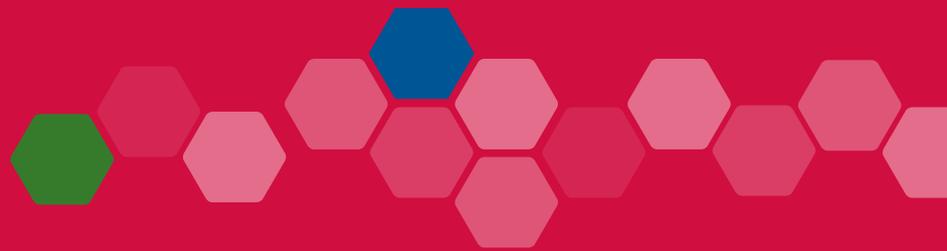




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# Analysis of Written Responses to the Consultation on Social Security in Scotland



EQUALITY, POVERTY AND SOCIAL SECURITY



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# Executive Summary

## About This Analysis

This independent research was carried out by Research Scotland and involved the analysis of the 521 written responses to the Scottish Government's consultation on social security<sup>1</sup>.

On 29 July the Scottish Government issued a public consultation to inform the content of the new Scottish Social Security Bill. The consultation set out a vision and five key principles for social security in Scotland. The consultation was in three parts, covering:

- a principled approach;
- the devolved benefits;
- operational policy.

The consultation contained a total of 234 key questions. The consultation was designed in a modular way, to allow people to focus on the areas of most interest or relevance to them. As such, there is a varying response rate across sections, and by question.

## A Principled Approach

Part one of the consultation explored views around:

- Fixing the principles in legislation;
- Outcomes and the user experience;
- Delivering social security in Scotland;
- Equality and low income; and
- Independent advice and scrutiny.

### Fixing the principles in legislation

Overall, respondents welcomed the principles and were generally in favour of embedding them in legislation and creating a Charter. Most respondents felt that the Charter should be drafted by both an advisory group and a wider group of people with experience of the social security system. There were mixed views on who should assume the duty to abide by the principle that claimants are treated with dignity and respect. The largest proportion of respondents felt that this duty should be placed on the Scottish Government. Throughout Part 1, respondents mentioned the need for all aspects of the Scottish social security system to be underpinned by these principles.

### Outcomes and the user experience

Most respondents felt that the proposed outcomes were appropriate, with some also offering suggestions for additional outcomes. Dignity and respect were frequently discussed as principles lacking in the current system. Respondents indicated that

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<sup>1</sup> A New Future for Social Security - Consultation on Social Security in Scotland:  
<http://www.gov.scot/Publications/2016/07/9955>

people receiving benefits felt stigmatised and uncomfortable, rather than feeling entitled to support. Respondents hoped that establishing the principles (through legislation or a Charter) and working towards the outcomes outlined in the consultation would address the stigma and instigate wider cultural change. Respondents commented on the language used around social security, with most feeling that there were some words or phrases that were inappropriate and should not be used. A key point raised was the need for improved staff training and working conditions, which could help change the overall culture and improve the user experience.

### **Delivering social security in Scotland**

In terms of delivery, the key issues raised by respondents were around accessibility and choice. Respondents felt that access to social security should be simple and easy. The idea of a local 'one stop shop' was often suggested as being beneficial. Respondents also referred to the practicality of the 'Tell Us Once' service, which allows users to report a death to most government agencies simultaneously. Most respondents felt that the new social security agency should administer all social security benefits in Scotland. Respondents said that information and communication should be clear, concise and available in the format most preferred by the individual. Similarly, they said that people should have choice in how services and support are delivered. There was strong consensus that services should not be delivered through the private sector or profit making agencies, with the majority of respondents in agreement that social security should be delivered through existing public sector or third sector organisations.

Respondents wanted the new social security system to be fairer and more consistent, avoiding the current 'postcode lottery' that people said they currently experience. They advocated the use of existing infrastructure where possible to reduce costs and improve efficiency.

Respondents discussed the use of digital technology and felt that it should be used where possible, but not imposed, as many people do not have access to digital technology. Overwhelmingly, respondents felt that the new social security agency should make some provision for face to face contact. Respondents were generally in favour of consensual data sharing to improve efficiency and reduce the need for repetition in applications and assessments.

### **Equality and low income**

Respondents felt that to improve the Equality Impact Assessment, the Scottish Government should:

- involve a wide range of stakeholders, including equality and human rights specialists, equality organisations and groups and the public;
- consider the cumulative impacts, intersectional impacts and relationships between devolved and reserved benefits;
- use an approach which embeds human rights, and also considers other related impacts on child rights, health inequalities and the impact of rurality; and

- embed equality from the beginning, and use the impact assessment to explore how to address inequalities identified – for example through adapting plans or using discretionary new or top up benefit powers.

### **Independent advice and scrutiny**

Respondents repeatedly discussed the importance of a social security system that is transparent and accountable. Respondents welcomed the involvement of people with experience of social security services and relevant third sector organisations to support the design and on-going improvement of a new system. They were in favour of an independent scrutiny body as well as regular monitoring, evaluation and reporting. Most felt that decision making standards should be conducted through a statutory body. There were mixed views on whether this should be a separate body or if it could be incorporated into another group or organisation, such as the scrutiny body.

### **Wider issues**

Respondents noted that the consultation did not address the adequacy of the current benefits, the powers to create new benefits and the powers to top up benefits.

## **The Devolved Benefits - Disability Benefits**

Part two of the consultation explored the devolved benefits in detail. Many of the questions related to disability benefits. These questions covered:

- The current benefits of Disability Living Allowance, Personal Independence Payment and Attendance Allowance;
- How the new Scottish social security system should operate in terms of disability related benefits;
- Proposals for eligibility;
- Terminal illnesses and a 'whole of life' approach;
- Proposals for assessments;
- Proposals for awards;
- Alternatives to cash;
- Mobility;
- Additional support;
- Alignment with other devolved services;
- Industrial Injuries Disablement Benefit; and
- Severe Disablement Allowance.

### **Scope to modernise and simplify the approach**

Respondents highlighted the positive aspects of DLA, PIP, AA and IIDB, including that the approach was holistic and fair, and the benefits were non-means tested. They also identified a number of weaknesses of the current approach, which related mainly to the complex and stressful application and assessment processes - particularly for DLA and PIP, and also the perception that the eligibility criteria for DLA, PIP and AA discriminated against certain groups.

### **Accessible, person-centred and flexible approach**

Overall, respondents felt that the new Scottish social security system should be more flexible, accessible and person-centred. It was felt that applicants should be able to decide how to engage with the system, choosing from a range of options that suited them best, whether paper-based, online, by telephone, face to face, or using other types of technology. Others underlined the importance of applicants being treated with dignity and respect throughout their dealings with the new social security agency. There was support for better joint working and communication between agencies. In relation to data sharing, there was some concern about potential breaches of security, and respondents emphasised the importance of securing consent.

### **The importance of advice and advocacy**

Respondents highlighted the importance of having access to advice and advocacy support, to help applicants through the application, assessment and appeals processes, as and when required, and that this should be clearly signposted.

### **Importance of transparency and fairness**

Overall, respondents were keen to ensure that the eligibility criteria was transparent and fair. A large number of respondents felt that the current approach to determining eligibility, based on assessing the impact of a condition or illness on an individual's daily life was appropriate and fair. However, respondents underlined the importance of ensuring that the eligibility criteria took account of a wide range of conditions or illnesses, including mental health, other fluctuating conditions, and also learning disabilities. In addition, there was strong support for the 'special rules' that currently apply to terminally ill people, to be extended to a wider range of conditions and illness.

### **Responsive, streamlined and fair**

In relation to supporting people with terminal illnesses, most respondents felt that the current UK-wide PIP and AA process was responsive and appropriate. Respondents felt that people were treated in a compassionate way, with their claims being processed quickly to minimise stress and anxiety. Some respondents highlighted that there might be a role for the new Scottish social security agency to raise greater awareness amongst health professionals about the benefit support available to people with terminal illnesses. Most respondents agreed that the Scottish Government should explore a consistent approach to eligibility across all ages.

### **Simplified approach based on evidence**

Respondents felt that the current assessment processes for disability benefits could be improved, and called for a simplified approach that relied primarily on evidence from a range of key stakeholders. Some of these respondents also noted that the new Health and Social Care Partnerships should allow a more joined up approach to be adopted, making better use of data sharing where consent has been given. There was strong agreement that face to face assessments should be the exception rather than the rule, and if required, should be undertaken by suitably qualified health professionals, and held in convenient locations.

### **Minimise stress and anxiety**

Most respondents thought that people should not have to be re-assessed where their condition or circumstances were unlikely to change, as this caused great stress and anxiety. Some respondents felt that there was scope for the new Scottish social security agency to develop a more flexible approach. Others said that indefinite or lifetime awards should be awarded to people whose conditions will not get better. Respondents identified specific instances – such as individuals losing their right to a Motability vehicle before an appeal has been heard in relation to their disability benefits – where the system seems unfair.

### **Increased choice and flexibility**

A large number of respondents thought that people should be offered the choice of spending their benefit on alternative support. Many felt that this would offer increased choice to individuals and enable them to take control of managing their care and support needs. This was seen to be important in maintaining an individual's dignity and respect. Others highlighted the importance of providing clear information about the range of options that might be available to applicants. In addition, views were fairly evenly split about whether getting a one-off lump sum payment, would be more appropriate than getting regular payments in certain situations. Many respondents called for flexibility on this, stating that the individual should have the right to choose what suited their circumstances best.

## **The Devolved Benefits - Other Benefits**

The second half of Part two of the consultation focused on a range of other benefits:

- Carers' Allowance;
- Winter Fuel and Cold Weather Payments;
- Funeral Payments;
- Best Start Grant;
- Discretionary Housing Payment;
- Job Grant; and
- Universal Credit Flexibilities.

### **Continuing or expanding eligibility**

In general, respondents supported a broad continuation of current eligibility, with support for the expansion of some benefits – such as Carer's Benefit, Winter Fuel or Cold Weather Payments, Funeral Payments, and Best Start.

A few respondents cautioned against more generous approaches where there was not a strong case for this, or called for a more targeted approach to some benefits.

### **Improved awareness and access**

Across a range of benefits, respondents called for improved awareness raising and information provision. There was concern that benefits are often not well known or understood, and that take up is low as a result. Respondents called for work to improve general awareness amongst the public. There was also support for more targeted promotion through existing advice or support services, and public sector

agencies in contact with eligible groups. Respondents highlighted the stigma attached to receiving certain benefits, and asked for this to be considered when raising awareness or considering the alignment of different benefits.

In general, respondents asked for simpler, clearer information and application forms. At times, there was concern that changes might introduce greater complexity.

Respondents said that some benefits currently take too long to access. For example, respondents criticised the waiting time to receive first payments of Universal Credit, Funeral Payments, Discretionary Housing Payment, Cold Weather and Winter Fuel Payments. These delays were leading to crisis situations in some cases, or preventing people taking forward key processes – such as securing a property, or paying for a funeral. Respondents supported longer application windows for Best Start and Funeral Payments.

### **Person-centred services and choice**

There was a strong focus on ensuring benefits responded to needs and individual circumstances. Respondents often supported greater choice – for example in relation to payment frequency, between goods and services, direct payments to landlords, or on issues such as split payments for Universal Credit. At times there was concern that some proposals might be demeaning or stigmatising (such as offering goods instead of cash) or that recipients might be put under pressure to make certain choices (such as having housing element payments paid directly to their landlord).

### **Simple processes**

Respondents emphasised the importance of ensuring that systems are simple and straightforward. There was support for streamlining eligibility and assessment processes, with respondents looking for specific opportunities to build on existing activity or systems. This was seen as being important to improve access, and limit administrative costs. A few respondents suggested the Scottish Government needs to carefully consider the administrative complexities of some proposals – such as additional payment points, or increasing choice on issues such as splitting or changing payment frequency of Universal Credit.

### **Improving fairness**

Respondents wanted to see the system operate in as fair a way as possible. At times, they identified aspects of existing benefit processes they felt were unfair to some groups. For example, current restrictions on Carers Allowance means that people can only receive payments for caring for one individual, and overlapping rules mean that people receiving other income-replacement benefits at a higher amount than Carers Allowance will not receive any additional amount.

There was concern that recent welfare reform has had negative consequences for some groups, and particularly in relation to Universal Credit. For example, there was widespread concern about usually making one payment per household, and reductions or limitations on the housing element. There was also concern that using Discretionary Housing Payments to mitigate the impact of the bedroom tax has reduced the resources going towards people in housing crisis situations.

Some respondents highlighted the variability in administration of some payments in different local authority areas.

## **Operational Policy**

Part three of the consultation explored views around:

- Advice, representation and advocacy;
- Complaints, reviews and appeals;
- Residency and cross-border issues;
- Managing overpayments and debt;
- Fraud;
- Protecting your information; and
- Uprating.

### **Advice and advocacy**

Respondents were clear that both advice and advocacy should be an important part of the new social security system. Many felt that demand for advice and advocacy would increase in the short to medium term in the transition to the new system.

Respondents felt that this would involve:

- close working with advice and advocacy organisations in developing the new system;
- research and evidence gathering to understand current and future demand;
- promotion of joint working across sectors; resourcing of advice and advocacy services and ongoing work to drive quality and standards within the sector.

Many also highlighted the importance of specialist advice for people with particular needs, and equality of access to advice. Some felt that a right to advocacy should be set out in legislation, to ensure that additional support was available and that people were empowered.

### **Complaints, reviews and appeals**

Respondents broadly supported the use of the Scottish Public Services Ombudsman's 'Statement of Complaints Handling Principles', believing these to be fair, simple and good practice. There was a clear desire to introduce a different review process from that used by DWP, with many particularly requesting that mandatory reconsideration should not be used and that clear timescales are set for reviews.

There was support for a tribunal system for dispute resolution, with respondents believing it to be proportionate and independent. Respondents emphasised the importance of embedding the principles and values of the new system throughout the complaint, review and appeals process, with a strong focus on a person-centred approach based on rights, equality and fairness. Clear and accessible communication was seen as a key part of this approach, as well as staff training to ensure consistency.

## **Residency and cross-border issues**

Most respondents felt that Scottish benefits should only be payable to individuals resident in Scotland, but some felt that there needed to be flexibility – particularly for EU residents who are currently receiving Disability Living Allowance, Personal Independence Payment and Attendance Allowance. Some highlighted cross-border issues such as someone living in Scotland and caring for someone in England (or vice versa). While some respondents felt that the ‘habitual residence’ test used by DWP was fine, others had significant concerns that it was restrictive, complex and unfair, and hard to reconcile with the principles of the new social security system.

Respondents felt that there was a need to have clear links with the UK Government, and to share data to ensure that people don’t double claim or fall through the gaps. However, respondents were also keen to see a different system in Scotland, with different values at its core – including a presumption of honesty and trust. Respondents also felt that it was important that any disputes over residency didn’t result in disadvantage for individuals, and that payments continued on an interim basis.

## **Managing overpayments**

Most respondents felt that the current system for recovering overpayments could be improved by:

- considering the impact on individuals and families of the level of benefit deductions to recover overpayments;
- requiring all appeals processes to be exhausted before any repayment was required;
- considering whether some types of repayment should not be recovered; and
- offering financial advice.

## **Fraud**

Most respondents were content with the approach to fraud, supporting the distinction between errors and fraud. Some wanted to see the existing ‘zero tolerance’ approach softened, feeling it was unduly harsh and needed to be based on an understanding of how a range of equality issues affected fraud. Respondents thought that while neither fraud nor errors could be completely designed out, these could be reduced through more verification of identity and circumstance and cross checking data – and by having a simpler system.

While most felt that the DWPs existing code of practice for investigators should be adopted, many did not – believing there should be a Scottish specific code focused on trust, dignity and respect. Some felt that the existing powers for investigators were too great, others felt that they required further development. While most respondents were content with retaining the current list of offences and penalties, many were not. There was some concern about the use of ‘administrative penalties’.

## **Safeguarding information**

Most respondents agreed with the Scottish Government’s Identity Management and Privacy Principles, but a range of detailed suggestions were made to enhance these. Most supported strictly controlled sharing of information between public sector

bodies, where legislation allowed, to make the process easier for claimants. Organisations were more supportive of this than individuals.

### **Uprating**

While there was clear agreement that devolved benefits needed to keep pace with the cost of living, there were varied views on how this should happen.

# Introduction

## About this analysis

This report provides an analysis of responses to the [Scottish Government's consultation on social security](#)<sup>2</sup>. A total of 521 responses were received to the consultation.

## Background

The Scottish Government published its paper, [A New Future for Social Security in Scotland](#)<sup>3</sup>, in March 2016. In that paper, it made a commitment to work with people across Scotland to determine how best to use the new social security powers which will be devolved by the Scotland Act 2016.

The [Scottish Government's Programme for Government](#)<sup>4</sup> for 2016-17 highlighted its intention to introduce a Scottish Social Security Bill by June 2017. This will set out the overall legislative framework to support social security in Scotland. The Bill will be supported by Scottish secondary legislation which will set out the operational detail of the devolved schemes.

## The Consultation

On 29 July the Scottish Government issued its public consultation to inform the content of the new Scottish Social Security Bill. The consultation sets out a vision and five key principles for social security in Scotland. The consultation was in three parts, covering:

- a principled approach;
- the devolved benefits; and
- operational policy.

The consultation ran from 29 July 2016 until 30 October 2016. The consultation contained a total of 234 key questions. The full consultation document and questions had to be converted into an appropriate format for Citizens Space (The Scottish Government's online consultation platform). This resulted in slight differences between print and online versions.

The consultation was designed in a modular way, to allow people to focus on the areas of most interest or relevance to them. This has resulted in varied response rates and respondent profiles for specific parts and sections.

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<sup>2</sup> A New Future for Social Security - Consultation on Social Security in Scotland:  
<http://www.gov.scot/Publications/2016/07/9955>

<sup>3</sup> A New Future for Social Security in Scotland: <http://www.gov.scot/Resource/0049/00496621.pdf>

<sup>4</sup> A Plan for Scotland: The Scottish Government's Programme for Scotland 2016-17:  
<http://www.gov.scot/Publications/2016/09/2860/0>

The Scottish Government provided a range of opportunities to engage in the consultation. This included:

- responding to the full written consultation – which could be completed online (via the Scottish Government’s online consultation platform), by email or by post;
- responding to a summary version of the consultation;
- responding to an easy read version of the consultation;
- versions available in alternative formats, on request; and
- making non-standard responses – handwritten or typed submissions which do not follow any of the formats above.

Just over 120 events were held as part of the engagement in relation to the consultation. Many of the events were hosted by organisations with a view to ensuring those with lived experience, and those who support them, were able to have their say. The engagement reached thousands of people across Scotland with the Scottish Government working in partnership with key organisations to engage fully with those who receive benefits and have experience of the current system.

## **Analysis methodology**

The Scottish Government received and organised all consultation responses – either through its online consultation platform, by email or post. All responses were transferred securely to us (Research Scotland) for analysis.

As we received responses, we reviewed these and established whether they were full responses (following the full response consultation format, answering specific questions), or were summary or easy read responses.

### **Quantitative analysis**

We used Excel to analyse quantitative data (for questions with closed options – such as yes or no) and qualitative (open-ended) data. We downloaded all of the online responses to Excel, and input all other responses to Excel. We carefully read non-standard responses, and comments, whether quantitative and/ or qualitative, were input against the relevant consultation questions on an Excel spreadsheet.

We agreed respondent groups with the Scottish Government, so that we could analyse trends and differences between types of respondent. We undertook quantitative analysis using Excel in order to produce tables. We have included simple tables, for each quantitative (closed) question from the full consultation, throughout the report. More detailed tables, providing breakdowns by respondent group, are available in Annex 2 and 3 of this report, which are available to download separately as part of this publication. These provide information on the response levels for all questions, and responses to closed questions.

