referral service.

The Scottish Government previously reviewed all advice provision in Scotland per geographic area. We would recommend that this existing information should be updated to create and maintain an active referral network. Further exploratory work would be required to ensure that there is appropriate capacity in the advice sector for this.

This would require data sharing agreements to be put in place to allow Social Security Scotland, with permission, to pass details to local authorities, council tax reductions, clothing grants, etc. This would ensure, in alignment with the ‘No Wrong Door’ approach mentioned above, that if Social Security Scotland cannot process other entitlements or scheme applications, there is a referral service in place to allow claimants to get the supports they need.

This would contribute to improving benefit take-up with a system designed to ensure that individuals are in receipt of all of the benefits and services that they are entitled to. It would result in a much more joined up social security system in Scotland. These levels of integration would also support the proposed move in future to benefit automation.

Recommendation 37: Social Security Scotland should have the necessary data sharing agreements in place to implement a fully integrated active referral service for Scottish citizens. This should cover all levels of entitlement.

Recommendation 38: Social Security Scotland should commit to introducing a service to identify individuals that are not in receipt of all of their entitlements.

5. Other models of social security: international comparisons

We acknowledge that Scotland can be considered a trailblazer in many ways. For example, having clear social security principles in law, and the co-design model being employed signalling the intent for change. The Scottish Government should look internationally for best practice examples of social security for disabled people, carers and beyond that attain UNCRPD and UNCRC rights.

Recommendation 39: The Scottish Government should commit to an international comparison to identify best practice examples of social security for disabled people, carers and beyond. This should include a commitment to incorporate any lessons learned beyond a safe and secure transfer.

We appreciate there will be challenges associated with different countries using different comparators. Therefore, it is of significant importance to look beyond the quantitative data to understand the experiences of people going through these different systems in different countries.

5.1 Minimum Income Guarantee

To inform this section of our advice we held a meeting with international colleagues from Canada, Finland and the USA to share learning. During discussions we concluded that all representative countries had, in some capacity, piloted a Universal Basic Income. Considering the Scottish Government's exploration of the related but different concept of a Minimum Income Guarantee, we have outlined some related key issues below.

A rights based Minimum Income Guarantee would recognise the varying needs of individuals. This could arguably result in a system that is more complex, but payments would be more adequate. 'Simplification' of the system does not always improve it, with Universal Credit a prime example. A Minimum Income Guarantee in a world which is increasingly insecure and precarious would be an important social statement and psychological shift.

Recommendation 40: The social security system should not be simplified in any way that would widen existing inequalities or result in individuals 'losing out'. Simplification should mean reducing the challenges and barriers to access.

During these discussions, a recurring theme was that housing support services should be central to any proposed Minimum Income Guarantee. This was seen to be an effective delivery of funds. Given rising homelessness, rising energy bills and local taxation based on banded property tax, a commitment around housing costs as a whole (considering both affordability and liveability) should be made. International examples to consider include schemes where individuals are guaranteed to pay out no more than one third of their income on housing costs.

Recommendation 41: Housing support services should be central to any proposed Minimum Income Guarantee.

A Minimum Income Guarantee should consider both financial income and services. Services are disproportionately used by disabled people and carers: therefore we should sufficiently and appropriately combine these. We are of the view that in many cases reliable, core services can as valuable as a minimum income e.g. excellent social care and effective transport options.

Recommendation 42: A Minimum Income Guarantee should not result in any reduction in services.

At **Appendix B** we have listed some existing research relevant to a Minimum Income Guarantee to share learning.

6. Further changes with the test and learn approach

The Scottish Government has previously committed to applying a 'test and learn approach' across the newly devolved benefits. The Group believes that any changes should be the result of this. Areas should be identified for improvement with the appropriate systems and processes in place to make these changes. These decisions should be based on the consolidation of a large volume of feedback and evidence on all aspects of the process once it is in delivery. For example, feedback from individuals and advisers, as well as data from Social Security Scotland, can be used to assess the effectiveness of three application channels being available for claimants. Changes should be continual and ongoing. They must contribute to removing barriers to claiming, further enhancing claimants' rights and ensuring Social Security Scotland is meeting its obligations as set out in the Charter.

Recommendation 43: Feedback from individuals, their representatives and supporting organisations, along with statistical evidence from Social Security Scotland processes, should be central to any improvements made to Social Security Scotland.

The Group would be keen to understand more about how this continuous improvement will be achieved, and how any lessons learned will influence updates and change to comply with the commitment to improve public services²⁴.