In order to understand whether particular groups of stakeholders responded differently to closed questions, we reviewed the patterns in responses to closed questions by respondent group. However, because only a small proportion of

consultation respondents answered each question, the number of respondents in each category was often too small to undertake meaningful quantitative analysis of closed questions. In our quantitative analysis, we have only identified where a respondent group answered differently to overall respondents, if more than ten people from that group answered. In some places in our quantitative analysis, we explained which groups contributed to a particular position – but only where there were at least four respondents in that group that answered the question.

Because of the relatively small size of respondent groups, comparison of quantitative response patterns between respondent groups should be treated with caution. Assumptions should not be made about the extent to which the views of consultation respondents from a particular group represent the views of similar organisations who did not respond to the consultation.

### **Qualitative analysis**

We analysed qualitative (open) responses using a process of manual thematic coding. This involved reviewing the open responses and manually coding the themes identified by each respondent. The qualitative analysis process enabled us to extract the main themes from each question, allowing us to present the range of views across all responses, as well as and trends amongst respondent.

We have included quotations in shaded boxes throughout the report, and included the names of organisations, where they gave permission to publish their response. These are verbatim, however, we have corrected minor typing or grammatical errors, where these were obvious. Quotations vary in number, length and by respondent group throughout the report, reflecting the varied nature of responses to the consultation. Quotations are intended to illustrate key points, rather than represent views of particular groups.

This report is strongly qualitative in nature. To ensure consistency in our language when describing the level of interest in a particular theme or issue, we used a consistent scale to describe the number of respondents making broadly similar points. Where less than ten respondents made a similar point we used the term ‘a few’. ‘Some’ is used for ten to 29 respondents, and ‘many’ is used for 30 to 45 respondents. Where more than 45 respondents made a similar point, we used the term ‘a large number’.

### **Profile of respondents and participation levels**

The Scottish Government received a total of 521 responses to the consultation – 280 from individuals and 241 from organisations. Of these, 453 were identified as full responses. In addition, 68 summary responses were received. Of these, three individuals used the easy-read response form. Because the summary and easy read forms followed the same structure, and to ensure anonymity, we have referred to both easy read and summary respondents as ‘summary respondents’ in our analysis.

<b>Overview of responses received</b>			
<b>Respondent type</b>	<b>Full consultation – number of respondents</b>	<b>Summary and easy read – number of respondents</b>	<b>Total respondents</b>
Individuals total responses	250	30	280
Organisations total responses	203	38	241
<b>Total responses</b>	<b>453</b>	<b>68</b>	<b>521</b>

As the table below shows, the highest number of organisational responses came from organisations focusing on disability and long term conditions, housing and homelessness organisations, and local authority respondents.

<b>Breakdown of organisational responses received by respondent category</b>			
<b>Organisational category</b>	<b>Full consultation – number of respondents</b>	<b>Summary and easy read – number of respondents</b>	<b>Total respondents</b>
Advice and support	22	1	23
Carers	15	0	15
Disability and long term conditions	38	6	44
Employment	5	2	7
Equalities and human rights	21	2	23
Funeral	9	0	9
Health	9	2	11
Housing and homelessness	25	7	32
Legal and justice	5	1	6
Local authority	30	2	31
Other public body	4	4	8
Political and pressure	3	4	7
Poverty	9	0	9
Other	8	7	15
<b>Total</b>	<b>203</b>	<b>38</b>	<b>241</b>

Note: The local authority group includes individual local authorities, specific local authority departmental responses, and organisations with a local authority interest.

Some responses demonstrated wider engagement with staff and members of the public with an interest in social security. For example, two responses referenced petitions:

- The Scottish Unemployed Workers Network referred to a petition signed by 551 people. It included five key points relating to: removing sanctions for not attending or complying with an employability scheme, supporting the independence of services from certain schemes, the importance of advice from health and care professionals in providing evidence, reinstatement of Higher Rate Mobility for some people, and their opposition to the role of private companies in any devolved service.

- 38 Degrees submitted a petition signed by 3,052 people which supported making individual payments by default under Universal Credit.

Although there were no completely identical responses, some respondents made similar responses to others in their respondent category. These included seven local authority respondents (including COSLA), and three Carers organisations.

## Response patterns

The table below shows the number of respondents, to the full consultation, who completed different numbers of consultation questions. As the table shows, half of respondents answered 50 or fewer questions, and just under a quarter completed between 51 and 100 questions.

<b>Overview of number of questions answered on the full consultation</b>		
<b>Number of questions answered</b>	<b>Number of respondents</b>	<b>Percentage</b>
0 to 50	228	50%
51 to 100	107	24%
101 to 150	56	12%
151 to 200	37	8%
201 to 234	25	6%
Total	453	100%

Tables showing response levels by respondent groups to specific questions are available as annexes to this report. Unsurprisingly there were noticeable peaks and troughs in response levels. Generally, response levels of particular respondent groups corresponded to their interests – for example, higher levels of disability and long term condition organisations responding on disability benefits, and funeral organisations commenting on the section on funeral payments.

# Part 1: A Principled Approach

## About this Part of the Consultation

This part of the consultation explored views around:

- Fixing the principles in legislation;
- Outcomes and the user experience;
- Delivering social security in Scotland;
- Equality and low income; and
- Independent advice and scrutiny.

## Key Themes

Here, we provide an overview of the main themes emerging from the consultation responses, for Part 1 of [the consultation](#).

### Fixing the principles in legislation

Overall, respondents welcomed the principles and were generally in favour of embedding them in legislation and creating a Charter. Most respondents felt that the Charter should be drafted by both an advisory group and a wider group of people with experience of the social security system. There were mixed views on who should assume the duty to abide by the principle that claimants are treated with dignity and respect. The largest proportion of respondents felt that this duty should be placed on the Scottish Government. Throughout Part 1, respondents mentioned the need for all aspects of the Scottish social security system to be underpinned by these principles.

### Outcomes and the user experience

Most respondents felt that the proposed outcomes were appropriate, with some also offering suggestions for additional outcomes. Dignity and respect were frequently discussed as principles lacking in the current system. Respondents indicated that people receiving benefits felt stigmatised and uncomfortable, rather than feeling entitled to support. Respondents hoped that establishing the principles (through legislation or a Charter) and working towards the outcomes outlined in the consultation would address the stigma and instigate wider cultural change. Respondents commented on the language used around social security, with most feeling that there were some words or phrases that were inappropriate and should not be used. A key point raised was the need for improved staff training and working conditions, which could help change the overall culture and improve the user experience.

### Delivering social security in Scotland

In terms of delivery, the key issues raised by respondents were around accessibility and choice. Respondents felt that access to social security should be simple and easy. The idea of a local 'one stop shop' was often suggested as being beneficial.

Respondents also referred to the practicality of the 'Tell Us Once' service, which allows users to report a death to most government agencies simultaneously. Most respondents felt that the new social security agency should administer all social security benefits in Scotland. Respondents said that information and communication should be clear, concise and available in the format most preferred by the individual. Similarly, they said that people should have choice in how services and support are delivered. There was strong consensus that services should not be delivered through the private sector or profit making agencies, with the majority of respondents in agreement that social security should be delivered through existing public sector or third sector organisations.

Respondents wanted the new social security system to be fairer and more consistent, avoiding the current 'postcode lottery' that people said they experience at present. They advocated the use of existing infrastructure where possible to reduce costs and improve efficiency.

Respondents discussed the use of digital technology and felt that it should be used where possible, but not imposed, as many people do not have access to digital technology. Overwhelmingly, respondents felt that the new social security agency should make some provision for face to face contact. Respondents were generally in favour of consensual data sharing to improve efficiency and reduce the need for repetition in applications and assessments.

### **Equality and low income**

Respondents felt that to improve the Equality Impact Assessment, the Scottish Government should:

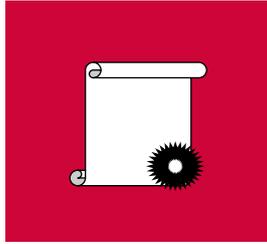
- involve a wide range of stakeholders, including equality and human rights specialists, equality organisations and groups, and the public;
- consider the cumulative impacts, intersectional impacts and relationships between devolved and reserved benefits;
- use an approach which embeds human rights, and also considers other related impacts on child rights, health inequalities and the impact of rurality; and
- embed equality from the beginning, and use the impact assessment to explore how to address inequalities identified – for example, through adapting plans or using discretionary new or top up benefit powers.

### **Independent advice and scrutiny**

Respondents repeatedly discussed the importance of a social security system that is transparent and accountable. Respondents welcomed the involvement of people with experience of social security services and relevant third sector organisations to support the design and on-going improvement of a new system. They were in favour of an independent scrutiny body as well as regular monitoring, evaluation and reporting. Most felt that decision making standards should be conducted through a statutory body. There were mixed views on whether this should be a separate body or if it could be incorporated into another group or organisation, such as the scrutiny body.

**Wider issues**

Respondents noted that the consultation did not address the adequacy of the current benefits, the powers to create new benefits and the powers to top up benefits.



## **1. Fixing the principles in legislation**

## Proposals for fixing the principles in legislation

1.1 The Scottish Government set out its proposals for fixing the principles in legislation in Part 1 of the [consultation document](#).

**Question – Which way do you think the principles should be embedded in the legislation? If other, please specify or please explain your answer.**

**Table 1.1 Which way do you think principles should be embedded in the legislation?**

Respondent group	A. Claimant Charter		B. Placing principles in legislation		C. Some other way		Selected more than one option		Total
	Number	%	Number	%	Number	%	Number	%	
Individuals	61	43%	66	47%	12	9%	2	1%	141
Organisations	26	23%	29	26%	32	28%	26	23%	113
<b>All respondents answering</b>	<b>87</b>	<b>34%</b>	<b>95</b>	<b>37%</b>	<b>44</b>	<b>17%</b>	<b>28</b>	<b>11%</b>	<b>254</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

1.2 254 respondents answered the closed part of this question. Views were fairly split across the options for embedding the principles in legislation. Similar proportions of respondents selected option A - a Claimant Charter (34%) and option B – placing principles in legislation (37%). A substantial proportion of respondents supported alternatives, with 17% selecting option C – some other way, and 11% selecting more than one of the options. Organisations were more likely than individuals to select option C – some other way, or select more than one option. Views were often mixed within the main respondent groups answering.

1.3 133 respondents provided additional comments following the closed question. 34 were individuals and 99 were organisations. Respondents offered reasons for selecting particular options, which are discussed in detail below.

1.4 The main themes emerging were:

- the need for the principles to be enforceable by law; and
- the need for the principles to be clear and accessible.

### Reasons for supporting Option A – a Claimant Charter

1.5 The main reason respondents gave for supporting a Claimant Charter was because it could be clear and accessible to all people - both people using social security services and those delivering them.

“A ‘Claimant Charter’ could be a useful way of ensuring that the Scottish Government’s stated principles are understood by members of the public as well as by staff administering social security benefits in Scotland.”

Disability Agenda Scotland (DAS)

- 1.6 Some respondents noted that a Claimant Charter had the potential to include more detail than legislation and was a more flexible format that could be amended and updated as required.
- 1.7 A few respondents in favour of a Claimant Charter said that it should be informed by people using social security services in order to be fully reflective of their rights.

“...detailed consultation with people who use the system is vital to ensure effective scrutiny of the extent to which the social security principles are upheld within the legislation.”

Scottish Commission for Learning Disability (SCLD)

### **Reasons for supporting Option B – placing principles in legislation**

- 1.8 The main reason respondents gave for favouring option B was that legislation would be enforceable, and offer more statutory protection and safeguarding if the principles were not adhered to. Respondents felt that embedding principles in legislation would provide a strong basis for service users to legally challenge services and enforce principles if they are not upheld.

“It is essential to place the principles in law so they can be firmly embedded in practice, scrutinised, enforced and challenged if there is failure to enact.”

Glasgow Disability Alliance

“To enshrine the principles in enforceable legislation would demonstrate how seriously the Scottish Government takes this.”

Inclusion Scotland

- 1.9 A few respondents favoured placing the principles in legislation because they felt that legislation would be fixed in the long term and therefore would be harder for successive governments to change. A few respondents also felt that placing the principles in legislation would mean they were better monitored and scrutinised than a Charter.

“People who use the social security system need long standing and robust legal protections, so that they are not made more vulnerable by changes in the political climate.”

Parkinson’s UK in Scotland

- 1.10 A few respondents who preferred the option of legislation acknowledged that legislation was less accessible and proposed that an accessible format should be produced alongside it.

### **Reasons for proposing a combination of Option A and Option B**

- 1.11 A large number of respondents favoured both a claimant Charter and legislation for the principles. Broadly, these respondents felt that a Charter could be embedded within legislation, which would be required to uphold the principles of the Charter. They felt that legislation was more likely to ensure that the principles would be upheld than a Charter alone. They also suggested that a Charter was a more accessible format for people to understand the rights

outlined in the legislation. Respondents were clear that it was important for people to understand their rights and have legal backing for these rights to be upheld.

“By having a Charter established within legislation, this would not only fully legitimise and give strength to the Charter and its key principles, but would allow revisions to the more detailed Charter without the need to amend primary legislation.”  
Crohn’s and Colitis UK

“People felt that it would give the principles of dignity and respect more weight to be included in legislation but thought that a Charter would be a more useful way of ensuring that people using the system were aware of their rights. There was a level of concern that the Charter could be meaningless if not done properly but it was generally acknowledged that it was a good starting point.”  
The Poverty Alliance

“As well as making a clear commitment to accountability by enshrining a Charter in legislation, the Scottish Government must also ensure that these principles are accessible and available to all. When powers are devolved and these principles come into force, effective communication with individuals is essential.”  
Scottish Women’s Convention

1.12 A few respondents commented that beyond a Charter and legislation, it was important to consider how the principles would be upheld in practice.

### **Other options**

1.13 A few respondents offered alternative or additional options. These included:

- an assessors Charter detailing principles for assessment procedures;
- a claimants’ ombudsman;
- a code of conduct for staff in social security services; or
- regular training for staff in social security services.

1.14 A few respondents commented on the name of ‘Claimant Charter’ and preferred not to use the word ‘claimant’ as they felt it had negative connotations and stigma. Alternatives suggested included ‘recipient Charter’, ‘social security Charter’, ‘social contract’ or ‘human rights Charter’.

1.15 Some respondents discussed the value of taking a human rights approach when establishing the Charter and embedding the principles. A few respondents had specific concerns around ensuring that the Charter and legislation takes account of equality and diversity issues.

### **Question – If you think option A ‘a Claimant Charter’ is the best way to embed principles in the legislation, what should be in the Charter?**

1.16 156 respondents provided comments on what should be in the Charter. Comments were provided by 86 organisations and 70 individuals. Overall, the most commonly mentioned themes were:

- rights and responsibilities;

- how people are treated;
- what to do if things go wrong; and
- information and support.

## **Rights, responsibilities and how people are treated**

1.17 A large number of respondents, from across respondent groups, raised the need for the Charter to cover individuals' rights. A range of different points were highlighted. Many simply stated that the Charter should cover rights. Those who provided more detail talked about:

- the importance of taking a human rights-based approach to social security;
- the right to enjoy a range of economic, social, cultural, civil and political rights, and a good standard of living;
- the right to social security, and to claim everything people are entitled to – treating access to social security as a right, not a benefit;
- the right to dignity and respect;
- the right for people to be empowered and involved in decisions about their lives; and
- the right for individuals to access support.

“We feel that an emphasis on claimants' rights is important as their responsibilities are made very clear at other stages of the process...”

Cyrenians

“People using social security services should have the right to expect to be treated as human being with needs which require to be met by accessing the Social Security system.”

Individual

1.18 A few respondents suggested that it would be useful to link to existing rights in legislation, including the European Convention on Human Rights, the UN Convention on the Rights of the Child and the NHS Patient's Charter.

1.19 A large number of respondents also felt that it was important to cover how people are treated. The three most common principles arising here related to respect, dignity and fairness. Many felt that a Charter should outline what being treated with respect and dignity would mean, and how it would be achieved (for example, through training for staff). A few individual respondents also talked about the importance of compassion, courteous behaviour, integrity, kindness and confidentiality.

“It should highlight respect and dignity as often as possible – this is distinctly lacking in how claimants are currently treated in the benefits system.”

Individual

“The Charter should contain information that allows the benefit claimant to be treated with respect and as a worthwhile citizen of the country.”

Individual

1.20 A few respondents gave practical suggestions about how people could be treated with dignity and respect.

“People suggested small, practical things which could be done easily and have a big impact. This included the right to choosing how you should be addressed, the right to choose your appointment times, bring spoken to in a respectful manner, and most importantly being believed.”

The Poverty Alliance

1.21 Some respondents specifically mentioned the importance of embedding equality and fairness within the Charter, to ensure that the social security system catered for individual needs.

1.22 Many also talked about the responsibilities of both individuals receiving social security payments and those administering them. These respondents talked about clear responsibilities and expectations of each party, and what would happen if the responsibilities were not met. However, a few felt that the Charter should not include responsibilities for individuals receiving social security payments. For example, the Child Poverty Action Group felt that this could undermine the important message that access to social security is a right.

### **What to do if things go wrong**

1.23 A large number of respondents felt that the Charter should include information about what to do if things went wrong. This would include:

- how to give feedback, raise concerns and make complaints;
- methods for appeal and reconsideration;
- dispute resolution processes;
- principles for challenging decisions;
- timescales for re-considering decisions;
- what happens with benefits payments during any re-consideration process; and
- entitlement to compensation where individuals are financially disadvantaged.

“... unless accompanied by a mechanism via which claimants could contest a breach of rights, such a document could only have limited value.”

Engender

1.24 A few respondents talked again about their preference that some elements were incorporated into law. However, a few highlighted that legislation could be open to interpretation and difficult to change, while a Charter could be more flexible. A few other respondents felt that a Charter would be easier to update and could lead to a culture of continuous improvement.

### **Information and support**

1.25 Some respondents felt that the Charter should include:

- information about what to expect – including service levels or standards; a list of the benefits subject to the Charter; information about what will

happen at each stage and what will be required of the individual (including document provision); and/or

- information about further support – including information about how to access support from knowledgeable and skilled staff, provided in a way that suits the individual best.

1.26 Some, particularly individuals, emphasised the importance of the Charter being written in simple and plain language, with terms clearly defined and explained. A few individuals felt that the document should be short and succinct. Some felt that it was important to involve people with experience of the social security system in designing the Charter, including disabled people and minority ethnic people.

### Question – Should the Charter be drafted by an advisory group, a wider group of potential user and other groups or organisations, both or in some other way?

**Table 1.2 Should the Charter be drafted by: An advisory group, a wider group of potential user and other groups or organisations, both or some other way?**

Respondent group	A. An advisory group		B. A wider group		C. Both		D. Some other way		Total
	Number	%	Number	%	Number	%	Number	%	
Individuals	5	5%	27	26%	62	60%	10	10%	104
Organisations	8	9%	15	17%	63	71%	3	3%	89
<b>All respondents answering</b>	<b>13</b>	<b>7%</b>	<b>42</b>	<b>22%</b>	<b>125</b>	<b>65%</b>	<b>13</b>	<b>7%</b>	<b>193</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

1.27 When asked whether the Charter should be drafted by an advisory group, wider group, both, or in some other way, 193 respondents answered. The majority of those responding (65%) selected 'Option C – Both'. A substantial minority (22%) selected Option B - a wider group. There was support for Option C from across respondent groups. Support for Option A came solely from a few local authority respondents and advice and support organisations. Support for Option B came mainly from a few advice and support organisations and disability and long term condition organisations.

1.28 97 respondents provided further comments on this question. 21 were individuals and 76 were organisations. Respondents tended to comment on the make-up of any group, rather than offering reasons for selecting a particular option.

1.29 The main themes emerging were that:

- a wide range of people should be involved in drafting the Charter;
- people using social security services should be involved; and
- the needs of different groups should be accounted for.

## Support for wide involvement

1.30 Regardless of whether respondents felt that the Charter should be drafted by an advisory group, a wider group or both, they often felt that the group should be informed by or should include service users and organisations from a cross-section of society. Respondents commented on the benefits of co-producing a Charter, encompassing the expertise of a wide range of people and organisations.

“It is important that all those with experience of the provision and receipt of welfare benefits can give their views of what does and does not work.”

Scottish Federation of Housing Associations

1.31 There was a strong consensus that people who use or may use social security services should be involved in the process. In particular, respondents felt it important that service users were represented as they had experience of what works well, what could be improved and how their needs could be met - which should be reflected in the Charter. Some respondents commented on the value of hearing the views of people with “lived experience” of the system.

“Those with direct experience of the system should absolutely be consulted in the design of the Charter, as they have the most knowledge of where the current system needs improvement.”

Coalition for Racial Equality and Rights

“The new social security agency has to be designed around the needs of the people that will rely on it. It is therefore essential that their voices are heard in the Charter.”

The Poverty Alliance

"If we do have a Charter then we really must have disabled people on there. That is of the greatest importance."

Royal National Institute of Blind People (RNIB) Scotland

## The importance of specific interest groups

1.32 Organisations representing specific demographics or protected groups noted that people from their service user group should also be included or represented. This included: children and young people, disabled people, people with mental health problems, terminally ill people, women and minority ethnic groups.

1.33 As well as service users, respondents felt that a range of other people should be involved, including:

- social security service deliverers and administrators;
- support, advice and advocacy organisations;
- representative organisations;
- social security and policy experts;
- third sector and voluntary organisations; and
- representatives from local and national government.

**Question – We are considering whether or not to adopt the name ‘Claimant Charter’. Can you think of another name that would suit this proposal better? If so, what other name would you choose?**

1.34 There were 139 responses to this question. 63 were from individuals and 76 were from organisations.

1.35 A large number of respondents offered alternative names for the claimant Charter. The most popular alternative was a [Scottish] Social Security Charter. Other ideas supported by a few respondents included:

- Citizens Charter;
- Social Security Charter: Rights and Responsibilities; and
- Customer Charter.

1.36 A full list of alternative names is included in Appendix 1.

**Question – Do you have any further comments on the ‘Claimant Charter’?**

1.37 100 respondents provided further comments (52 organisations and 48 individuals).

1.38 The main themes emerging were:

- the importance of using appropriate, non-stigmatising language;
- understanding that social security is a collective responsibility; and
- the importance of embedding the Charter and its values into regular working practice.

**Language**

1.39 Many respondents did not like the use of the term ‘claimant.’ They felt that the word had negative connotations, was disempowering and did not accurately reflect the rights-based principles of the Charter. Terms such as ‘citizen’ or ‘customer’ were favoured over ‘claimant’ and there was an overall view that the name of the Charter should reflect that it is a Charter for all people involved in social security.

1.40 Some respondents mentioned that ‘Claimant Charter’ sounded similar to ‘claimant commitment’, which could cause confusion and had negative connotations.

“The term claimant has negative connotations with how the DWP currently view welfare recipients...Whatever name is chosen; care needs to be taken to avoid any confusion with the ‘Claimant Commitment’ which is a statement of claimant obligations under Universal Credit and to avoid stigmatising people who are in receipt of benefits/ social security.”

East Lothian Council

“The term 'benefit claimant' has, unfortunately, been used by some groups in society and media to stigmatise claimants as 'scroungers' and 'layabouts'. We need to keep in mind that people in receipt of help from the benefit system are people who have human needs and who are not able to access an income to live on through conventional work.”

Individual

1.41 Some also felt that calling it a ‘Claimant Charter’ did not reflect that social security is a collective responsibility and that there are rights and responsibilities for all involved, not just the social security service users. A few said that they thought the name of the Charter should be decided through consultation and co-production with people using social security services.

“Calling it a Claimant Charter could suggest that the onus for compliance lies upon those using the system... We would support a more neutral title, such as a Social Security Charter...as it suggests a degree of reciprocity between the person in receipt of social security and the agencies that enable this.”

Parkinson’s UK in Scotland

### **Delivering the Charter**

1.42 Some respondents mentioned wider issues relating to the Charter. In particular, a few mentioned the importance of staff training and commitment to delivering the principles in the Charter. They felt that the Charter should be incorporated into training and continuing professional development for staff working in social security services so they were aware of the rights and responsibilities, for all people.

“It is important that we establish a benefit system where the staff employed within it are also committed to the principles.”

Rights Advice Scotland

1.43 Some felt that for the Charter to be successful, it also had to be clear, accessible and visible. A few wanted to ensure that the Charter would be available in a range of formats including British Sign Language (BSL), braille, easy read, Gaelic and Scots.

1.44 Some respondents also restated the importance of the Charter being enforced and delivered in practice, and hoped that it would not simply pay “lip service” to the principles.

“We feel strongly that any ‘Charter’ is implemented on a mandatory basis – it should not become a worthless, voluntary option which simply hangs on the wall and is forgotten.”

Glasgow Disability Alliance

“The rights and responsibilities of any Charter would have to be backed up by legislation to give them legitimacy and ‘teeth’.”

Bobath Scotland

1.45 A few respondents pointed to the Charter of Patient’s Rights and Responsibilities as a good practice example.

**Question – On whom would you place a duty to abide by the principle that claimants should be treated with dignity and respect? If someone else, please specify.**

**Table 1.3 On whom would you place a duty to abide by the principle that claimants should be treated with dignity and respect?**

Respondent group	A. Scottish Government		B. Scottish Ministers		C. Chief Executive of the Social Security Agency		D. Someone else		Selected more than one option		Total
	Number	%	Number	%	Number	%	Number	%	Number	%	
Individuals	46	41%	14	12%	31	27%	19	17%	3	3%	113
Organisations	24	26%	23	25%	9	10%	16	17%	20	22%	92
<b>All respondents answering</b>	<b>70</b>	<b>34%</b>	<b>37</b>	<b>18%</b>	<b>40</b>	<b>20%</b>	<b>35</b>	<b>17%</b>	<b>23</b>	<b>11%</b>	<b>205</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

1.46 205 respondents answered the closed part of this question. Views were mixed. The largest proportion (34%) believed the duty should be placed on the Scottish Government. A substantial minority (20%) suggested the duty should be placed on the Chief Executive of the new social security agency. Others supported duties on Scottish Ministers (18%), or someone else (17%). 11% of respondents chose more than one option – with just over half of local authority respondents taking this approach.

1.47 When offered the opportunity to specify what they meant by ‘someone else’, 115 respondents made further comments (40 individuals and 75 organisations). Most of these respondents argued for all of the agencies identified in the options to be held responsible, or an even wider group.

“This should be a duty on everyone involved in designing and delivering the social security system in Scotland.”  
 Scottish Council for Voluntary Organisations

“Only by ensuring that the duty falls on everyone can we change the culture around claiming for benefits to fit in with the key principles of fairness, dignity and respect that the Scottish Government have outlined.”  
 MND Scotland

“We believe that the duty must be wider than simply on the Scottish Government and its Ministers, although they should have the final duty to ensure that the duties are enforced.”  
 The National Carer Organisations

1.48 Some respondents specified that staff delivering social security services had an important duty to abide by these principles as they deal with social security service users on the ground, on a day-to-day basis.

“Everyone but basically by the staff charged with dealing direct with claimants - this is where the direct negative effect on claimants lies and is all too prevalent.”

Aberdeen Action on Disability

1.49 A few respondents commented on the need for:

- responsibilities to be clear, and for a clear line of accountability;
- legislation to recognise these responsibilities;
- an arm’s length inspectorate, governing body or commissioner; and
- regular monitoring and evaluation to ensure the principles are being upheld.

### **Question – Do you have any further comments on placing principles in legislation?**

1.50 116 respondents answered this question. 57 were individuals and 59 were organisations. Respondents commented widely and reiterated earlier points around who should be responsible and accountable for ensuring that the principles are upheld.

1.51 The main themes emerging were:

- embedding the principles in legislation would ensure that they are enforced and would hold those responsible accountable; and
- utilising legislation and a Charter would ensure that the principles are enforced but also accessible.

### **Fixing the principles in legislation**

1.52 Many respondents repeated that they felt the principles should be fixed in legislation, with some commenting that the principles should be embedded into service delivery and should be legally enforced.

“Placing principles in legislation would mean that those key principles can be enforced in case of bad practice and people’s rights can be protected. We agree with the point that legislation may be more complex to understand but would argue that it is the government’s remit to ensure that information is accessible to all on what the legislation guarantees and what to do when services are not delivered.”

Down’s Syndrome Scotland

“The principles will need to be brought to life and promoted throughout the service and beyond.”

Disability Agenda Scotland (DAS)

1.53 Those in favour of legislation felt that it would be more clearly defined than a Charter, less open to interpretation and less likely to be affected by political turbulence. A few also noted that the legislation should be written in such a

way that it would be protected from being altered or potentially overturned in the future.

“Legislation is more defined, everyone knows where they stand and the Scottish Government and Ministers are more accountable to the Parliament and people of Scotland.”

Individual

1.54 The issue of accountability was raised by a few respondents who felt that legislation would ensure greater accountability but that the appropriate procedures for monitoring and evaluation needed to be in place for this to happen, and for the legislation to be enforced.

### **A combined approach**

1.55 Some felt that legislation alone would be insufficient to ensure that the principles were delivered in practice. They felt that it should be strengthened and complemented with elements such as a Charter, social contract and code of practice and training for delivery staff.

“Concepts such as 'treated with dignity and respect' can be open to interpretation and would be difficult to define in law. However, placing some overriding principles in legislation would add weight and purpose to the Charter.”

Scottish Borders Council

1.56 In particular, a few respondents were keen that there should be a clear procedure in place if the system failed and people’s rights (as laid out in the Charter and legislation) were breached.

“Initiatives, campaigns, training, and policies will have to support the legislation and a robust system for redress should also be put into place for individuals who feel they have not been treated with dignity, respect, and fairness.”

Coalition for Racial Equality and Rights

### **Wider issues**

1.57 A few respondents commented on the need for any legislation to take a human rights, welfare rights, person-centred and assets based approach. They felt this would ensure that the rights and needs of individuals are fully accounted for and that the social security system is positive in outlook, focusing on attributes rather than deficits.

1.58 A few commented on the potential for legislation to bring about a wider cultural change with regards to social security and correspondingly, the need for cultural change in order for the legislation to be effectively put into practice.

**Question – Do you have any further comments or suggestions in relation to our overall approach, to fix our principles in legislation? For example, do you feel that there is no need to fix principles in legislation?**

1.59 111 respondents commented on this question (54 individuals and 57 organisations).

1.60 The main themes emerging were:

- the principles need to be fixed in such a way that they are both enforceable and accessible;
- a Charter provides accessibility and flexibility;
- legislation provides enforceability and accountability; and
- a hybrid of both Charter and legislation could be a suitable approach.

1.61 Overall, respondents supported the general approach. A large number of respondents reiterated the need for the principles to be fixed in legislation. Some explained that they felt this way because legislation was more likely to be enforceable and would ensure accountability. A few restated their preference for both a Charter and legislation.

“It is vital that principles are fixed in legislation to offer protection to the most vulnerable.”

Individual

1.62 The few who said they were not in favour of legislation preferred a Charter as they felt it was more accessible. However, a few noted that a Charter was only preferable provided that the principles could be enforced through it.

1.63 A few local authority respondents noted that although they agreed with fixing principles in legislation, some of the concepts such as ‘being treated with dignity and respect’ could be subjective and so might be difficult to define.

1.64 A few respondents also reiterated the need for:

- independent scrutiny and regular reviews of the social security legislation;
- language to be clear, accessible and reflective of the principles; and
- legislation taking a person-centred, rights-based, human rights approach.



## **2. Outcomes and the user experience**

## Proposal for outcomes and the user experience

2.1 The Scottish Government set out its proposals for outcomes and the user experience in Part 1 of the [consultation document](#).

**Question – Are the outcomes the right high level outcomes to develop and measure social security in Scotland? Please explain your answer.**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	88	79%	24	21%	112
Organisations	100	88%	13	12%	113
<b>All respondents answering</b>	<b>188</b>	<b>84%</b>	<b>37</b>	<b>16%</b>	<b>225</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

2.2 225 respondents answered the closed part of this question. The majority of those responding (84%) thought that the outcomes were the right high level outcomes to develop and measure social security in Scotland. Organisations were slightly more supportive of the outcomes than individuals. There was broad support from the main respondent groups answering.

2.3 172 respondents provided further comments to this question (73 individuals and 99 organisations). Generally, respondents offered support for the approach and the principles, particularly the person-centred approach and the core principles of dignity and respect. However, comments in response to the second part of the question suggest that individuals did not always understand the question.

2.4 The main themes emerging were:

- general support for the outcomes;
- the need to monitor and evaluate the outcomes;
- the importance of using appropriate language; and
- additional outcomes that could be included.

### Reasons for supporting the outcomes

2.5 Commonly, respondents felt that the outcomes were appropriate and used positive, rather than stigmatising, language. They also felt that the principles and outcomes were aspirational and were aiming to address the areas that the current system is lacking.

2.6 A large number of respondents reiterated their support for the overall approach and the outcomes. A few commented specifically on the value of giving people choice and control, which they felt was a valuable long term outcome.

“The outcomes outlined here are welcome in ensuring more humane and dignified treatment of claimants.”  
Parenting across Scotland

“We especially support the outcomes that enable claimants to be treated with dignity and respect. This is a significant shift in thinking on public policy relating to social security...”

Edinburgh Tenants Federation

### Questions about monitoring and evaluation

2.7 Some commented on the monitoring and evaluation of the outcomes. These were mostly respondents who answered ‘yes’ (mainly local authority respondents), but included respondents who had answered ‘no’ or had not answered the closed part of this question. These respondents were unsure how all the outcomes could be measured, as feelings of dignity and respect could be subjective. Some respondents said they would have liked more detail on the framework and process for monitoring and evaluation. A few noted that the right data needs to be available in order for the outcomes to be monitored. Directors of Public Health - NHS Boards Scotland noted that, where possible, existing databases and data linkage should be used before filling in any gaps in evidence.

“There is a need for careful planning to ensure outcomes are specific enough to be measurable and that they are not purely aspirational.”

Barnardo’s Scotland

“Having clear achievable and measurable outcomes are important to ensure that the system is making a difference to people’s lives...The details of how the agreed outcomes are measured is important as it determines the data that is collected during the administration process. Some additional work is required to ensure the data required is collectable.”

Aberdeenshire Council

### Other areas for outcome development

2.8 Some respondents (including respondents who supported the outcomes and those who did not) commented that they felt other outcomes could be included, such as outcomes around:

- eradicating poverty;
- support for employability/ financial independence;
- transparency and accountability;
- accessibility; and
- education.

2.9 A few discussed the challenges and issues of working between two social security systems (UK and Scotland). They felt it would be difficult to deliver a new social security system, with a new and different ethos, alongside the current system, particularly for people on frontline delivery.

“However, the Scottish Government will not be able to deliver the compassionate and equitable system that the Scottish people deserve while embracing the current social security system. The current social security system in the UK is not fit for purpose, and fails many of those whom it is meant to serve.”

Citizen’s Basic Income Network Scotland

“The desired outcomes are largely commendable...Some may be difficult to deliver e.g. how to determine whether a Scottish system works ‘effectively’ alongside a reserved system if it happens that their objectives fundamentally diverge?”

Individual

2.10 Some respondents mentioned the use of language. Overall, these respondents felt that the outcomes used the right kind of language and were hopeful that this would be demonstrated throughout administration and service delivery.

“The outcomes follow on from the principles and importantly look at the entitlement of citizens to support rather than using stigmatising language which enforces negativity and makes things worse for people already facing up to particular circumstances.”

Scottish Out of School Care Network

### **Reasons for answering ‘no’**

2.11 The few who offered reasons for answering ‘no’, said the outcomes were not strong enough in committing to a person-centred approach. They felt the outcomes were too vague, could be “bolder”, or didn’t take account of the needs of particular groups.

### **Question – Are there any other outcomes that you think we should also include (and if so, why)?**

2.12 138 respondents answered this question (56 individuals and 82 organisations). In general, respondents were happy with the outcomes but wanted more focused or detailed outcomes. They presented ideas on additional outcomes in a range of areas, as well as commenting more broadly on the principles and approach to social security.

2.13 The ideas (listed in order of how often they were mentioned) included outcomes referring to:

- accessing information relating to social security, independent advice, advocacy and representation;
- accountability, transparency and evaluation;
- access to independent appeals, complaints and review processes;
- organisational culture, with staff that are respectful and understanding;
- a stronger focus on improving gender equality;
- service provision that is of a high quality, meets minimum standards and where incomes meet needs;
- a system that is streamlined, easy to navigate and avoids unnecessary repetition/reassessment;
- a system that provides services and benefits quickly, with clear timescales;
- services that are person-centred, designed around individual needs;
- eradication (not just reduction) of poverty and inequalities;
- a system where people are listened to, feel comfortable and free from fear of penalties;

- a focus on reducing dependency on the system and improving independence and self-management;
- a stronger focus on improving overall health and wellbeing, and reducing health inequalities;
- a promise that changes in the new system will not detrimentally affect benefits derived from the reserved system;
- a recognition of the affordability of the system and value for money;
- recognition of the role of third sector and other delivery partners; and
- improved staff training and resources.

2.14 A few respondents said they wanted more detail on how the outcomes would be achieved and what the timescales were for 'short' and 'long' term outcomes.

**Question – How can the Scottish social security system ensure all social security communications are designed with dignity and respect at their core?**

2.15 192 respondents answered this question (83 individuals and 109 organisations).

2.16 The main themes emerging were:

- accessibility;
- language and tone;
- digital communication; and
- staff training.

**Accessible communication**

2.17 A large number commented on the accessibility of communication with social security services. They felt it should adhere to the following guidelines:

- simple language;
- consistent language;
- avoid jargon;
- plain English; and
- available in variety of formats (written, face to face, online, telephone) and languages, as required by the individual.

“We know from engagement with these individuals that many letters from the DWP are often inaccessible because of format, insensitive in the language used and complex in comprehension.”

Scottish Care

2.18 Some also noted that the system should provide support and advocacy, for those who need it, to understand correspondence and communicate effectively with services.

## Language and tone

2.19 Some commented specifically on the tone of the language used in communications. They felt it should be positive and sensitive to individual circumstances, rather than intimidating or stigmatising.

“The Scottish Government has a duty, therefore, to prioritise inclusive communication as well as a responsibility to ensure that the language and tone of communication is respectful, considered and does not stigmatise people.”  
Scottish Commission for Learning Disability (SCLD)

“The tone of communication and the culture of the organisation behind the communication, is reflected in the use of language. This language has an impact on individuals. It is important the Scottish social security system gets its language right.”

Edinburgh Tenants Federation

2.20 Some respondents reiterated the need for communication to be designed around individual needs, taking a person-centred approach and prioritising the user experience. A few said that communication could be improved if it was more personalised and moved away from ‘scripted’ conversations.

## Digital communication

2.21 Although respondents wanted information available in a variety of formats, some specifically noted that there should not be a presumption that everyone can and will use digital technology. A few mentioned the need for local provision of social security services and information, with the possibility of existing local services (e.g. post office) providing a local base for information. A few also commented on the cost of phone calls to social security services and felt that there should be free phone / free post options, or the option for someone to call back.

“Online forms are particularly difficult. People MUST be given the genuine choice, of paper copy forms, online forms or the option of attending an office to receive genuine assistance with form filing.”

Individual

“Digital first methods of communication are not always appropriate or conducive to the principles of dignity and respect. For example, we have experience of supporting homeless people to apply for crisis loans, which require a mobile phone number. For a homeless person who has little to no possessions this can prove to be a barrier and the potential consequences to someone with support needs can be significant.”

Ypeople

2.22 Some respondents also noted that communication would be easier if there was better information sharing and signposting so people were more aware of their rights and the services they can access.

2.23 A few mentioned the importance of recording communications, so that there is a strong record of all correspondence, whichever format it takes place in. And a few noted that correspondence should be timely, and should not leave service users or applicants waiting for long periods of time.