6.1 Suspensions

One area that we believe requires monitoring is the use of suspensions. Suspensions should only be used in the specific circumstances outlined in the regulations with the adequate safeguards in place. Proportionality of the application of a payment suspension should be a key consideration here.

Recommendation 44: The use of suspensions should be recorded, monitored and reported.

7. Practical considerations

There are a number of factors that currently limit what the Scottish Government can do with current benefits. The Group have highlighted a number of these factors and explain what we see as the main issues. However we do not feel that it is within our scope, remit or expertise to suggest solutions to them all.

7.1 Devolved and reserved interactions

The devolved disability and carer benefits interact with means-tested benefits that remain reserved. For example, entitlement to disability and carer benefits may entitle someone to enhanced premiums in their means-tested benefits and to other forms of reserved assistance. This means any substantive changes that would impact on those interactions would have to be agreed with the DWP. Moreover, any changes required to DWP processes may have to be funded by the Scottish Government. We believe a clear agreement with the DWP is needed to allow Social Security Scotland to develop policy around disability and carers benefits whilst understanding the impact it will have on reserved benefits.

Recommendation 45: A roundtable discussion with Social Security Scotland, Scottish Government, DWP, UK Government and relevant advisory group representatives and stakeholders should be held towards future planning.

²⁴ [Improving public services - gov.scot \(www.gov.scot\)](http://www.gov.scot)

The aims of this kind of roundtable discussion should be:

- to highlight the number of issues surrounding the interactions between the devolved and reserved systems; and
- to discuss what potential solutions could be.

This should take place before the independent ADP review starts to allow outputs to feed into this. We should always be striving for improved policy coherence and alignment.

7.2 Funding

Additional investment is needed in disability and carers benefits if they are to reach an adequate level, and to ensure the Scottish Government fully meets its obligations. We are aware that policy recommendations have not been accepted due to the associated financial costs. For example, adding a mobility component to the Scottish replacement for Attendance Allowance, Disability Assistance for Older People (DAOP), has been rejected in large part due to its projected costs of £580 million annually.

We understand that the Scottish Government has limited taxation and borrowing powers, however we would like to see an approach to budgeting that ensures there are adequate resources available to ensure individual's human rights are fully realised, including the right to adequate social security. We have attended several relevant knowledge building sessions with Scottish Government officials on these topics.

The Scottish Fiscal Commission have published forecasting that estimated the Scottish Government will need to invest an additional £568m in disability and carers benefits as a result of making improvements to the claiming and assessments process for Adult Disability Payments²⁵. This is warmly welcomed by the Group. However, as we are aware that the Scottish Government's block grant and borrowing powers are limited, this additional investment will need to be found within existing budgets, or from raising additional revenues. This is something we discussed further with officials from the Scottish Government's Tax and New Revenues Unit and the Scottish Human Rights Commission. We plan to have some further engagement in this area.

We have previously highlighted that due to the Scottish Government's commitment to a rights-based approach, more funding for social security will have to be allocated. Put

²⁵ [Scotland's Economic and Fiscal Forecasts – December 2021 | Scottish Fiscal Commission](#)

bluntly, as more people become eligible for support, and as the levels of support are increased to make it adequate, this is going to cost more.

Recommendation 46: The Scottish Government should set out how it will fund the further investment in social security that is required.

Summary of recommendations

We are pleased to see a number of positive changes have already been implemented by the Scottish Government to disability and carer benefits with the majority of this Group's recommendations accepted by Scottish Ministers.

In this proactive advice we have set out our views on what disability and carer's benefits should look like following the safe and secure transfer of all clients on to new forms of Scottish assistance to full comply with the 2018 Act, advance equality and human rights, contribute to poverty reduction and effectively reconcile medical and social models of disability within the benefits system.

Our recommendations are summarised in the below.

Consistency and language used in the stated purpose of disability and carer benefits

- Recommendation 1: Changes to the stated purpose of disability and carer benefits are needed to express the intent of improving support over time in order to advance equality and progressively realise rights for disabled people and carers of all ages.
- Recommendation 2: There should not be any changes made to the definition or purpose of disability and carer benefits that result in a constraint on investment into these benefits.
- Recommendation 3: There should be further clarity and consistency in the defined purpose of all disability benefits, particularly on the costs they will address, with any inconsistencies justified.
- Recommendation 4: The language used in the Scottish Government's purpose of disability and carer benefits should be updated to reflect the social model of disability and a human rights-based approach to social security.