## **Staff training and support**

2.24 A large number of respondents felt that improving the skills and capacity of staff working in the social security service would be beneficial. They felt that training would improve their ability to communicate respectfully and compassionately. A few respondents felt that having staff with particular expertise in different health conditions might help them better understand and anticipate needs. A few felt that the attitudes and behaviour of staff needed to improve, however, there was also recognition from respondents that staff in these services work under difficult conditions, with limited resources and capacity. They felt that if the overall working environment (for staff and services users) and ethos improved, staff would value their role, feel valued themselves and consequently attitudes and behaviour would also improve.

“Embed a strong message through frontline staff and the whole organisation in awareness training on what dignity and respect means to Social Security and to the service users.”

CEMVO Scotland

“System needs to be designed so that public facing staff have the skills and resources and belief in what they are doing to be able to afford all users dignity and respect.”

Individual

## **Involvement of service users and stakeholders**

2.25 A large number of respondents felt that one of the best ways to improve communication would be to base it around feedback from service users and stakeholders. They felt that service users should be involved in the design process and should continue to inform service development.

## **Overall culture and ethos towards social security**

2.26 Some respondents commented again on the need for a change in culture, believing that people using social security services are not currently recognised as receiving ‘entitlements.’ Respondents felt that in the current system there is an initial assumption of guilt or wrong doing, rather than a sense that people approach services because they have a genuine need. They hoped that the new social security system would embed the principles at every level and move towards a more positive view of people using social security services, thereby increasing dignity and respect and reducing stigma.

“A social security system must be transparent and supportive for claimants, with development of such a system carried out in consultation with them.”

Families Outside

**Question – With whom should the Scottish Government consult, in order to ensure that the use of language for social security in Scotland is accessible and appropriate?**

2.27 207 respondents answered this question (102 individuals and 105 organisations). The majority of respondents who commented felt that people using social security services should be consulted. Primarily this referred to people currently using the system. It also included:

- those who do not currently use the system (but have in the past or might in the future);
- people that may be socially excluded or disadvantaged;
- people for whom English is not a first language; and
- people with protected characteristics.

2.28 In addition, some mentioned that carers and families should also be involved in any consultation.

“Consultation regarding all aspects of the social security system and agency should be conducted with those who will be users of the system.”

YouthLink Scotland

“It is the users of the system that are best placed to give advice on what does, and does not, work for them.”

Inclusion Scotland

2.29 A large number of respondents felt that organisations should also be consulted. This included:

- support groups and disability organisations;
- third sector / voluntary organisations;
- representative, advice and advocacy groups; and
- organisations that support and represent people with protected characteristics.

“Groups and organisations representing different sectors could help to ensure that the language used matches the preferred languages of their members.”

Glasgow City Council

2.30 A range of others were also recommended such as experts in academia, the NHS, law and media. The most commonly mentioned organisations were local authorities and those working in and delivering social security services, with some specifically mentioning welfare rights officers.

2.31 In order to ensure that language was clear and simple, respondents also recommended consultation with the Plain English Campaign and English teachers. Some recommended consulting the wider public, to get a broader range of views and opinions.

**Question – Are there any particular words or phrases that should not be used when delivering social security in Scotland? If yes, please state which words or phrases should not be used.**

**Table 2.2 Are there any particular words or phrases that should not be used when delivering social security in Scotland?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	71	77%	21	23%	92
Organisations	77	95%	4	5%	81
<b>All respondents answering</b>	<b>148</b>	<b>86%</b>	<b>25</b>	<b>14%</b>	<b>173</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

2.32 173 respondents answered the closed part of this question. Most respondents (86%) said there were particular words that should not be used when delivering social security in Scotland. Organisations were slightly more likely than individuals to say ‘yes’, but there was broad support from across respondent groups answering the question.

2.33 173 respondents provided further comments on which words or phrases should not be used (78 individuals and 95 organisations). Respondents identified specific words and phrases, and made more general comments about the tone of language that should be taken.

2.34 The main themes emerging were that:

- language should be positive, clear, jargon-free and sensitive; and
- language should avoid being stigmatising, judgemental or threatening.

### **Words and phrases to be excluded**

2.35 Respondents felt that the existing system included terms and phrases with negative connotations or which appeared to place blame on individuals accessing social security. They wanted the new system to recognise that social security is a right or entitlement, rather than a “hand-out.”

2.36 The most mentioned terms that respondents disliked were:

- welfare;
- claimant;
- benefit;
- customer or client;
- sanction; and
- scrounger.

2.37 Instead of ‘welfare’ some said they preferred the term ‘social security.’

“Given the negative connotations that are linked to the term “welfare” we would support a shift towards using “social security” to describe this policy area. We believe this is a more appropriate description of a system that should be designed to support people to live healthy and fulfilling lives.” HIV Scotland

2.38 Those commenting on the term 'customer' felt it implied that people using social security had choices.

"I also find the use of the term 'customer' by the DWP insulting and a denial of the powerlessness and vulnerability of claimants, including in relation to the DWP. Most of those who claim benefits have little choice but to rely on social security in order to survive and not starve or become destitute."

Individual

### **Terms attracting mixed views**

2.39 There were a few terms which were commented on both positively and negatively. The term 'citizen' was favoured by a few but others disagreed. 'Entitlement' was favoured by a few, with a few disagreeing and feeling that it was not the correct term. Although 'customer' and 'client' were generally disliked, a few were in favour.

2.40 Respondents were against language that they perceived might separate people into groups of good and bad, or deserving and undeserving. They disliked terms such as 'workless' or 'economically inactive'. This was raised with particular reference to people doing valuable unpaid work such as caring or volunteering.

"Great care needs to be taken with the words 'workless' and 'worklessness' to distinguish unpaid work and paid employment. The current UK approach to welfare to work and 'welfare reform' fails to recognise that a massive amount of unpaid work in caring for children, for ill and disabled friends and relatives (most often done by women) or socially worthwhile volunteering goes unrecognised and unrewarded."

Parenting across Scotland

2.41 Some organisations recommended that The Poverty Alliance's 'Stick Your Labels' campaign would be helpful in creating a system with appropriate language. A few organisations noted that the language should be in line with the social model of disability.

### **Question – What else could be done to enhance the user experience when people first get in touch?**

2.42 184 respondents answered this question (99 individuals and 85 organisations).

2.43 The main themes emerging were:

- accessibility;
- clear and timely information and signposting;
- signposting; and
- waiting times.

### **Accessibility**

2.44 Respondents said that first contact with social security services should be simple and accessible. A large number of respondents commented that engaging with services should be accessible and people should be able to

choose their preferred methods of communication. Some also mentioned that communication should be free, particularly phone calls and that the system should allow for and encourage advocates, support workers or others to accompany people to interviews and assessments.

“They should be offered the opportunity to either receive forms to fill out personally, to have them completed over the phone or internet, or to attend a local centre where they could have the necessary assistance.”

Individual

2.45 Some respondents wanted shorter waiting times to see or speak to an advisor or to hear back about a query. A few respondents specifically cited the long hold times they had experienced on the telephone.

“Any phone lines should be free for the users - people are unable to access many services currently because they cannot make appointments without phoning up, which they often can't afford.”

Individual

### **Clear and timely information**

2.46 A large number of respondents discussed the importance of speaking to an advisor who is friendly, helpful, empathetic, respectful and non-judgemental. A few also commented that the environment of social security centres should be inviting, comfortable and of a high standard. In particular a few respondents commented on the use of security guards, which they felt was not necessary and that buildings should be accessible, with accessible toilet facilities.

“A pleasant tone is a primary requirement in enhancing the user experience.”

Individual

2.47 A large number of respondents said that they wanted information to be clear, concise and honest. They wanted advisors to provide information on their query and ensure that the information was provided on:

- all relevant entitlements and alternative options;
- signposting to other services, advice and advocacy;
- the process for receiving social security;
- the information required and responsibilities of all involved in the process;
- claimant rights and Charter; and
- expected timescales.

“Signpost people to other sources of help and support. Make them aware of other benefits they may be entitled to. Crucially, highlight that they are entitled to advocacy support and give them information on this.”

MS Society Scotland

“When a user of the service first gets in touch they should be able to do so in a range of ways including speaking to an adviser in the first instance. The response should be timely and the information given on the process of applying should be clear. Users should be told exactly what to expect, how they will be contacted and the

timescales for decisions to be made. Ideally there should be a single point of contact.”

Barnardo’s Scotland

2.48 A few mentioned that communication should be recorded and shared with people making an application, so they can be sure that they have been correctly understood and represented.

“Information given should be accurate, clear and relevant with a follow up paper or e-mail copy if given over the phone.”

Aberdeen Action on Disability

2.49 Some respondents also noted that the overall process of getting information and completing applications should be as quick and simple as possible, and should avoid repetition. Some said they would like to have a named advisor or single point of contact for their social security issues, rather than having to repeat themselves to a different advisor each time they contact the service.

“If possible staff should see the same person or at least the staff meeting the person for the first time reads and understands the notes from any previous meetings.”

Scottish Older People's Assembly

2.50 A few mentioned that there should be more automated delivery of passported benefits and this should be noted from the first contact.

### **Question – What else could be done to enhance the user experience when they are in the process of applying for a benefit?**

2.51 176 respondents answered this question (101 individuals, and 75 organisations). Some respondents referred directly to their response to the previous question.

2.52 The main themes emerging were:

- the need for the process and forms to be clear, simple and accessible; and
- the need for support, advice and advocacy to support the process.

2.53 A large number of respondents wanted the application process and forms to be as simple and straightforward as possible. They commented that information should be clear, accurate, and forms should include clear guidelines to support people.

2.54 Many spoke of the need for social security services to keep them informed and updated about their application. A few noted that it would be helpful to receive written acknowledgement of their application and for applicants to be able to track the progress of their application. In addition, some wanted the application process to be faster and many noted the need for clear timescales to be outlined at the beginning of the process.

“Paperwork can be delayed MASSIVELY in my experience. If someone’s been waiting a month for a reply - a courtesy phone call would be nice to alleviate the stress.”

Individual

“The claimant should also be advised of how long the application process is likely to take and informed of any alternative sources of support that might be available in the interim...”

CPAG Scotland

2.55 Many felt that there should be support throughout the process, either from the social security agency or through independent organisations. For example, support to help people complete application forms. Some noted that applicants should be made aware of all their rights and entitlements and, where appropriate, should also be signposted to relevant wider support services and organisations.

“They should be made aware of the different methods of claiming benefits and, where appropriate, should be encouraged to make claims in the way that is best suited to them. Signposting or, preferably, seamless referral to advice and representation services in the person's local area.”

Perth and Kinross Council

2.56 A few respondents stated that they would appreciate a single point of contact, or direct line of communication with services, and some were keen that measures were taken to reduce repetition and unnecessary information gathering throughout the application process.

2.57 Many reiterated the need for people to be able to access and engage with social security services flexibly, through a range of methods that accommodate their needs and preferences. Similarly, respondents again stressed the importance of well-informed and well-trained staff that behaved respectfully and kindly.

“It is paramount that Social Security personnel are recruited for their people skills to help claimants get through the application process accurately and quickly.”

Individual

### **Question – What else could be done to enhance the user experience when a decision is made?**

2.58 166 respondents answered this question (93 individuals and 73 organisations). Some respondents referred directly to their previous answer.

2.59 The main themes emerging were:

- clear, accessible communication during decision making; and
- signposting to further support, advice, advocacy and appeals.

## Clear communication

2.60 A large number of respondents felt that information and reasoning around decisions should be clearly explained using simple, concise language. Explanations should include clear details of the benefits such as how much it is, the frequency of payment and the timescales involved.

“If the decision is a positive one, this communication should still be handled carefully. For example, it is important to explain how much a person may receive, in what instalments, and at what time. Without this, financial planning is impossible.... It is essential that the reasons for the decision are as explicit as possible.”

Cyrenians

“Outcomes of failed claims should clearly present the reasons for such decisions, and if possible, advice on alternative strategies or contact information for further assistance.”

Individual

2.61 Some respondents reiterated the need for decisions to be communicated in the manner most suitable for each individual, and a few respondents commented on the need for decisions to also be provided in writing, as well as any other format. A few respondents re-stated the need for a friendly, helpful tone in communication, particularly if the application is denied.

“Decisions should be made available in a variety of accessible formats so that it can be provided to individual disabled people in a format of their choosing.”

Inclusion Scotland

## Options and signposting

2.62 A large number of respondents discussed the need for people to be provided with information on their options if their application was unsuccessful, in particular, how to challenge the decision or make an appeal. Similarly, many mentioned that people should be provided with information on the next steps to be taken and should be signposted to any relevant support services.

“Also clients not being approved should be given information around the appeals process and where to get support.”

Individual

“If they do not meet the criteria for a benefit, this should be explained alongside information on how to appeal the decision and what areas of the application need to be strengthened with evidence or additional information.”

MND Scotland

“A clear reasoning for the decision, as well as ways you can appeal if you think it’s wrong, with time to appeal before your money is stopped.”

Individual

2.63 A few respondents mentioned that it was important that people had access to reviews and appeals, but that they should not be penalised and should not be left without income during the appeal process.

2.64 Some also noted that people should be provided with information on their entitlements to other benefits, particularly passported benefits, and how the decision may affect any benefits they currently receive. As mentioned previously, some respondents commented on the need for decisions and processes to be timely and efficient.

### **Question – What else could be done to enhance the user experience when they are in receipt of a benefit?**

2.65 144 respondents answered this question (83 individuals and 61 organisations). Some respondents referred to their previous response.

2.66 The main themes emerging were:

- the level of follow-up communication and reviews;
- rights and responsibilities for maintaining social security support; and
- the way payments are made.

### **Communication**

2.67 Many respondents commenting on communication were in favour of some form of regular, friendly updates and follow-ups from the social security agency whilst in receipt of benefits. These included annual updates, reviews or monthly statements, similar to a bank statement. Respondents felt that people should be provided with information on their right to appeal, signposted to relevant services and any other benefits they may be entitled to.

“An element of regular review. This need not be the daunting experience it currently is - and much of this depends on the personality of the officer the claimant meets with.”

Grampian Housing Association

2.68 A few respondents felt strongly that there should be minimal communication once a person was in receipt of benefit, particularly if they have a lifelong condition that does not change.

“People with conditions that are never going to improve should not have to be re-assessed anyway, unless it is because it has worsened and they may be entitled to more help.”

Individual

2.69 Some respondents restated the importance of clear information, with communication taking place through the preferred methods of each individual. Some reiterated the value of well-trained, approachable and helpful staff. Respondents again commented on the need to be treated respectfully and not to feel that there is an assumption of guilt or wrongdoing.

“It feels constantly temporary as if someone will come and take it all away. Even if it is a lifelong condition you feel it is so fragile and heartless. The worry is huge.

Individual

## **Responsibilities**

2.70 Many respondents discussed the responsibilities of individuals and the social security agency with regards to changes in benefits. They felt that it should be made clear what recipients’ rights and responsibilities are. People should be made aware of things that may affect their benefits, what to do if their circumstances change, and reporting any changes should be simple. Similarly, respondents said that people should be made aware of any changes to their benefits with plenty of notice, and with clear explanations.

## **Payments**

2.71 Some respondents mentioned the need for payments to be made efficiently and in a timely manner, in particular for missed payments to be re-paid as soon as possible. A few mentioned that people should have choice and flexibility on how payments are received and how they access services.

2.72 Some commented that clear information should be provided to recipients, particularly on any review processes or how to re-apply if necessary. They felt there should be a clear, simple route for enquiries. A few respondents reiterated their preference for a single point of contact.

## **Question – What else could be done to enhance the user experience in general?**

2.73 42 respondents provided a general response to this question (4 individuals and 38 organisations). Generally, respondents felt that a simpler, quicker, more efficient system, with less need for repetition would improve the user experience. They wanted forms to be shorter and for questions to be less confusing. A few respondents reiterated the need for a range of accessible communication methods to be available.

2.74 Similar to previous responses, respondents commented on the importance of people being made aware of their rights (e.g. to reviews and appeals), their responsibilities and being signposted to relevant advice, support and advocacy. Respondents felt that staff should be highly skilled and should treat applicants fairly and respectfully.

2.75 In addition, respondents also mentioned the need for:

- local support and assessments;
- freephone services;
- options to track applications online;
- monitoring of the user experience, in order to improve it;
- secure data sharing;
- a named contact; and
- timely information and decisions.

## Question – How should the Scottish social security system communicate with service users?

2.76 217 respondents answered this question (108 individuals and 109 organisations). Almost everyone who responded commented that there was a need for a range of different communications, which should be chosen by the individual. They felt that this choice should be made early on at the first point of contact with social security services.

“The system must communicate with people in the way that suits them best, offering a range of options to citizens and allowing them to choose which one best suits their needs.”

Glasgow Council for the Voluntary Sector

“In as many ways as possible, giving the user control over options, easy to opt in or out of a different method.”

Individual

2.77 The range of communication methods mentioned by respondents included letter, telephone, face to face, email, text, via social media, live web chat and podcast.

2.78 The range of accessible formats respondents mentioned included large print, easy read, BSL video relay, TypeTalk, audio description and braille.

2.79 A large number of respondents commented on the need for communication to be available in accessible formats, suitable to the needs of the individual.

“The message coming from CAB [Citizens Advice Bureau] clients and advisers is that users would like a choice of communication methods. A ‘one-size fits all’ approach excludes those who have varying capabilities, as has been outlined above.”

Citizens Advice Scotland

“We believe that it is essential that the methods of communication used by the new system are as inclusive as possible.”

Scottish Commission for Learning Disability (SCLD)

2.80 Although some spoke of the value and cost-effectiveness of digital communication, there was recognition from a large number of respondents that this may not be the most suitable method for all people, and other options should be available. In particular, there was acknowledgement that digital methods (including mobile phone calls or texting) are not always accessible for people on low incomes, disabled people, homeless people, people in rural areas and older people.

“Many people won’t have access to technology, including refugee women and other low-income groups.”

Engender

2.81 Where respondents favoured a variety of methods, they felt that each method should be used appropriately, for different purposes. Examples provided included text messages for reminders, email to upload and share documents, face to face for more in-depth discussions, social media for promotion or general information sharing.

2.82 Some respondents felt that in addition to any stated preferences, communication should also always be provided in written format, so that people have a hard copy to refer to, share with others, or use as evidence.

“Communication should be by a method agreed by the client. For many purposes formal stuff has to be in writing, as copies may be required to access grants, and copies can be kept safe by carers.”

Individual

2.83 A few mentioned that communication with social security services should be free e.g. free phone telephone numbers.

**Question – What are your views on how the Scottish Government can ensure that a Scottish social security system is designed with users using a co-production and co-design approach?**

2.84 182 respondents answered this question (72 individuals and 110 organisations). A large number stated explicitly that they were in favour of the proposed approach and felt positive about the idea of co-production and co-design with service users.

“Sounds like an excellent approach. Learn from users, make use of existing knowledge and systems and develop incrementally and iteratively.”

Individual

2.85 The main themes emerging were:

- involvement of service users;
- involvement of relevant organisations; and
- requirements for meaningful engagement.

**Involving service users**

2.86 Some wanted co-production and co-design to be a continuous, on-going process in the new social security system and a few commented on the value of on-going monitoring and evaluation.

“In order to ensure that co-production happens in a meaningful and active way it must be inherent throughout the process, not just at the design stage.”

Health and Social Care Alliance Scotland (The ALLIANCE)

2.87 Respondents discussed both setting up new user panels/groups and making use of existing forums to engage with service users.

## Involving stakeholder organisations

2.88 As well as consulting with services users, a large number of respondents mentioned that others involved in service delivery, design or support should also be involved in co-production, such as frontline staff, carers and third sector services. Some felt that third sector and representative organisations also had a role to play in supporting and facilitating discussions.

“These organisations not only have access to users, but are also trusted by users and can help to facilitate a conversation that is accessible, comfortable and not alienating.”

Citizens Advice Scotland

## Requirements for meaningful engagement

2.89 Many mentioned that for co-production to work it would require partnership working between many agencies to ensure that participants were well supported and covered a wide range of views. Supporting services users to participate was a key issue and respondents wanted to ensure that user groups or panels represented the wide range of people using services, including those most vulnerable, and often least likely to take part.

2.90 Some noted the need for the co-production process to result in real, implemented changes from the bottom up, and for it not to be tokenistic. Although most respondents were in favour of the approach, some noted that the government needed to be realistic in its approach and should acknowledge the requirement for skills, capacity and resources to effectively co-produce the new social security system.

“The development of co-production and design requires investment of time and resources to enable meaningful participation.”

Scottish Women’s Aid

“For co-production to be an effective approach there must be appropriate capacity building and support put in place to enable participants, especially older individuals, to fully maximise their contribution and capacity.”

Scottish Care

2.91 A few respondents noted the need to make use of learning from other models such as the Northern Ireland Social Security Agency (NISSA) and Scottish Welfare fund, both what worked well and what did not.

## **Question – We are considering whether or not to adopt the name ‘User Panels’. Can you think of another name that would better suit the groups of existing social security claimants which we will set up?**

2.92 164 respondents answered this question (78 individuals and 86 organisations).

2.93 A large number of respondents offered an alternative name for ‘User Panels’, feeling that the term ‘user’ was passive, pejorative and had negative connotations. A few also commented that people beyond service users should

be part of the panel and the name should reflect that. However, views on alternative names were very varied. The most popular option, suggested by just a few respondents, was 'Claimant Panel' as respondents felt this kept the terminology consistent with the Claimant Charter. A full list of suggestions is included as Appendix 2.

2.94 The most cited options were:

- Claimant Panel;
- Advisory Panel;
- Citizen Panel;
- Client Panel;
- Customer Panel;
- Focus Group;
- Peer Group;
- Service User Panel;
- Stakeholder Groups;
- Participant Panel; and
- Stakeholder Panel.

2.95 Some respondents stated that they thought the name 'User Panel' was appropriate.

2.96 A few felt that the group itself would be best placed to decide on a name, and a few said that the name was less important than the approach taken or the outcomes that were produced.

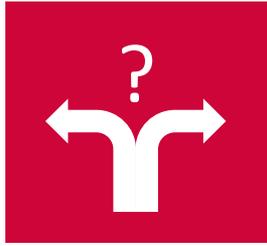
"However, we acknowledge that the name of the panel does not matter as much as the way members of the panel are treated and represented and the respect given to members of the panel and their lived experience and expertise."

Coalition for Racial Equality and Rights

"What it's called doesn't matter, what it does, does."

Individual

2.97 Some local authority respondents questioned how the 'User Panels' would be different from the 'Advisory Panels' mentioned elsewhere in the consultation document, and wished for further clarification.



### **3. Delivering social security in Scotland**

## Proposals for delivering social security in Scotland

3.1 The Scottish Government set out its proposals for delivery social security in Scotland in Part 1 of the [consultation document](#).

**Question – Should the social security agency administer all social security benefits in Scotland? Please explain your answer.**

Table 3.1 Should the social security agency administer all social security benefits in Scotland?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	118	90%	13	10%	131
Organisations	82	77%	25	23%	107
<b>All respondents answering</b>	<b>200</b>	<b>84%</b>	<b>38</b>	<b>16%</b>	<b>238</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

3.2 238 respondents answered the closed part of this question. The majority of those that responded (84%) felt that the social security agency should administer all social security benefits in Scotland. Support was slightly higher amongst individuals than organisations. Local authority respondents were the only respondent group to mostly (77%) answer no.

3.3 222 respondents provided further comments (105 individuals and 117 organisations). Respondent comments suggest they may have interpreted this question in quite different ways. Some seemed to understand the question as asking ‘should the social security agency administer all newly devolved benefits?’, and others interpreted it as ‘should the social security agency administer all benefits, including those currently administered by DWP and local authorities?’.

### Reasons for answering ‘yes’

3.4 Overwhelmingly, individuals felt strongly that delivery of social security should be managed by a Scottish social security agency, with some saying that they wanted all benefits (not just devolved benefits) to be delivered this way.

3.5 Individuals and organisations who were in favour of the social security agency administering all benefits explained that this approach would or should ensure:

- a single point of access or “one stop shop” for service users;
- a simpler, streamlined, more efficient system;
- improved consistency and less chance of a “postcode lottery”;
- better integration, joint working and data sharing;
- more accountability;
- implementation of minimum service delivery standards;
- less chance of error or fraud; and
- less repetition and duplication for service users.

“The simpler the system is, the better for everyone.”

Individual

“This approach will mean standards can be put in place so that there is a clear level of responsibility which the agency will be accountable for and should be monitored on.”

National Deaf Children’s Society

“It would be easier for claimants to deal with only one agency for all the different benefits they claim. It would also be easier to administer the different benefits under one agency and would help cut down on mistakes and fraud.”

Individual

“There may be three systems working simultaneously during the transition period: legacy benefits, Universal Credit UK elements and the Scottish System. We therefore believe that there will need to be specific work carried out to ensure the transition years do not result in people in need slipping through the social security net.”

Homeless Action Scotland

3.6 Some supporting respondents commented that private or profit-making organisations should not be involved in administering or delivering benefits under the new system. A few respondents also mentioned that a single agency delivering benefits would be the best way to ensure a culture of dignity and respect across the system and would also be cost effective.

### **Reasons for answering ‘no’**

3.7 Those who said ‘no’ were often concerned about additional bureaucracy. There was recognition that under the proposed system there would be at least three different agencies delivering benefits: DWP, a Scottish social security agency and local authorities. A few respondents thought this might be confusing for people accessing the system, and that ideally, all benefits should be delivered by a single agency.

3.8 Many (mostly local authority respondents), felt that local authorities would be well placed to deliver devolved benefits as they already have experience and infrastructure delivering a number of benefits. A few others were concerned that allowing local authorities to deliver benefits could result in inconsistencies and were unsure how the social security budget would be protected given recent cuts to local authority budgets.

“Local authorities have a proven track record for delivering centralised benefits in a localised responsive way to meet the needs of its citizens.”

Dumfries and Galloway Council

“Councils do not have the capacity to deliver social security benefits on this scale. Many carers do not trust them e.g. given their experiences of social care.”

Carers Trust Scotland

3.9 Some noted that any new system would need to work effectively with the reserved benefits systems, but should also be set up to accommodate any benefits that may become devolved in the future.

### **Question – Should the social security agency in Scotland be responsible for providing benefits in cash only or offer a choice of goods and cash?**

3.10 238 respondents provided comments relating to this question (116 individuals and 122 organisations).

#### **Cash only / cash default**

3.11 The majority of respondents to this question indicated that they were in favour of cash only or cash as the default option, with the option of goods or vouchers available, but not forced. They felt that cash was preferable because it:

- allows people choice and flexibility;
- encourages greater independence and empowerment; and
- is in line with the principles of dignity and respect.

“The benefit of cash will always be its flexibility to be used for anything, whether that is an aid or appliance, a taxi to the hospital or to work, or to pay the energy bills. Flexibility allows for choice, but also allows claimants to live an independent life.”  
Citizens Advice Scotland

“Cash = Dignity and respect in my opinion. To do otherwise is to patronise and belittle claimants, suggesting they are incapable of managing their own finances.”  
Individual

“We advocate payment in cash as default, as to do otherwise undermines the principles of dignity and respect and denies recipients the ability to choose what they do with their payment. If the system is built upon the principles of dignity, respect and equality denying those with an entitlement payment in cash would be contradictory, potentially disempowering to citizens and reinforce the power imbalance.”  
Glasgow Council for the Voluntary Sector

3.12 Some of those in favour of cash noted that there could be clear exceptions to the rule, such as the Motability scheme.

3.13 Where respondents were actively against cash payments, the main reasons stated were that it could be misused or may not be sufficient to meet their needs.

#### **Goods and cash**

3.14 A large number of respondents were in favour of a mixture of goods and cash. They felt that goods or services were preferable because they were:

- better value for money through bulk procurement;
- more convenient; and
- helpful for people not confident or capable of managing their budget.

“Generally, benefits should be in cash. However, it could be helpful to offer goods as an alternative to cash through providing access to certain national public sector contracts (e.g. domestic furnishings contract used by Scottish Welfare Fund). Fundamentally people should have choices.”

Argyll and Bute Council

“There should be a range of options available for people to make the choice that best suits their individual circumstances. Providing cash enables people to make their own choices and providing goods should complement cash benefits rather than replace them.”

The British Association of Art Therapists

3.15 Areas where respondents felt goods or services (in lieu of cash) were particularly useful included:

- motability;
- housing adaptations;
- housing costs; and
- energy costs.

3.16 Some respondents also noted that providing goods directly would reduce the chance for social security money to be misused. A few respondents noted that if goods are offered, provision should be through local third sector or social enterprise, where possible.

3.17 Respondents who were against the use of goods and vouchers felt that this option would stigmatise people and limit their choice. There were also concerns raised that offering goods or vouchers from a limited range of suppliers would leave claimants vulnerable to exploitation and implies that they cannot be trusted.

“Provision of financial benefits to which claimants have a statutory entitlement allows people to exercise choice to prioritise spending and make decisions about dealing with particular barriers. Provision of goods or vouchers restricts choice and may lead to stigma as claimants are identifiable.”

Parkhead Citizens Advice Bureau

### **Question – How best can we harness digital services for social security delivery in Scotland?**

3.18 187 respondents answered this question (92 individuals and 95 organisations).

3.19 The main themes emerging were:

- digital services should be part of a range of options;
- barriers need to be reduced;
- support and access arrangements; and
- data sharing opportunities.

### **Digital services as part of a menu of options**

3.20 Generally, whilst many respondents were positive about the potential for digital services, a large number stressed that digital services are not suitable or appropriate for everyone, and other options should be available. Many reiterated their feelings that digital should be part of a wide range of ways that people access and communicate with social security services, but should not be the default or only option. A few respondents felt that access to digital services should be the preferred option, but acknowledged that this should not be to the detriment of other methods.

“Digital access to services should be offered as an option as it will offer convenience to many and is likely to be cost efficient.”

Falkirk Council

“The Scottish Government should continue to promote and drive forward their digital inclusion agenda, but they should make alternative methods of contact readily available to complement their digital communications platforms.”

Lead Scotland

3.21 The benefits of digital services were felt to be around improved efficiency, application processing and information sharing and data usage. Respondents felt that digital services could play a role in improving the accessibility of information and services e.g. for people using British Sign Language. They also noted that digital services could improve data sharing, but that this would need to be done carefully and with consent. Some commented on the potential to use email, video link, text, apps and social media to engage.

3.22 A few respondents specifically mentioned the use of online application forms or accounts, where people could track and manage their benefits. It was felt that this could be a good use of digital services, provided the system was efficient, practical and secure. In particular, a few respondents mentioned that it would be useful to be able to save partly completed application forms and return to them at a later date, which is not possible under the current online application system.

### **Reducing barriers**

3.23 Some respondents noted that not everyone has skills or access to digital services and that people should not be excluded because they do not use digital technology. People who may not use digital included: older people, people who have not developed skills, people with learning disabilities, people from socially excluded or disadvantaged backgrounds and people from rural areas with limited internet access.

3.24 A few respondents cited the Scottish Household Survey and Scottish Government review of access to digital participation to demonstrate that compared to the general population, many people needing social security (e.g. older or disabled people) do not use digital technology.

“Digital services are great for public bodies and those who can access them easily, but some people can't afford tablets/computers and others struggle physically getting to a library or facility to use a computer.”

Individual

“It will be very important that the use of digital services in social security does not result in unequal and discriminatory behaviour to older citizens.”

Scottish Care

“However, in so doing it must be mindful of the fact that many from the furthest to reach communities do not access the internet. Nearly one in ten adults in the UK have never used the internet, including 27% of disabled adults.”

Marie Curie

### **Support and access**

3.25 Some respondents mentioned the need for strong support and increased resources in order for a digital system to be successfully implemented. They felt that staff should be available to help people develop digital literacy and that digital resources should be easily accessible to people in their local area.

3.26 Access was a key issue, with many respondents discussing the importance of good internet and computer access across the country, before people can be expected to opt for digital services. Respondents said that internet access (available, reliable, affordable) in rural areas needed to be improved before people could be expected to opt for digital services.

3.27 Respondents also noted that the format and medium of digital services needs to be accessible. A few respondents said that digital services would need to be compatible with existing systems and devices. A few mentioned that people using and delivering the system should be involved in designing a digital service.

“Any digital services leveraged are contingent on accessibility. Without provisions to ensure that all citizens have the hardware, infrastructure and training to access digital services will make the utility of such digital services redundant.”

Individual

“Not only is not everyone IT literate, but many people are simply unable to access the internet because they don't have it at home and there are limited other options available.”

The Poverty Alliance

### **Potential for data sharing**

3.28 Some respondents felt that digital services could be helpful for data sharing, provided it was done carefully and with consent. A few respondents raised concerns over data security and wanted to ensure that any digital system was well designed by experts. Generally, respondents discussing an online system or platform wanted it to be safe, efficient and easy to use.

“There may also be opportunity for the new social security agency to consider how it can better utilise data collected through digital services to effectively target and allocate resources and help align service delivery models with identified local needs and strategic priorities.”

Crohn's and Colitis UK

“The drive towards digital public services presents positive opportunities for both citizens and the public sector in Scotland. It also presents a risk as more personal information is capable of being attacked in the digital realm. The Commissioner expects robust cyber security measures to be built into any system design, whether for hardware, software, apps or online communication channels such as email or live chat.”

Information Commissioner's Office

### Question – Should social security in Scotland make some provision for face to face contact? Please explain your answer.

**Table 3.2 Should social security in Scotland make some provision for face to face contact?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	128	97%	4	3%	132
Organisations	123	100%	0	0%	123
<b>All respondents answering</b>	<b>251</b>	<b>98%</b>	<b>4</b>	<b>2%</b>	<b>255</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

3.29 255 respondents answered this question. Almost all respondents answering this question felt that there should be provision for face to face contact. All organisations responding supported this provision.

3.30 245 respondents provided further comments (117 individuals and 128 organisations). Given the very high level of support, these largely set out reasons for having some face to face contact.

3.31 The main themes emerging were:

- the importance of choice and options;
- the value of face to face contact for particular groups;
- early access;
- the importance of staff skills and attitudes; and
- challenges.

### The importance of choice

3.32 One of the main reasons for supporting face to face contact emphasised the importance of having this as a choice. A large number of respondents reiterated this, and that people should always be allowed to communicate in the format that suits them best.

“During our research with citizens...there was an overwhelming view that understanding and empathy can only be achieved through face to face contact - telephones are impersonal and allow the staff member, the person who ultimately has the power in the situation, to make decisions without considering the citizens as a person.”

Glasgow Council for the Voluntary Sector

“There should be provision for face to face contact, but as stated in answer to the previous question, this should not be a mandatory requirement. It should be one of a range of options for individuals to select which method of contact is suitable for their needs.”

Action for M.E

### **The importance of face to face contact for some groups**

3.33 The other main reason for supporting face to face contact related to the needs of particular groups. A large number of respondents said that not providing an option for face to face contact would exclude those who cannot access other formats, and would likely exclude some of the most vulnerable people in society. There was an appreciation that face to face contact might not suit all people, particularly those on the autistic spectrum, with mental health conditions or with restricted mobility. And a few respondents noted that there should not be a requirement for people to attend face to face appointments unless absolutely necessary, as this can cause stress and anxiety.

“I think that social security in Scotland should definitely make some provision for face to face contact. Sometimes such contact can be more humanising and can sometimes also facilitate clearer communication and better, quicker decisions. Also, some people find using the telephone or digital options difficult and I think it's important that there is as much choice as possible.”

Individual

3.34 Again, respondents emphasised the need for choice and flexibility in how people use social security services. For example, within ‘face to face’ contact respondents noted that there should be options for home visits if people cannot travel to a meeting.

“Different people require a different approach to the assessment process...The key to effective assessment is understanding the individual’s circumstances from their claim and judging the best way to carry out the assessment. More use of home visits would be welcomed, rather than expecting people with disabilities and impairments to attend assessment in buildings that are often a long way away and also have limited accessibility.”

The Salvation Army

### **Early access**

3.35 Supporters of face to face contact also felt that having this early on would help save time in the long run. They felt it was easier for people to explain their situation, and for staff to understand it, when spoken directly and in person. They also felt that face to face contact would ensure that people understood all

their rights and responsibilities, and had access to everything they are entitled to.

3.36 Many, particularly individuals, noted the benefits of human contact in service provision and the value of building rapport for people to feel comfortable.

“People need to be able to speak to a human being in person if they wish to do so in order to feel that they are valued and listened to.”

Individual

“Not everyone can use a computer or even telephone easily. Sometimes having a real person available to help you can make a colossal difference.”

Individual

### **The importance of staff skills and attitudes**

3.37 On a more general point, respondents mentioned that where face to face contact took place, staff should be highly trained, well informed and understanding of individual circumstances, maintaining dignity, confidentiality and respect. This was particularly important as some respondents said that bad experiences of face to face contact were off putting and stressful for people using social security services.

“People need to feel listened to, and to ask questions directly of someone who can and will answer them. The value of such contact of course depends on the training and attitude of the person providing that contact.”

Families Outside

### **Challenges of face to face contact**

3.38 In their comments, some respondents who supported face to face contact noted that provision of face to face contact was expensive and resource intensive, and so should only be used when absolutely necessary.

### **Reasons for answering ‘no’**

3.39 The individuals who said ‘no’ felt that:

- other formats should be the default, with face to face as an exception if needed;
- face to face contact and repeated assessments can be stressful for some people; and
- if a sufficient ‘citizen’s income’ (a concept in which every citizen is given a basic income to meet their needs) was introduced there would be no need for contact with a social security system.

### **Question – Who should deliver social security medical assessments for disability related benefits?**

3.40 249 respondents answered this question (127 individuals and 122 organisations).

3.41 The main themes emerging were:

- professional involvement, skills and knowledge;
- information sharing opportunities;
- preferences for particular types of organisations to be involved; and
- dignity and respect.

### **Professional involvement**

3.42 Overall, respondents said they wanted assessments to be conducted by qualified medical professionals with expertise in specific conditions. A large number of respondents felt that this could be done by doctors (e.g. GPs, consultants), occupational therapists or other NHS staff. Respondents acknowledged that there may be a conflict of interest if an individual's own doctor is involved in decision making, and that the NHS has limited capacity to meet assessment demands.

3.43 Respondents said that professionals with specialist knowledge would reach accurate decisions more quickly and would lower the burden on the individual to explain their condition. A few respondents mentioned that conditions can fluctuate, and decisions should reflect the variation in individual capabilities that may vary.

“Where an assessment is appropriate this should be carried out by a healthcare professional with relevant expertise of the disability...Assessments should treat people with dignity and respect and should recognise the barriers that pain and fatigue present.”

Nourish Scotland

“Whoever it is should have access to professional knowledge about individual specific conditions when required. This knowledge does not sit with one particular person or job.”

Bobath Scotland

3.44 Some felt that assessments should be conducted by a familiar person that knows the individual and their condition. They felt this would make the process more comfortable for the individual and provide a more accurate outcome.

### **Information sharing**

3.45 Respondents said that, where possible, information already held by various agencies should be used to make an assessment, as a face to face assessment will not always be necessary. Some also commented that assessments should be conducted locally and should be flexible to accommodate individual needs.

### **Views on organisational types**

3.46 Generally, respondents felt that assessments should be delivered through a non-profit, non-privatised public sector organisation, with some recommending that it should be a branch of the NHS or the social security agency itself. Some mentioned the challenges and negative experiences with the private companies that are currently contracted to deliver assessments. They had concerns about

target driven models and wanted any new approach to assessments to be independent of targets or profit. A few felt that assessment should be delivered by a completely independent organisation and a few felt that local authorities could have a role to play, particularly with regards to integrating health and social care assessments.

“Public sector – NHS, social services or a dedicated team within the new social security agency. Trust in private contractors is justifiably low and profitmaking from social security is not in keeping with principle 5.”

Individual

### Dignity and respect

3.47 Some respondents also said that it was important for assessments to uphold the principles of dignity and respect. They felt that individuals should be treated with sensitivity throughout assessments and that people conducting assessments should have a wider understanding of the social model of disability.