Poverty and the adequacy of disability and carer benefits

- Recommendation 5: Existing and further research should be gathered to better understand the needs of carers and disabled people and the additional costs that they have.
- Recommendation 6: Additional costs should be defined as the costs of overcoming barriers, enabling participation in family, community and economic life as human rights, meeting the commitment set out in the Social Security Charter and the rights enshrined in the UNCRPD.
- Recommendation 7: The Scottish Government should continue to make clear that social security benefits will contribute to reducing poverty.

- Recommendation 8: Disability and carer benefits should be increased to adequately meet their stated purpose.
- Recommendation 9: The Scottish Government should commit to developing and implementing a Disability Poverty Action Plan and a Carer's Poverty Action Plan.

Review of disability benefits

- Recommendation 10: The Scottish Government should agree a Memorandum of Understanding between Social Security Scotland, the DWP and HMRC so that, when considering changes to the eligibility criteria for disability and carers benefits, the impact on reserved benefits can be understood and detrimental consequences are prevented.
- Recommendation 11: Social Security Scotland should have the necessary data sharing agreements in place to efficiently passport benefits. This should make the process as easy as possible for claimants.
- Recommendation 12: The Scottish Government should commit to a further fundamental review of disability assistance covering Child Disability Payment, Adult Disability Payment and Pension Age Disability Payment.
- Recommendation 13: The Scottish Government should make clear the purpose of the proposed review and outline how the results will be actioned.
- Recommendation 14: Prior to the 2023 ADP review commencing, the Scottish Government should share what the scope of the review will be.
- Recommendation 15: The following should be in the immediate scope of the 2023 review:
 - 15a: The review should identify advantages and challenges of Adult Disability Payment. This should be with insights from those with lived experience and cover the entire benefit process. Evidence should be provided from both successful and unsuccessful applicants.
 - 15b: The review should assess disability assistance through the lens of the social model of disability, equality and human rights law, principles and standards. It should include an analysis of how equality, human rights and the social model have been taken into account with the design of the system, and what needs to change so that it can best reflect these.
 - 15c: A full review of the eligibility criteria that includes an analysis of whether this new system is a world leading human rights-based system of disability social security. This should include an assessment of whether it enhances attainment of human rights, including those contained within the ICESCR, UNCRPD and UNCRC.
 - 15d: A full review of the activities and descriptors that determine entitlement. This should be towards ensuring that regardless of an individual's conditions, they can get the assistance they require.

15e: A full review of the assessment process, guidance for assessors and the decision-making guidance to ensure a social and rights-based model of disability is applied.

15f: A review of the funding of Social Security Scotland. This should include an analysis of the adequacy of benefits.

15g: An analysis of whether improvements can and should be implemented more quickly, before the completion of case transfer.

- Recommendation 16: On an ongoing basis and beyond the 2023 review the Scottish Government should:

16a: Collect, analyse and report rights-based data used to make decisions.

16b: As well as using data that exists, there should be a review to identify existing data gaps.

16c: When making policy decisions, the financial analysis should extend beyond just the cost of implementing the benefit. This should assess the wider cost of not implementing it on other areas of the system. This should also go beyond the financial costs to include the wider benefits for the individual and society.

16d: Review, analyse and report on how policy makers have taken the human rights focused Social Security Principles in the Social Security (Scotland) Act 2018 into account in decision making. This should also detail to what extent this has, and continues to, inform the development of the system.

16e: Carry out an independent evaluation of the Experience Panels, how they are made up in terms of the protected characteristics represented, and how 'well' they work. This should identify if there are any seldom heard voices still missing from the Experience Panels and what action will be taken to amend this.

- Recommendation 17: The review should be co-produced with disabled people and human rights experts, and gather evidence from a wide range of people across the social security system.
- Recommendation 18: The processes followed and methodologies employed for the review should be appropriately diverse. They should follow a human rights-based approach grounded in the PANEL principles.
- Recommendation 19: The review should have an advisory group or panel of reviewers. It should be co-chaired, rather than led by a single independent professional.
- Recommendation 20: All contributors to the review should have the option to remain anonymous and receive the assurance that participation will not result in any negative consequences.
- Recommendation 21: The review should be fully resourced, both in terms of finances and staffing.

Carer benefits

- Recommendations 22: The following should be reviewed for Carer's Assistance:
22a: The amount of money paid should be significantly increased to reflect it as an earnings-replacement benefit. This should be in line with the human rights principle of adequacy.
22b: Equality data regarding Scottish carers should be improved, both in terms of what is recorded, how it is recorded and how it is used.
22c: Possible additional passported benefits.
- Recommendation 23: Clear and up to date guidance on the following should be available for both carers and advisors:
 1. the entire range of carer benefits available (e.g. working of premiums even when Carer's Assistance is deducted from Universal Credit);
 2. issues of overlapping benefits for both the cared for person and unpaid carer (e.g. state pension)
 3. other complexities of the eligibility criteria (e.g. full-time education; earnings threshold as a cliff edge)
 4. tax credits; and
 5. taxation.
- Recommendation 24: Carers that are on Universal Credit should be proactively contacted by Social Security Scotland to apply for Scottish Carer's Assistance.
- Recommendation 25: Additions should be made to the Social Security Scotland website targeted at carers currently not in receipt of carer benefits that they are entitled to.
- Recommendation 26: A further Fairer Scotland Duty assessment should be conducted on Scottish Carer's Assistance.