“It is important that all of those involved in conducting medical assessments are fully trained medical professionals with the skill to not only recognise and properly assess conditions which might impact on an individual’s capacity for work, but also the ‘soft skills’ required to treat people with the respect and dignity that has been reported to have been lacking under the current system.”

Children in Scotland

### Question – Should we, as much as possible, aim to deliver social security through already available public sector services and organisations? Please explain your answer.

**Table 3.3 Should we, as much as possible aim to deliver social security through already available public services and organisations?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	89	73%	33	27%	122
Organisations	61	71%	25	29%	86
<b>All respondents answering</b>	<b>150</b>	<b>72%</b>	<b>58</b>	<b>28%</b>	<b>208</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

3.48 208 respondents answered the closed part of this question. Most (72%) thought that social security should be delivered through existing public sector services and organisations. Disagreement came mainly from advice and support organisations, a minority of disability and long term conditions organisations, and a few equalities and human rights organisations. Of the main groups that responded, advice and support organisations disagreed overall.

3.49 When asked to explain their answer, 200 respondents (101 individuals and 99 organisations) provided further comments. Generally, respondents reiterated

the need for a social security system that is consistent, person-centred and upholds the principles of dignity and respect. Most respondents felt this could be achieved by delivering social security through existing public services, but some felt that it could be better for the new social security agency to deliver services.

### Reasons for answering 'yes'

3.50 Respondents mentioned the following benefits of delivering social security through already available public sector services and organisations:

- already have existing infrastructure, skills and expertise;
- likely to be more cost effective than setting up a new delivery organisation;
- people are already familiar with the organisations and how to access them;
- would promote further integration and joined-up working;
- would facilitate data sharing through existing data sets; and
- could use local public sector services to deliver localised services.

“Public sector organisations and services have the resources, skills, governance and infrastructure to deliver new services in a cost effective and efficient model. The wealth of experience and breadth of skills that already exist within local authorities should be put to best use.”

Highland Council

### Potential challenges

3.51 Respondents who answered both 'yes' and 'no' also highlighted challenges of using already available public sector services:

- some people may associate with negative experiences and perceptions;
- concern over capacity and resources of already strained public sector services;
- would need to embed new principles into established organisations; and
- risk of 'postcode lottery' if services are delivered locally.

3.52 Some respondents felt that the new social security agency had a role in overseeing and managing the system, whilst others felt that it should also take on the duty to deliver services. They felt this would provide a 'fresh start' and help ensure that the system is fair and standardised across Scotland.

“A new social security body could be a fresh start for social security in Scotland and could avoid inheriting any negative associations from existing bodies.”

Nourish Scotland

“The new system needs to avoid being affected by the toxicity of the current benefits regime, and therefore needs to start from a blank sheet of paper.”

Individual

“We need a clean sweep and a new Social Security body set up with as little connection to the old regime as possible.”

Individual

“We should use this opportunity to create a new social security agency that will undertake the responsibilities of delivering social security. This will ensure we have a clearly defined chain of accountability to ensure a cohesive implementation that can be managed and targeted where needed.”

Individual

3.53 Some respondents felt that introducing a new agency for delivering social security might be confusing and complicated, as people already need to engage with a number of different agencies to access social security.

“People in difficult circumstances are often required to engage with multiple agencies, which can be confusing, time consuming, and inefficient. Any streamlining of this would be welcome, especially where other services and organisations have a more holistic view of a person's circumstances.”

Families Outside

3.54 As before, respondents were in favour of public over private sector delivery, particularly due to the scrutiny, transparency and accountability required of public sector services.

“Social security is one of these areas which is too important to be outsourced to the private sector in any capacity. As soon as you introduce a profit motive, compassion goes out the window.”

Individual

### **Mixed views**

3.55 In their comments, some respondents (including those who answered ‘yes’ and ‘no’) identified both pros and cons for delivering through already available public sector services. They reiterated the need for a social security system that makes use of existing assets and provides a fair, efficient system for the public.

“A difficult one - of course it is good to use already available organisations, but it would also be good to streamline the system so that the client only has to deal with one organisation, preferably one person (with of course the option of requesting someone else if that relationship doesn't work).”

Individual

“There should be a hybrid, person-centred service to suit the needs of individual.”

Mydex Data Services Community Interest Company

**Question – Should any aspect of social security be delivered by others such as the 3rd sector, not for profit organisations, social enterprises or the private sector? If yes, which aspects?**

**Table 3.4 Should any aspect of social security be delivered by others such as the 3rd sector, not for profit organisations, social enterprises or the private sector?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	44	37%	75	63%	119
Organisations	46	55%	37	45%	83
<b>All respondents answering</b>	<b>90</b>	<b>45%</b>	<b>112</b>	<b>55%</b>	<b>202</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

3.56 202 respondents answered the closed part of this question. Views on this question were quite evenly split overall, with answers differing slightly between organisations and individuals. Most individuals (63%) answered ‘no’, and most organisations (55%) answered ‘yes’. There was broad support from across most respondent groups. Of the main groups that responded, the majority of disability and long term conditions organisations agreed. However, most local authority respondents disagreed.

3.57 174 respondents provided further comments (80 individuals and 94 organisations). Instead of identifying specific aspects as asked, comments mainly focused on which sectors or types of organisations should or shouldn’t have a role in delivery. Often the same points were made by those who answered ‘yes’, and those who answered no to the closed part of the question.

3.58 The main themes emerging were:

- roles of third, non-profit and social enterprise organisations; and
- roles of private sector and profit making organisations.

**Role of third sector, non-profit and social enterprises**

3.59 A large number of respondents felt that there was a role for third sector, non-profit or social enterprises in delivering aspects of social security. These were mainly the respondents who answered ‘yes’, but included a few who answered no or did not answer the closed part of the question. A large number felt that the main role would be around providing information, advocacy, advice and support. A few felt that there was a role for third sector or social enterprises in providing assessments or staff training. Local authority respondents felt that they had a role to play in delivering local services, given their existing infrastructure and experience.

“The third sector are incredibly well placed to deliver certain aspects of social security, particularly around advocacy and advice.”

Glasgow Council for the Voluntary Sector

“Although we believe that decision making and other core functions should be delivered centrally by a single social security agency, there is certainly a place for local information, advice and advocacy organisations and services.”

3.60 Some raised concerns about the ability, capacity and infrastructure of third sector and voluntary sector organisations to deliver services, and to deliver them consistently across Scotland. It was also noted that delivery responsibilities might pose a conflict of interest, impacting on the relationship between the support and advice organisation and client.

“It must be remembered that social enterprises and not-for profit organisations struggle for funding and may not have the capacity to commit to a social security delivery role unless long term funding is provided and formalised for this purpose. There is a danger that using private sector organisations, instituted for profit-making purposes, would not have the best interests of the population at heart and would not be a good use of public money.”

Glasgow Centre for Population Health

### **Role of private or profit making companies**

3.61 A large number of respondents specifically stated that they did not want private or profit making companies to be involved in delivering social security. This included respondents who answered ‘yes’, ‘no’ or didn’t answer the closed part of the question. They reiterated that past and current experiences of outsourcing delivery to private companies had not worked well, and that public perception of private companies in social security was largely negative.

“It is very strongly felt the private sector should have no involvement in the delivery of social security in Scotland.”

Fife Federation of Tenants and Residents Associations

“But not by private sector, third sector have lots to offer and understand claimants better.”

Individual

3.62 The only area where a few respondents felt the private sector had a role was in providing goods for cash, such as the Motability scheme.

3.63 Some noted the need for any agency delivering social security to be fully transparent and accountable. Some of the respondents answering ‘no’ were concerned about the accountability of organisations outwith the public sector.

“Unless there is oversight and accountability, there will not be any public confidence; given recent uses of 3rd parties.”

Individual

### **Reasons for answering ‘no’**

3.64 Where respondents gave reasons for answering ‘no’ to the closed part of this question they did not want private sector delivery, were uncertain of the third sector’s capacity to deliver aspects, or wanted everything to be delivered through local authorities.



## **4. Equality and low income**

## Proposals for equality and low income

- 4.1 The Scottish Government set out its proposals for equality and low income in Part 1 of the [consultation document](#). The partial Equality Impact Assessment (EqIA) is available in [Annex A of the consultation document](#).
- 4.2 The consultation asked questions about the Equality Impact Assessment in both Part 1 and Part 3. Here, we bring together responses to both of these questions for analysis.

### Question – How can the Scottish Government improve its partial EqIA as to produce a full EqIA to support the Bill?

- 4.3 Respondents had two opportunities to answer this question, in Part 1 or Part 3 of the consultation. A total of 244 responses were received to both questions (130 organisations and 114 individuals).
- 4.4 The main themes emerging were:
- the process of undertaking an EqIA;
  - the importance of taking an interlinked approach;
  - using broader powers;
  - utilising other impact assessments and approaches; and
  - access and communication within the social security system.

### Process of undertaking an EqIA

- 4.5 A large number of respondents talked about the process of undertaking an Equality Impact Assessment. Many talked about the need for on-going consultation with stakeholders – including equality and third sector organisations, and individuals.
- 4.6 Respondents provided illustrative (not exhaustive) examples of key organisations to engage which included - Inclusion Scotland, Glasgow Disability Alliance, Centres for Inclusive Living, Scottish Disability Equality Forum, the BSL National Advisory Group, Deafblind National Advisory Group, local and regional deaf forms and hard of hearing forums, Health and Social Care Alliance, Scottish Interfaith Council, WESREC, CRER, BEMIS, CEMVO, Engender, Women's Aid, One Parent Families Scotland, Who Cares Scotland, Scottish Old Age Pensioners Association, Scottish Pensioners Forum, Scottish Youth Parliament, Stonewall, Equality Network, LGBT Youth Scotland and Scottish Transgender Alliance.

“The Scottish Government should commission organisations with expertise in different equality strands to co-produce the Equality Impact Assessment of the Social Security Bill.”

The Poverty Alliance

- 4.7 Some individuals talked about consultation with the public, in simple and engaging terms, exploring what equality means to people. Many respondents felt that this type of engagement and involvement should be on-going, rather

than one off, informing the development and implementation of social security in Scotland on an on-going basis.

### **An in depth and interlinked approach**

4.8 Many respondents emphasised the need for an approach to Equality Impact Assessment which took account of impact on people across different intersecting characteristics; of the cumulative effect of the changes being proposed in Scotland; of the cumulative impact of both reserved and devolved benefits; and of wider Scottish Government policy priorities. Importantly, many wanted to see ideas about how to address potential inequalities and disadvantage, through using the powers available to the Scottish Government. Many felt that this required significantly more work on the draft Equality Impact Assessment, and that this was an important priority.

“As the consultation document acknowledges, considerable work is required to produce a complete and comprehensive Equality Impact Assessment... The Scottish Government’s partial EqIA approaches each type of entitlement individually. This type of analysis will not result in an understanding of the complete picture. We urge the Scottish Government to conduct cumulative impact assessments of spending and policy decisions on those with or who share a protected characteristic, notably women, children, ethnic minorities, disabled people and older people.”

Equality and Human Rights Commission

“Given the manifestly enormous implications of Scottish social security policy for women, disabled people and other groups, it is vital that the equality impact assessment for this Bill, and those that follow for individual policy areas, measure up to best practice.”

Engender

“The full assessment should examine all of the protected characteristics individually, considering structural barriers related to, for example, being a woman or disabled, and also take an intersectional approach to analysis of these barriers, considering how they overlap and interconnect. In fulfilling this duty, the Scottish Government should have regard to Paragraph 30 of General Comment no.19 of the UN Committee on Economic, Social and Cultural Rights, which recognises refugees, among other groups, as requiring special attention.”

Scottish Refugee Council

“As well as focusing on the implications of policies and arrangements in relation to particular benefits a full EqIA needs to consider how benefits interact with other public services and the reserved benefits system.”

COSLA

“The EqIA needs to consider wider implications than just the Social Security system. For example, government priorities (eg child poverty, youth unemployment), impact on local government and budget expenditure all need to be reflected when considering the introduction of the social security system.”

Highland Council

- 4.9 The Equality and Human Rights Commission and Scottish Human Rights Commission both provided detailed advice about Equality Impact Assessment and Equality and Human Rights Assessment. Both expressed a desire to share their knowledge and experience of human rights assessment, cumulative impact assessment and intersectional assessment with the Scottish Government to ensure the best outcome for individuals engaging with the new system.
- 4.10 Respondents highlighted the importance of embedding equality from the outset, making best use of existing available evidence and gathering new evidence and expertise where required.

“Equality Impact Assessment should not be seen as a separate exercise for Managers to undertake. It should be built in as an integral part of continuous service and performance review...It is essential that the Scottish Government’s principles (including equality) are embedded throughout Scottish social security legislation, regulations and subsequent guidance. Equalities must be considered at every stage of drafting and implementation.”

One Parent Families Scotland

- 4.11 A few respondents highlighted the need to think beyond protected characteristics. For example, the Scottish Council on Deafness indicated that it was important not to treat ‘disability’ as a single protected characteristic, and to explore the different impacts on disabled people. Similarly, a few respondents commented on the need to acknowledge the inequalities faced by people living in rural and island regions.

“It is not good enough to simply consider “disability” as one protected characteristic. Even if the Scottish Government use the categories listed in the long-term conditions question in the 2011 Census, this would give a more complete EQIA than simply looking at disability in its entirety.”

Scottish Council on Deafness

“Equality must be a principle which applies to all and not simply the specific groups protected by legislation. Others, such as homeless people, face multiple exclusion and need to be included.”

Homeless Action Scotland

### **Using broader powers**

- 4.12 A few respondents felt that the Equality Impact Assessment needed to fully consider how to address inequalities identified through the use of discretionary payments and powers to ‘top up’ existing benefits. In particular, a group of organisations working with children, young people and families called for a top up to Child Benefit (of £5 a week), to reduce inequality and child poverty.

“The Scottish Government should explore how the social security powers can be used to help meet poverty reduction targets. This may involve using the power to introduce new discretionary payments and ‘top-up’ existing benefits. CAS recommends that the Scottish Government carries out public consultation on how

these powers could be used to reduce poverty and inequality, within existing budgetary constraints.”

Citizens Advice Scotland

“We echo the recommendations put forward by the Children and Young People’s Commissioner, CPAG, Parenting Across Scotland, Common Weal and others and call on the Scottish Government to be bold in its approach by using the top up powers it has available to it in order to reduce socio-economic inequality and child poverty.”

Children in Scotland

## **Related Impact Assessments**

4.13 Some respondents talked about the need to think about other impact assessments at the same time as or within an EqIA including:

- Children’s Rights and Wellbeing Assessment;
- Health Inequality Impact Assessment (recommended by the Directors of Public Health NHS Boards Scotland);
- a Human Rights Assessment; and
- assessing the impact on rural and remote communities.

“Inclusion Scotland would also suggest that Scottish Government extends the EqIA process to also assess the impact on human rights – this would help to provide some substance to the commitments on human rights given in the Consultation document.”

Inclusion Scotland

“We would recommend the undertaking of an equality and human rights impact assessment which is more inclusive and extensive.”

Scottish Care

“Following the PANEL principle of non-discrimination, those groups who are furthest away from being able to realise their rights to an adequate standard of living and to social security should be prioritised and should also be consulted meaningfully to outline the potential impacts of changes to policy.”

Scotland’s National Action Plan: Right to an Adequate Standard of Living Reference Group

## **Access and communication within the social security system**

4.14 Some respondents talked about actions that should be taken to improve customer experiences, access and communication within the Scottish social security system. This included offering information in different formats (and the preferred format of the individual); considering communication issues; considering access to technology; considering ability to travel; offering childcare; reducing barriers to access; using open and jargon free language; and providing guidelines and training for staff. A few felt that an advisory group should be set up to cover inclusive communication and access within the social security system for Scotland.

“In reference to equality considerations, we refer back to the provision of specialist training being essential for those delivering social security, with the addition of some form of ‘unconscious bias’ training. Currently both are optional for staff in the DWP and therefore rarely taken up.”

Public and Commercial Services (PCS) Union

“Particular attention should be paid at the outset to groups who have difficulty communicating effectively, either because of low literacy, disabilities, or because English is not a first language.”

Cyrenians

“The most important thing is that the people who are administering the system are truly committed to equality, and have that in mind as they deal with clients.”

Individual

### **Particular benefits**

4.15 Respondents also made some very detailed points about inequalities experiences by particular groups and in particular benefits – including by younger and older people, disabled people, women, Looked After Children, Gypsy/Travellers, people leaving prison and people coming to Scotland from other countries. These are largely covered in each section of this report which explores views on particular benefits.

“Both of my parents died before I was 25 years old and after facing redundancy I found myself on welfare (income based jobseekers allowance, housing benefit and council tax benefit). I was given a lower rate of benefit because I was aged under 25 despite having the same cost of living as those who were 25 years and older... There are very real challenges facing young people on a low income who are claiming welfare and the additional age discrimination that comes with lower rates does not need to be one of them.”

Individual

“Housing cost direct to landlords, this means a tenant has limited rights if the landlord does not meet their duties and problems with accommodation, the tenant has no bargaining chip if the landlord gets the money regardless so a system of ensuring landlords are doing their jobs right is also necessary.”

Individual



## **5. Independent advice and scrutiny**

## Proposals for independent advice and scrutiny

5.1 The Scottish Government set out its proposals for independent advice and scrutiny in Part 1 of the [consultation document](#).

**Question – Do you think that there is a need for an independent body to be set up to scrutinise Scottish social security arrangements? Please explain your answer.**

**Table 5.1 Do you think that there is a need for an independent body to be set up to scrutinise Scottish social security arrangements?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	95	89%	12	11%	107
Organisations	96	92%	8	8%	104
<b>All respondents answering</b>	<b>191</b>	<b>91%</b>	<b>20</b>	<b>9%</b>	<b>211</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

5.2 211 respondents answered the closed part of this question. Almost all of those responding (91%) felt that there was a need for an independent body to be set up to scrutinise Scottish social security arrangements, with individuals and organisations broadly responding in the same way. There was broad support from across respondent groups answering the question.

5.3 203 respondents provided further comments (96 individuals and 107 organisations) when asked to explain their answer.

### Reasons for supporting an independent body

5.4 Most respondents providing further comments stated that there would be a need for an independent body to scrutinise social security arrangements. They felt it was obvious that a government agency would need an independent body to provide oversight.

“It is always a good idea to have a mechanism in place from the beginning to demonstrate that there is oversight of practice, with power to intervene in cases of poor practice.”

Scottish Out of School Care Network

“All public organisations responsible for delivering services to the community should be subject to independent scrutiny as a matter of principle.”

Individual

5.5 The main reasons that respondents gave for having an independent scrutiny body were to:

- demonstrate independent monitoring and accountability;
- ensure that the principles enshrined in the Charter are upheld;
- provide consistency and long term oversight; and

- reassure and boost public confidence in the new social security agency.

“This would provide transparency and give people faith in the new social security system.”

NHS Greater Glasgow and Clyde, Corporate Inequalities Team

“Oversight bodies can provide scrutiny of government actions, increasing government’s accountability and transparency while providing advice as to how government functions and policy objectives might be improved or discharged. These arms-length bodies (ALBs) perform a consultative or expert role, to bring independence and expertise into the delivery of policy, to help regulate services, and to provide advice. Their main advantage is seen to be their ability to de-politicise decision making and build public trust, as well as providing access to specialist advice and expertise that would be more costly to deliver through consultancy-based services.”

Individual

- 5.6 Some felt that an independent body was needed to fulfil the responsibilities that the current UK committees are providing. A few specifically noted that, as in the current UK system, Scotland should have a separate independent body to provide scrutiny for Industrial Injuries Disablement Benefit (IIDB), like the Industrial Injuries Advisory Council (IIAC).

“A Scottish independent scrutiny body should be set up to provide scrutiny, expert analysis and comment on how new arrangements are working, this could work in much the same way as the current system in place across the rest of the UK.”

COSLA

- 5.7 A few respondents also noted that an independent body was required in Scotland because the Scottish Parliament does not have a second chamber to review legislation. A few mentioned that the body would need to take account of the reserved benefits and interact accordingly with the existing committees. A suggestion was made that a small number of people could sit on both UK and Scottish committees, to ensure good communication and a consistent approach.

### Other issues

- 5.8 Many respondents said that as well as experts, the independent body should involve or incorporate the views of people outwith government and the social security agency. They recommended that people using social security services, representatives from the third sector and health professionals should be involved.

“It is important that any independent body is representative of those who engage with the social security system especially people who are disabled.”

ENABLE Scotland

- 5.9 A few felt that the independent body could be an ombudsman, and few noted that the body should have power to implement change when necessary.

## **Reasons for not supporting an independent body**

5.10 Those who felt there should not be an independent body had concerns around the cost administration for this body and felt that the role could be managed by parliament or an existing body (e.g. Auditor General for Scotland or Care Inspectorate).

“We would be concerned about the cost of administering such a body. We would prefer that the social security budget should be mainly confined to providing benefits and services. It is important that the Scottish Parliament is clearly seen as accountable for social security. A committee of the Parliament should therefore have oversight of the agency.”

Scottish Older People's Assembly

## **Question – If you agree, does the body need to be established in law or would administrative establishment by the Scottish Government of the day be sufficient? Please explain your answer.**

5.11 168 respondents provided comments for this question (86 individuals and 82 organisations).

5.12 The vast majority of respondents answering this question said that the body should be established in law, with a minority feeling that administrative establishment would be sufficient.

## **Reasons for establishing in law**

5.13 Primarily, respondents wanted the body to be established in law so that it would have permanence and not be subject to potential change with each newly elected government. They wanted to ensure that the body had authority, credibility and consistency.

“I feel that if it was administered by the Scottish government of the day, then depending on which government the future may hold, there would perhaps be the likelihood of a harsher return to UK values, whereas if the body was enshrined in law, there would be a more difficult time in removing the body from legislation.”

Individual

5.14 A key point raised was that by being established in law, the body would be independent of government and in a better position to be critical and hold government accountable.

“Yes it needs to be established in law. If the new body could be established by the Scottish Government without reference to Parliament it could just as easily be dispensed with if it proved troublesome. To guarantee the new body's independence and its robust scrutiny of the social security system it needs to have statutory authority.”

Inclusion Scotland

“Permanence and independence through its establishment in law would be preferred as this will provide continuity and consistency as well as ensuring impartiality in times of political change.”

SPAEN

5.15 One organisation noted that although there would be value in establishing it in law, this could exclude ‘grassroots voices’ from the process. It recommended that alongside the scrutiny body there should be an on-going dialogue with disabled people’s organisations and others.

### **Reasons for supporting administrative establishment**

5.16 Those that felt administrative establishment would be sufficient said that there was no need for excessive legislation and that administrative establishment was more flexible, allowing for change when required.

### **Question – If yes, what practical arrangements should be made for the independent body (for example, the law could state how appointments to it are made and the length of time an individual may serve as a member of the body)?**

5.17 120 respondents answered this questions (63 individuals and 57 organisations).

5.18 Some said that the existing UK committees or other public bodies could be used as models for designing the new independent body.

5.19 The main themes emerging were:

- length of time for appointments, remit and way the body operates;
- make-up and interests;
- appointment process; and
- remuneration.

“We would recommend learning is taken from the arrangements for the current Social Security Advisory Committee (SSAC).”

ENABLE Scotland

### **Length of time, remit and operation**

5.20 Many respondents said that appointment to the body should be limited to a fixed tenure, with suggestions ranging from two to fifteen years. Although most respondents advocated for a time limited appointment to the body, one respondent noted that it might be useful to have a system where approval is sought for a person to continue beyond the set term so that expert knowledge is not lost. A few respondents also noted that new appointments to the body should be staggered so there is not a wholesale change of membership.

“It should be established in law, with a clear remit and there should be guidance about how appointments are made and about length of time people can serve.”

Marie Curie

5.21 Respondents said that details around how the body should be run and its remit should be outlined in law, or in a legal constitution.

### **Make-up and interests**

5.22 A large number of respondents felt that the body should represent a range of views from people across society and should include representation for protected groups, third sector, health professionals and academic experts. Respondents mentioned that the committee should not be overly populated with people from government or aligned to any political party. They felt there should be a wide range of people with a range of experience and expertise in social security. A few respondents mentioned that people appointed to the body should have sufficient knowledge and skills.

“Appointments should be made on basis of a person’s skillset and competency levels in order to get the most out of the group. Preferably qualified people to be a big part of it. However, you may want there to be representation from some voluntary organisations also.”

Individual

“The body should be made up of individuals with relevant experience and knowledge, and who are not part of the political elite. Membership should change on a regular basis, with members not being allowed to serve for long periods of time.”

Ypeople

### **Process for appointments**

5.23 Overall, respondents felt that people should be appointed to the committee in a fair manner, with some recommending the use of existing Scottish Government protocols as a model. A few respondents wanted to ensure that people with special interests or biases were not part of the body.

5.24 With regards to the role of Chair for the committee, there were mixed views on whether the chair should be appointed by the committee itself or approved by Parliament.

### **Remuneration**

5.25 A few respondents discussed remuneration for being on the committee. Those that discussed this issue generally felt that membership of the committee should not be highly incentivised and a few felt that it should be voluntary or ‘pro bono.’

## Question – Should there be a statutory body to oversee Scottish social security decision making standards?

**Table 5.2 Should there be a statutory body to oversee Scottish social security decision making standards?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	72	79%	19	21%	91
Organisations	55	83%	11	17%	66
<b>All respondents answering</b>	<b>127</b>	<b>81%</b>	<b>30</b>	<b>19%</b>	<b>157</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

5.26 157 respondents answered the closed part of this question. Of those responding, the majority (81%) thought there should be a statutory body to oversee Scottish social security decision making standards. There were no substantial differences in the views between individuals and organisations. There was broad support from across respondent groups answering the question.

“Yes, experience of UK social security administration suggests that there have been problems with quality of decision-making over many years. In the light of that background ensuring high quality decision-making should be a very high priority for the Scottish Government.”

Individual

5.27 132 respondents provided further comments (66 individuals and 66 organisations).

5.28 The main themes emerging were:

- the need for statutory oversight; and
- potential bodies to undertake the oversight function.

### The need for oversight

5.29 Some generally felt that the current decision making system was flawed and lacked public confidence. These respondents felt that some form of statutory oversight would improve decision making standards and consistency and ensure that peoples’ rights and principles are upheld.

“Current rates of successful appeal in relation to UK benefits suggest there is a serious problem with the quality of initial decision making in relation to social security benefits.”

CPAG Scotland

5.30 A few respondents also mentioned that in the past there have been roles for independent scrutiny of decision making, such as the Administrative Justice and Tribunals Council, Decision Making Standards Committee and Adjudication Officers/Decision Makers. They welcomed the introduction of a statutory body

to re-establish scrutiny of decision making by a trained and knowledgeable body, and a few called for the reinstatement of Decision Makers.

### Potential bodies

5.31 Many felt that this role could fall within the remit of the previously discussed independent scrutiny body, or could be incorporated into another organisation such as Audit Scotland or the Scottish Public Services Ombudsman. A few felt that the reasons behind the need for a decision making standards body were similar to those for an independent scrutiny body. They reiterated their reasons or referred to previous answers.

“We believe statutory oversight and monitoring mechanisms must be put in place; however, we feel that there would be merit in considering whether this could be done by an existing public body.”

Equality and Human Rights Commission

5.32 A few restated the need for regular reporting from the body to provide transparency to the public.

### Question – If yes, should this be a separate body in its own right?

**Table 5.3 If yes, should this be a separate body in its own right?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	57	72%	22	28%	79
Organisations	32	65%	17	35%	49
<b>All respondents answering</b>	<b>89</b>	<b>70%</b>	<b>39</b>	<b>30%</b>	<b>128</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

5.33 128 respondents answered the closed part of this question. While the majority (70%) agreed that it should be a separate body in its own right, a substantial minority (30%) disagreed. Individuals were slightly more likely to agree than organisations. There was broad support from across most respondent groups. Disagreement came mainly from local authority respondents, with a slight majority of this group disagreeing overall.

5.34 101 respondents provided further comments (53 individuals and 48 organisations).

5.35 The main themes emerging were:

- the statutory body should be impartial and independent of the government;
- the body could be part of the scrutiny body; and
- the body could be part of another existing organisation.

### Reasons for supporting a separate body

5.36 Where respondents said ‘yes’, they felt that this body needed to be independent from the government and the social security agency that had

made the original decision. A large number of respondents felt that this body should be entirely impartial and transparent so that the public could truly have confidence in it. A few noted that this body would have a different role to the scrutiny body, and so it needed to be a distinct body.

“For independence and therefore impartiality to the process. Autonomy would make any recommendations more meaningful, and genuinely have legislative and service improvement at the core.”

Grampian Housing Association

“It must be seen to be outwith the political bubble machine.”

Individual

### **Reasons for not supporting a separate body**

5.37 The main reasons for not supporting a separate body were that responsibilities could be incorporated into the previously discussed scrutiny body, the social security agency, or another existing organisation. These points were made by some, and local authority respondents in particular.

“As detailed above, an independent body should oversee the social security decision making standards but this could be combined with the responsibilities of the scrutiny body.”

North Ayrshire Council

“I don't think it needs to be. I think it would be fine to have one organisation that's tasked with scrutiny.”

Individual

5.38 A few respondents who supported a separate body suggested models that could be built on or replicated such as Her Majesty's Inspectors (HMIs) and Audit Scotland.

### **Question – Do you have any other views about the independent scrutiny of social security arrangement in Scotland (e.g. alternative approaches)?**

5.39 74 respondents answered this question (44 individuals and 30 organisations). Respondents restated the importance of transparency, accountability and regular reporting from the social security system.

5.40 The main themes emerging were:

- interests and expertise to include;
- making use of evidence to inform scrutiny; and
- learning from existing models.

“They should be independent from the government and the social security department also to be accountable to the users of social security by questionnaires and random interviews.”

Individual

## Interests and expertise

5.41 Some respondents felt that any independent scrutiny should include opinions and expertise from a wide range of people including:

- people using social security services/user panels;
- independent advice agencies;
- third sector;
- healthcare professionals; and
- frontline social security workers.

“Scrutiny can only fairly be made by those who have experience (in reality, not on paper) of the same problems faced by service users. The members of these scrutiny bodies must be aware of the intersectional issues faced by those accessing such economic recompense services and be aware of how poverty is exacerbated by having to deal with multiple public and commercial organisations.”

Individual

5.42 A few respondents suggested that independent scrutiny could take place at a local level, within the community.

## Evidence based approaches

5.43 A few respondents mentioned that independent scrutiny should be part of and informed by on-going monitoring and evaluation of the impact of services. This could include the views of people using social security services through focus groups or surveys.

## Learning from existing models

5.44 A few respondents again mentioned that existing successful models of inspection organisations could be used as models for the design of a Scottish independent scrutiny body e.g. Her Majesty’s Inspectors (HMIs) and European Foundation for Quality Management (EFQM). They also wanted the design to be simple and efficient, making use of existing infrastructure where possible.

“It will always be important for the Scottish Government to continue to listen to the views of all stakeholders through a continuous process of evaluation and monitoring, written consultations, parliamentary working groups, and other such activities.”

ENABLE Scotland

“In addition to the formal approaches given above, we recommend a series of informal opportunities to participate in a scrutiny “dialogue” in order to provide mechanisms for ‘ordinary voices’ in the community to be heard. For example, independently facilitated ‘community conversation’ events; reference groups; small funded projects; roadshow events around the country; online and paper based surveys and so on.”

Glasgow Disability Alliance

# Part 2: The Devolved Benefits – Disability Benefits

## About this Part of the Consultation

Part 2 of [the consultation](#) explored the devolved benefits in detail. Many of the questions related to disability benefits. These questions covered:

- the current benefits of Disability Living Allowance, Personal Independence Payment and Attendance Allowance;
- how the new Scottish social security system should operate in terms of disability related benefits;
- proposals for eligibility;
- terminal illnesses and a 'whole of life' approach;
- proposals for assessments;
- proposals for awards;
- alternatives to cash;
- Mobility;
- additional support;
- alignment with other devolved services;
- Industrial Injuries Disablement Benefit; and
- Severe Disablement Allowance.

## Key Themes

Here we provide an overview of the main themes emerging from the consultation responses, for Part 2 questions relating to disability benefits.

### **Scope to modernise and simplify the approach**

Respondents highlighted the positive aspects of DLA, PIP, AA and IIDB, including that the approach was holistic and fair, and the benefits were non-means tested. They also identified a number of weaknesses of the current approach, which related mainly to the complex and stressful application and assessment processes - particularly for DLA and PIP, and also the perception that the eligibility criteria for DLA, PIP and AA discriminated against certain groups.

### **Accessible, person-centred and flexible approach**

Overall, respondents felt that the new Scottish social security system should be more flexible, accessible and person-centred. It was felt that applicants should be able to decide how to engage with the system, choosing from a range of options that suited them best, whether paper-based, online, by telephone, face to face, or using other types of technology. Others underlined the importance of applicants being treated with dignity and respect throughout their dealings with the new social security agency. There was support for better joint working and communication between agencies. In relation to data sharing, there was some concern about potential breaches of security, and respondents emphasised the importance of securing consent.

### **The importance of advice and advocacy**

Respondents highlighted the importance of having access to advice and advocacy support, to help applicants through the application, assessment and appeals processes, as and when required, and that this should be clearly signposted.

### **The importance of transparency and fairness**

Overall, respondents were keen to ensure that the eligibility criteria was transparent and fair. A large number of respondents felt that the current approach to determining eligibility, based on assessing the impact of a condition or illness on an individual's daily life was appropriate and fair. However, respondents underlined the importance of ensuring that the eligibility criteria took account of a wide range of conditions or illnesses, including mental health, other fluctuating conditions, and also learning disabilities. In addition, there was strong support for the 'special rules' that currently apply to terminally ill people, to be extended to a wider range of conditions and illness.

### **Responsive, streamlined and fair**

In relation to supporting people with terminal illnesses, most respondents felt that the current UK-wide PIP and AA process was responsive and appropriate. Respondents felt that people were treated in a compassionate way, with their claims being processed quickly to minimise stress and anxiety. Some respondents highlighted that there might be a role for the new Scottish social security agency to raise greater awareness amongst health professionals about benefit support available to people with terminal illnesses. Most respondents agreed that the Scottish Government should explore a consistent approach to eligibility across all ages.

### **Simplified approach based on evidence**

Respondents felt that the current assessment processes for disability benefits could be improved, and called for a simplified approach that relied primarily on evidence from a range of key stakeholders. Some of these respondents also noted that the new Health and Social Care Partnerships should allow a more joined up approach to be adopted, making better use of data sharing where consent has been given. There was strong agreement that face to face assessments should be the exception rather than the rule, and if required, should be undertaken by suitably qualified health professionals, and held in convenient locations.

### **Minimise stress and anxiety**

Most respondents thought that people should not have to be re-assessed where their condition or circumstances were unlikely to change, as this caused great stress and anxiety. Some respondents felt that there was scope for the new Scottish social security agency to develop a more flexible approach. Others said that indefinite or lifetime awards should be awarded to people whose conditions will not get better. Respondents identified specific instances where the system seems unfair – such as individuals losing their right to a Motability vehicle before an appeal has been heard in relation to their disability benefits.

### **Increased choice and flexibility**

A large number of respondents thought that people should be offered the choice of spending their benefit on alternative support. Many felt that this would offer increased choice to individuals and enable them to take control of managing their

care and support needs. This was seen to be important in maintaining an individual's dignity and respect. Others highlighted the importance of providing clear information about the range of options that might be available to applicants. In addition, views were fairly evenly split about whether getting a one-off lump sum payment, would be more appropriate than getting regular payments in certain situations. Many respondents called for flexibility on this, stating that the individual should have the right to choose what suited their circumstances best.



## **6. Disability Benefits**

## Options for devolved disability benefits – DLA, PIP and AA

6.1 The Scottish Government set out its proposals for DLA, PIP and AA in Part 2 of the [consultation document](#).

### Question - What is right with Disability Living Allowance (DLA)? What is wrong with DLA?

6.2 220 respondents provided comments on both the positive and negative aspects of DLA (128 individuals and 92 organisations).

#### Positive Aspects of DLA

6.3 Overall, the most commonly mentioned themes were:

- promotes independence and choice;
- holistic, fair and flexible assessment process;
- non-means tested benefit; and
- automatic / lifetime awards.

#### Promotes independence and choice

6.4 A large number of respondents, mainly individuals and organisations with interests in disability and long term conditions, local authority respondents and housing associations commented on the positive impact of DLA on the quality of people's lives, enabling them to work and to continue to live independent lives. For some individuals, DLA was seen as a lifeline that helped people to lead normal lives.

"So it does pay for independence. And also gives control over your own affairs. It levels the playing field and puts you on the same level as your friends and family."  
Royal National Institute of Blind People (RNIB) Scotland

"DLA has helped me stay in employment, purchase various aids and have a life that would have otherwise been difficult to achieve. I have nothing negative to say."  
Individual

"DLA seeks to facilitate participation in society by compensating for the barriers often experienced by people with disabilities and providing additional support to overcome them."  
ENABLE Scotland

#### Holistic, fair and flexible assessment process

6.5 A large number of respondents felt that the assessment process was holistic, fair and flexible enough to take account of a wide spectrum of conditions and illnesses - whether severe or moderate, whether people were in or out of work - and also looked at the impact of this on people's everyday lives. In particular, Children in Scotland and a few individuals commented that sometimes parents can wait a long time for a formal diagnosis of their child's condition, especially for conditions on the autism spectrum, and therefore welcomed the fact that a formal diagnosis was not required to access DLA.

“...we are positive about the fact that DLA can be applied for and awarded even when a child does not have a diagnosis – it is sufficient that their need for extra care or supervision is caused by a physical or mental condition, even if that condition has not yet been formally diagnosed.”

Children in Scotland

6.6 In addition, some respondents, mainly individuals, were positive about the fact that the assessment process did not rely on a face to face assessment, and focused largely on the application form and supporting evidence provided by health professionals.

“... this was an easy process as it did not involve face to face assessment and decisions were based on comprehensive written submissions.”

Individual

### **Non-means tested benefit**

6.7 Many respondents highlighted the fact that DLA was a non-means tested, universal benefit based on need that was not taxable and did not affect other benefits. A few also noted that DLA could also act as a passport benefit to other means tested benefits e.g. Housing Benefit.

“DLA is non-means tested and must remain so as it enables people to seek employment and equality (extra costs for having a disability can be immense).”

Individual

6.8 A few respondents also made the point that DLA was a well-established benefit that was well understood, and that over time a body of supporting case law and legislation had been built up around it.

### **Automatic lifetime awards**

6.9 Some respondents, mainly individuals and organisations with an interest in disability and long term conditions, commented positively on the fact that it was possible to get automatic or lifetime awards for certain long term conditions or illnesses. Some felt this helped to remove stress and anxiety from the application and assessment process for some people.

“As someone who was assessed as eligible for a lifetime award and who has been lucky enough to have it for many years I can honestly say its transformed my life!!”

Individual

### **Negative aspects of DLA**

6.10 Overall, the most commonly mentioned themes were:

- complex application process;
- too much focus on physical disability;
- eligibility criteria unfair and restrictive; and
- assessment does not look at impact on daily life.

### **Complex application process**

6.11 Many respondents, mainly individuals and housing and homelessness organisations, commented that the application form was complex and difficult

to complete without support. Some felt that certain questions about medical problems were intrusive and blunt.

“The application process is long, complex and wholly negative, carers and family members completing these forms speak of the impact upon their well-being, describing one’s child through a negative lens feels dishonourable and disloyal.”  
Glasgow Council for the Voluntary Sector

“Forms are very difficult to use or understand. The questions seem designed to repeat themselves and also to trip up the claimant.”  
Individual

6.12 Others expressed concern that some of the terminology and ‘descriptors’ used in the forms were outdated and had a negative focus. A few individuals also said that the application process was humiliating and insensitive.