Changes to Carers Assistance

- Recommendation 27: Any communications to carers around Short-term Assistance should be clear, concise and in sufficient detail. This should include information on eligibility, how and when to apply.
- Recommendation 28: Payment run-ons should be implemented in instances where Scottish Carer's Assistance awards are stopped due to the underlying entitlement stopping.
- Recommendation 29: Scottish Carer's Assistance should not be stopped, suspended or lowered to a 'nil award' in instances where the cared-for person has been in hospital, residential care, or temporary care for any number of days.
- Recommendation 30: We would recommend that the 'past presence test' be removed due to its discriminatory nature. Any intended rationale to retain the test should be provided beyond it being replicated from the UK system.

- Recommendation 31: A carer’s statement of hours should be sufficient evidence of eligibility for Carer’s Assistance and Carer’s Additional Person Payment.
- Recommendation 32: The Scottish Government should share the evidence that concludes 20 hours of care a week for each additional person is required to be deemed ‘significant’.
- Recommendation 33: The amount of Carer’s Additional Person Payment should be substantially increased in line with the human rights principle of adequacy.²⁶

Full integration of services and advice

- Recommendation 34: The Scottish Government should commit to working towards the full integration of services.
- Recommendation 35: Social Security Scotland should be able to provide information on devolved and reserved benefits and all available entitlements.
- Recommendation 36: Social Security Scotland should commit to cultivating a ‘No Wrong Door’ approach to remove existing barriers in accessing all available advice, support and services.
- Recommendation 37: Social Security Scotland should have the necessary data sharing agreements in place to implement a fully integrated active referral service for Scottish citizens. This should cover all levels of entitlement.
- Recommendation 38: Social Security Scotland should commit to introducing a service to identify individuals that are not in receipt of all of their entitlements.

Other models of social security

- Recommendation 39: The Scottish Government should commit to an international comparison to identify best practice examples of social security for disabled people, carers and beyond. This should include a commitment to incorporate any lessons learned beyond a safe and secure transfer.
- Recommendation 40: The social security system should not be simplified in any way that would widen existing inequalities or result in individuals ‘losing out’. Simplification should mean reducing the challenges and barriers to access.
- Recommendation 41: Housing support services should be central to any proposed Minimum Income Guarantee.
- Recommendation 42: A Minimum Income Guarantee should not result in any reduction in services.

Further future changes

- Recommendation 43: Feedback from individuals, their representatives and supporting organisations, along with statistical evidence from Social Security

²⁶ [OHCHR | OHCHR and the right to social security](#)

Scotland processes, should be central to any improvements made to Social Security Scotland.

- Recommendation 44: The use of suspensions should be recorded, monitored and reported.
- Recommendation 45: A roundtable discussion with Social Security Scotland, Scottish Government, DWP, UK Government and relevant advisory group representatives and stakeholders should be held towards future planning.
- Recommendation 46: The Scottish Government should set out how it will fund the further investment in social security that is required.

We would like to highlight a number of publicly available review reports that could be used as best practice examples with different elements of each replicated within the planned independent review of Adult Disability Payment.

- Independent Review of the Response to Deaths in Prison Custody²⁷ is a good example of a review report which had an advisory group of affected individuals and a co-chair of someone directly impacted by the content. This review also had the NHRI involved as a co-chair, meaning the way it was framed was helpful for a rights-based approach.
- Culture issues related to allegations of bullying and harassment in NHS Highland: independent review report²⁸; Angiolini Review: long way to go on serious incidents and deaths in custody²⁹ and An Investigative Review into the process of establishing, managing and supporting Independent Reviews in Scotland³⁰ are three reports which were all robustly independent in their approach to investigating the issue and then making recommendations.
- Beyond a Safe and Secure Transition - A Long Term Vision for Disability Assistance in Scotland³¹ presents six principles for a new rights-based disability assistance system, and also makes recommendations for what an independent review of disability assistance could encompass, similar to this advice.
- The UNCRPD Committee's review of the implementation of the UNCRPD and specifically comments in relation to social security³².
- The UNCRPD Committee's investigation of breaches of the UNCRPD in relation to social security³³.
- The First Minister's National Advisory Council on Women and Girls (NACWG) published their first report and recommendations in 2018³⁴. The Scottish Government formally responded to this in 2019³⁵ using a clear structure, where each recommendation was responded to in turn. This Group feels that this level of response should be replicated for this review with commitment from the

²⁷ [Independent Review of the Response to Deaths in Prison Custody | HMIPS \(prisonsscotland.gov.uk\)](https://www.prisonsscotland.gov.uk/independent-review-of-the-response-to-deaths-in-prison-custody)

²⁸ [Cultural issues related to allegations of bullying and harassment in NHS Highland: independent review report - gov.scot \(www.gov.scot\)](https://www.gov.scot/cultural-issues-related-to-allegations-of-bullying-and-harassment-in-nhs-highland-independent-review-report)

²⁹ [Angiolini Review: long way to go on serious incidents and deaths in custody | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/angiolini-review-long-way-to-go-on-serious-incident-and-deaths-in-custody)

³⁰ [An Investigative Review into the process of establishing, managing and supporting Independent Reviews in Scotland \(www.gov.scot\)](https://www.gov.scot/investigative-review-into-the-process-of-establishing-managing-and-supporting-independent-reviews-in-scotland)

³¹ [SCoRSS report Beyond a Safe and Secure Transition.pdf \(scotshousingnews.com\)](https://www.scotshousingnews.com/scoRSS-report-beyond-a-safe-and-secure-transition.pdf)

³² [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland report – Committee on the Rights of Persons with Disabilities](https://www.unhcr.org/refugees/article/concluding-observations-on-the-initial-report-of-the-united-kingdom-of-great-britain-and-northern-ireland-report-committee-on-the-rights-of-persons-with-disabilities)

³³ [Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention report – Committee on the Rights of Persons with Disabilities](https://www.unhcr.org/refugees/article/inquiry-concerning-the-united-kingdom-of-great-britain-and-northern-ireland-carried-out-by-the-committee-under-article-6-of-the-optional-protocol-to-the-convention-report-committee-on-the-rights-of-persons-with-disabilities)

³⁴ [First Minister's National Advisory Council on Women and Girls 2018 First Report and Recommendations](https://www.gov.scot/first-minister-national-advisory-council-on-women-and-girls-2018-first-report-and-recommendations)

³⁵ [Scottish Government's Response to the National Advisory Council on Women and Girls - gov.scot \(www.gov.scot\)](https://www.gov.scot/scottish-governments-response-to-the-national-advisory-council-on-women-and-girls)

Scottish Government to do so, ensuring a proper line of accountability is achieved.

Annex B Existing Research Relevant to a Minimum Income Guarantee

DACBEAG hosted a seminar, titled 'Models of social security assistance: drawing lessons from other countries' on 28 March 2022. A number of international speakers presented during this seminar to showcase comparisons from their own countries. We extend our thanks to the presenters: Garima Talwar Kapoor, Director of Policy and Research, and Michael Mendelson, Maytree Fellow, Maytree, Canada; Markus Raivio, CEO and Co-Founder, Kukunori, Finland and; Annie Harper, PhD, Program for Recovery and Community Health, Department of Psychiatry, Yale School of Medicine, USA.

The purpose of this session was to reflect on the different approaches taken to social security currently being implement in other countries that Scotland may seek to learn from. During this seminar a proportion of the discussion centred around all of the countries represented at the time having experience trialling either a Universal Basic Income or researching a Minimum Income Guarantee.

International colleagues shared some relevant resources of existing research which we would like to make our Scottish Government colleagues aware of to share learning and prevent unnecessary duplication of challenges that have been identified:

- Covering All the Basics: Reforms for a More Just Society, Final Report of the British Columbia Expert Panel on Basic Income³⁶
- Lessons from Ontario's Basic Income Pilot³⁷
- What does an actual housing allowance look like? Manitoba's Rent Assist program³⁸
- The mental health case for universal basic income by Matt Smith³⁹
- The results of Finland's basic income experiment⁴⁰

³⁶ [Home - BC Basic Income Panel](#)

³⁷ [Lessons from Ontario's Basic Income Pilot - Maytree](#)

³⁸ [What does an actual housing allowance look like? Manitoba's Rent Assist program - Maytree](#)

³⁹ [The Mental Health Case for Universal Basic Income by Matt Smith](#)

⁴⁰ [The results of Finland's basic income experiment are in. Is it working? | World Economic Forum \(weforum.org\)](#)



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