### **Eligibility criteria unfair and restrictive**

6.13 Some respondents commented that the assessment process focused too much on ‘physical disability’, and as a result did not adequately take account of other conditions or illnesses such as mental health, autism spectrum disorder, post-traumatic stress disorder, people suffering from domestic abuse, cancer and other relapsing and remitting conditions and illnesses.

6.14 In addition, some respondents felt that the eligibility criteria were sometimes unclear, unfair, and in some cases restrictive. Respondents gave a number of examples of where they felt this was the case:

- age limits exclude certain groups e.g. infants, children over 16, and people over 64;
- assessing entitlement based on day / night time needs was felt to be unfair;
- ‘higher rate’ mobility component was seen as hard to get for individuals with cognitive impairment or learning disabilities;
- rates for mobility component not taking account of rural and remote locations; and
- lack of consistency in how ‘care’ and ‘mobility’ component awards are made for people with similar needs.

“The higher rate mobility route for the severely mentally impaired child is very difficult for claimants to understand. The law around entitlement is so complex that many mentally impaired children are refused. This needs to be looked at again.”  
Gordon Rural Action

“Disability Living Allowance is highly discriminatory on the grounds of age, as people have to be under 65 when they acquire their mental health condition (or other disability) to have an entitlement. As this benefit exists to enable people to overcome barriers of participation due to society not being designed to meet disability needs, the implication is that people aged over 65 can legitimately be excluded from society.”  
Age in Mind

- 6.15 Finally, a few respondents also pointed out that people were not always aware that they might be entitled to claim DLA as the eligibility criteria were often perceived as ambiguous.

### **Assessment process stressful and undignified**

- 6.16 Some respondents, mainly individuals, highlighted that the assessment process was very stressful and undignified, and left them feeling anxious that they might lose their benefit or not succeed with their application. Some also commented that the timescales between being assessed and getting notification of an award were too long, and that communication was often poor.
- 6.17 Some respondents, mainly individuals and organisations with an interest in disability and long term conditions, felt strongly that people with certain lifelong and life-limiting conditions and illnesses should not have to be re-assessed, as this was unnecessary and too stressful for the individual concerned, as well as being costly to administer.

“I received DLA indefinitely and in the last few years have been living in a threatening environment frightened that my DLA would be taken away. My health is worse not improved and in cases like mine, the situation should continue and not have to go through assessment after assessment. It is cruel, and because I suffer from a rare condition, those who would examine me, have no knowledge of my condition.”

Individual

- 6.18 A few respondents, mainly individuals, felt that medical assessments should only be undertaken by suitably qualified health professionals, and not by private companies who were considered to be motivated by profit.

### **Assessment process does not look at impact on daily life**

- 6.19 Some respondents expressed concern that the assessment process focused too much on ‘care’ and ‘mobility’ needs and ‘bodily functions’, and as a result did not take account of the wider impact of a particular condition or illness on an individual’s daily life. Respondents suggested that there should be greater flexibility in the assessment process to cover the cost of things that were seen to be essential for people to live independently, with dignity and respect, for example:
- personal laundry;
  - clothes;
  - cleaning;
  - energy costs;
  - transport costs, including taxis; and
  - specialist therapies.

“No account is taken of the claimant’s actual living situation, for example, if they are socially isolated or have no accessible transport. Help not directly linked to ‘bodily functions’ that may be required to maintain dignity, such as laundry or housework, is not taken into account.”

West Lothian Council

## Question - What is right with Personal Independence Payment (PIP)? What is wrong with PIP?

6.20 240 respondents provided comments on both the positive and negative aspects of PIP (133 individuals and 107 organisations).

### Positive Aspects of PIP

6.21 Overall the most commonly mentioned themes were:

- holistic approach to assessment;
- non-means tested benefit; and
- special provisions for certain groups.

### Holistic approach to assessment

6.22 Many, mainly local authority respondents and individuals, welcomed the holistic and positive approach to the PIP assessment process, feeling that this was more able to take account of the impact of a wide range of conditions or illnesses (including mental health) on a person's day to day life. This was seen to be an improvement on the assessment process for DLA, which tended to focus on what a person could or couldn't do.

"It is based on how a health condition affects the claimant's life."

Cyrenians

6.23 A few respondents also felt that the PIP application process worked well and the claim form was easier to complete. Some highlighted that the new points based system was clearer in terms of eligibility.

"Some disabled people and advice workers found the new points based entitlement criteria easier to use to gain entitlement."

Inclusion Scotland

### Non-means tested benefit

6.24 Some, mainly local authority respondents and organisations with an interest in disabilities and long term conditions, noted that PIP was a universal non-means tested benefit that was not taxable and did not affect other benefits.

### Special provisions for certain groups

6.25 A few respondents welcomed the fact that there was scope within PIP to respond to and deal sensitively with people who had particular illnesses or conditions. For example, claims from people with terminal illnesses could be fast tracked.

"PIP with both its care and mobility components has a hugely positive impact on the quality of life for those in receipt. Terminally ill applicants are dealt with speedily and with compassion."

Individual

### Negative Aspects of PIP

6.26 Overall the most commonly mentioned themes were:

- impact of face to face assessments;
- application process complex and demoralising;
- eligibility process limiting and discriminatory;
- assessment process stressful and lacks transparency; and
- impact of transition from DLA to PIP.

### **Impact of face to face assessments**

6.27 A large number of respondents, mainly individuals, local authority respondents and advice and support organisations, expressed concern at the impact on claimants of face to face assessments and regular re-assessments. Respondents described the assessment process as being stressful, undignified and demoralising, often leaving people feeling anxious and in a constant state of fear that they might lose their benefit entitlement.

“All groups reported the detrimental effect the process has on their mental health – both in the short and long terms. Participants reported feeling ill before their assessments and very distressed after assessments.”

SAMH

6.28 Others stated that the assessment process was not suited to people with illnesses or fluctuating conditions that might seem ‘hidden’, such as mental health, autism spectrum disorder, HIV and fibromyalgia.

6.29 Some respondents highlighted the negative attitudes of staff at assessments as being a source of anxiety and stress. Some said that during assessments, they felt under suspicion and that assessors were constantly trying to catch them out with what they felt were intrusive questions.

“Although I'm aware I did not have the worst of experiences it was stressful, demeaning and I found it very hard to convey the breadth of how my disability has affected my life since diagnosis 5 years ago. I felt as if I had to watch for questions to 'catch me out', and this affected how confident I felt in answering questions.”

Individual

“Evidence has shown that many people with mental health conditions have been put off claiming PIP due to the “attitude” of the adviser taking the call. Staff have been described as abrupt, rude, uninterested and uninformed.”

AdvoCard

6.30 Others questioned the expertise of some assessors, and whether they were qualified to make judgements and decisions in relation to certain conditions or illnesses. In some cases, respondents said that medical evidence that they had provided from GPs and other health professionals or experts (which sometimes had to be paid for) was sometimes ignored by assessors.

“The face to face assessments are a sham, unfair and carried out by inexperienced medical professionals with no background or understanding of the disability involved. There is no compassion in the system, claimants are considered guilty and feel on trial leading to worsening mental and physical health.”

Individual

“Assessment is not always by doctors and may be completed by other ‘health professionals’ such as physiotherapists or nurses who may be working out with their expertise.”

Midlothian Community Planning Partnership / Midlothian Council

6.31 A few respondents also commented on the fact that very few assessments were carried out in the home and therefore people, regardless of their condition or illness, were expected to attend assessment centres. The centres could sometimes be far away from where people lived, and for some this could be logistically challenging, as well as expensive.

“The assessment is lengthy and often entails having to attend at an examination centre some distance away (up to 90 minutes travel) which is simply too much for some claimants, and for others who make it despite a struggle the fact they have been able to attend is used to justify refusal.”

Rights Advice Scotland

### **Application process complex and demoralising**

6.32 A large number of respondents, mainly individuals, said that the application process was overly complex and overwhelming. Some said that it had had a detrimental impact on their health and wellbeing.

“It is appreciated that there needs to be a standard application process but the current PIP application form is confusing, open to interpretation and in most cases needs expert support or guidance to complete.”

Individual

“Long and difficult forms to fill out. Some questions very ambiguous. Claimants are given a time limit to fill in form and return, but then have to wait for an unspecified length of time worrying about result.”

Individual

6.33 Some of these respondents were also critical of the two stage application process for applying for PIP that involved an initial telephone conversation with the Department for Work and Pensions (DWP), followed by the requirement to complete a complex 35 page application form, within a very short timescale.

“From the very outset, deaf young people are denied full access to the claim process because they are expected to use the telephone to request an application form.”

National Deaf Children’s Society

### **Eligibility criteria restrictive and discriminatory**

- 6.34 A large number of respondents, mainly individuals, local authority respondents and organisations with interests in disability and long term conditions, felt that the eligibility criteria for PIP were too rigid and restrictive. There was also concern that there was too much focus on 'physical functionality', and that the 'descriptors' used to determine eligibility were often not relevant to, or did not recognise, a wide range of complex conditions and illnesses, particularly fluctuating conditions like mental health.

"PIP takes little cognisance of the needs of people with learning disabilities, developmental disorders e.g. Asperger's and autism and those experiencing mental ill-health. We would advocate for a process which acknowledges the spectrum of ill-health and disability."

Glasgow Council for the Voluntary Sector

- 6.35 In addition, some of these respondents were of the view that the eligibility criteria were difficult to understand and confusing. As a result, it was felt that the criteria were therefore open to interpretation, both by those completing the forms, and also those who were assessing the forms.
- 6.36 There was also a feeling amongst some respondents that the eligibility criteria for PIP discriminated against certain groups, for example, people over 65 and refugees and asylum seekers.

### **Assessment process stressful and lacks transparency**

- 6.37 A large number of respondents, mainly individuals and organisations with an interest in disability and long term conditions, expressed concern that the assessment process was very stressful and humiliating, often resulting in severe distress, anxiety and loss of dignity for some claimants. Others commented that the assessment process was overly reliant on a rigid and mechanical points based system that was not capable of taking account of the impact of conditions and illnesses on people's lives.

"The assessment process appears crudely applied, with face to face assessment being too susceptible to 'expected outcomes' (targets) of those carrying out the assessment."

Rights Advice Scotland

- 6.38 In particular, respondents highlighted that automatic reviews had also created additional stress and anxiety, especially in cases where people had long term illnesses or conditions. Some of these called for automatic or lifetime awards for people with lifetime illnesses or degenerative conditions.
- 6.39 Many respondents noted that the decision making timescales between application, assessment and confirmation of award were too long, and often meant that claimants were faced with financial uncertainty for long periods of time.

"At the outset, lengthy delays of up to 15 months for a claim to be assessed, leaving people in hardship."

Citizens Advice Scotland

6.40 Some respondents felt that the appeals process was unfair and unclear, and that this also compounded people's anxiety and stress. Others highlighted the fact that the high number of successful appeals demonstrated the poor quality of decision making by assessors.

"DWP decision makers and assessors seem to be trained and instructed to find ways to refuse an application, rather than to help applicants; the system seems to be deliberately designed to 'grind down' applicants, especially so that they are less able or inclined to appeal against an unfavourable decision."

Individual

"It (PIP) is also bogged down in complaints about people not getting what they are entitled to. I myself had this issue but just accepted the outcome rather than deal with the stress of appealing, as I suffer from mental health problems and any additional stress is something I avoid at all costs."

Individual

### **Impact of transition from DLA to PIP**

6.41 Many respondents, mainly individuals, local authority respondents and organisations with an interest in disability and long term conditions, expressed concern that in their view the eligibility criteria for PIP were more restrictive, and they were aware of many instances of people who had been eligible for DLA, who were no longer eligible for PIP. Respondents provided a range of examples where this had had a detrimental impact on people and their living circumstances, such as, people losing their Motability cars or access to other benefits, and others losing their lifetime awards.

"The fact that the 3 levels of disability grading has been reduced to 2 makes it less fit for purpose, and many people are being downgraded so that they lose mobility cars etc. which they require to live independently. I know of many people who have gone from being quite independent and happy with how they were coping with their disability to being fearful, stuck in their house and unable to pay basic services such as heating due to being downgraded."

Individual

### **Question - What is right with Attendance Allowance (AA)? What is wrong with AA?**

6.42 172 respondents provided comments on both the positive and negative aspects of PIP (90 individuals and 82 organisations).

#### **Positive Aspects of AA**

6.43 Overall the most commonly mentioned themes were:

- holistic approach to assessment;
- application process simple and clear; and
- non-means tested benefit.

## **Holistic approach to assessment**

6.44 Many, mainly individuals and local authority respondents, welcomed the fact that the AA assessment process was flexible and took a holistic view of an individual's needs. It also looked at the impact of the person's condition or illness on their daily life. In particular respondents were positive about the fact that the assessment process also took account of the views of carers, family members and care workers and social workers.

"Allows flexibility and consideration of the 'bigger picture' as to how an illness or a disability affects and the level of attention or supervision required and the social impact this has on the applicant."

East Ayrshire Council

6.45 Some respondents also made the point that AA was a positive benefit as it enabled people to remain in their own homes for longer, since they were able to use their AA to pay for extra care and support.

"It's important to keep people in their own homes and independent for as long as possible. It allows older people to get taxis, ready prepared food, hire a cleaner / gardener / personal assistant for the things they can no longer do."

Individual

## **Application process simple and clear**

6.46 Some, mainly local authority respondents and organisations with an interest in disability and long term conditions, commented that AA was 'fit for purpose' and was simple to apply for. A few respondents highlighted the fact that the application process was largely paper based and did not rely on an intrusive medical assessment.

"The paper-based assessment process means that most applicants with Parkinson's receive the benefit without the stress of a face to face assessment. People are able to apply using either an online form or a hard copy, unlike the rigid hard-copy only approach adopted for PIP."

Parkinson's UK in Scotland

6.47 A few respondents also noted that there were special provisions for people with terminal illnesses or long term conditions, which meant that they automatically qualified for the higher rate allowance, and decisions were often fast tracked.

## **Non-means tested benefit**

6.48 Some, mainly local authority respondents and organisations with an interest in disability and long term conditions, noted that AA was a non-means tested benefit that was not taxable, did not affect other benefits and could also act as a passport to other means tested benefits.

## **Negative aspects of AA**

6.49 Overall the most commonly mentioned themes were:

- lack of mobility component;
- eligibility criteria discriminatory;

- application process complex and intimidating; and
- lack of awareness of entitlement.

### **Lack of mobility component**

6.50 A large number of respondents, mainly individuals and local authority respondents, commented that AA did not have a mobility component, and it was felt that was discriminatory towards people who were over 65. In particular, it was felt that this did not reflect the increase in life expectancy, and was out of kilter with the changes to retirement age.

### **Eligibility criteria discriminatory**

6.51 Many local authority respondents, advice and support organisations and individuals, felt that the eligibility criteria were discriminatory not only in terms of age, but also towards certain groups, such as people with long term or lifelong illnesses or conditions.

“Why should someone becoming disabled at 70 be considered less entitled to a full and active life than they would have been presumed entitled to at 60?”

Aberdeen Action on Disability

“The rules around age (i.e. pensionable age) do not apply in the disability benefit world and this is an anomaly.”

NHS Lanarkshire

6.52 A few respondents also noted that the ‘backwards test’ in AA was 6 months as opposed to 3 months with other benefits. This was felt to be unfair, and could have an impact on increased poverty levels, and those who were already financially insecure.

### **Application process complex and intimidating**

6.53 Some respondents, mainly individuals and local authority respondents, commented that the application process was too complex and that the forms were too long, inaccessible for some, and daunting to complete.

“It can be extremely intimidating for older people to complete the form, and it is often difficult for carers, family members or friends to help.”

Glasgow Council for the Voluntary Sector

### **Lack of awareness of entitlement**

6.54 A few respondents highlighted the fact that many people were unaware that they might be entitled to AA, or that they might also qualify for other benefits, such as Blue Badges or Severe Disability Premium, if they were in receipt of AA. Some of them suggested that AA should be more widely publicised to increase take up.

“I think this benefit should be better publicised so that people with terminal or debilitating conditions can apply for it earlier.”

Individual

**Question - Is there any particular change that could be made to these disability benefits that would significantly improve equality? Please explain your answer.**

**Table 6.1 Is there any particular change that could be made to these disability benefits that would significantly improve equality?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	105	91%	11	9%	116
Organisations	49	98%	1	2%	50
<b>All respondents answering</b>	<b>154</b>	<b>93%</b>	<b>12</b>	<b>7%</b>	<b>166</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

- 6.55 In total, 166 respondents answered the closed part of this question. Most (93%) of those that responded thought that changes could be made to disability benefits to improve equality. There was overall support from across respondent groups.
- 6.56 Some respondents chose not to answer the closed question and opted to provide comments and suggestions. Comments and suggestions on changes that could be made to disability benefits to improve equality came from 209 respondents (119 individuals and 90 organisations).
- 6.57 Overall, the most commonly mentioned themes that emerged from these comments and suggestions were:
- need for a ‘whole life’ approach to disability benefits;
  - mental health should be recognised and given the same priority as physical disabilities and conditions;
  - application process should be ‘person-centred’, simpler and more streamlined;
  - assessment process needs to be more positive and holistic;
  - less face to face assessments, more reliance on supporting evidence from a range of sources;
  - review eligibility criteria, currently too many barriers and unfair; and
  - people should have a right to independent advice.
- 6.58 These themes are explored in more detail across the next four questions.

**Question - How should the new Scottish social security system operate in terms of a person applying for a disability related benefit?**

- 6.59 189 respondents provided comments on how the new Scottish social security system might operate when a person applies for a disability related benefit (117 individuals and 72 organisations).
- 6.60 Overall the most commonly mentioned themes were:
- need for a more flexible and accessible application process;
  - simpler and more streamlined application process;

- access to support and advice; and
- right to be treated with dignity and respect.

### **Need for a more flexible and accessible application process**

6.61 A large number of respondents, mainly individuals, local authority respondents and organisations with an interest in disability and long term conditions, called for the application process to be much more flexible, accessible and ‘person-centred’. Many suggested that different methods or formats of application should be available, including online, telephone, paper based or ‘in person’. This would help to ensure that the application process could be tailored to a person’s needs, capabilities and preferences.

“The process of applying for a disability benefit should be as straight-forward and accessible as possible, with the application ‘pathway’ designed around the needs of the most vulnerable claimants.”

Parkhead Citizens Advice Bureau

6.62 The National Deaf Children’s Society also suggested that Scotland should lead by example and make available alternative forms of communication such as email, live webchat, text messaging and BSL to ensure the claims process is fully accessible to deaf young people.

6.63 Others made suggestions that applications for disability benefits could be triggered by other services, particularly GPs or hospital consultants. A few respondents also said that it would be beneficial to have a welfare benefits officer based at local GP surgeries who could help people to make claims.

“Application forms for disability benefits should be available in advice agencies, post offices, GP surgeries etc.”

Inclusion Scotland

6.64 Some respondents also proposed that there should be much greater clarity in terms of the application process and associated timescales, and that this would help to minimise the anxiety and stress often experienced by applicants. Others suggested that having access to a named advisor would also be beneficial.

“There needs to be clear information on how and when to apply, updates on progress with their application, the option of having a “named person” to receive information on their behalf and enough places to get advice and help.”

Learning Disability Alliance Scotland

### **Simpler and more streamlined application process**

6.65 A large number of respondents, mainly individuals and organisations with an interest in long term conditions, called for the application process to be more streamlined, straightforward and simple. As part of this, it was felt by some that the eligibility criteria needed to be clear from the outset and expressed in plain English.

“The system needs to be simple with forms in plain language and not too long.”  
Bobath Scotland

“The application forms need to be redesigned. Many health conditions do not fit into the application form's criteria.”  
Individual

6.66 A few respondents also proposed that there should be one application form covering all of the current disability benefits.

### **Access to support and advice**

6.67 Some respondents, mainly individuals, local authority respondents and organisations with an interest in disability and long term conditions, underlined the importance of people getting access to appropriate advice and support to help them to make their claims. Many of these felt that this would help to remove some of the stigma and barriers faced by people when deciding to make claims.

“People should be advised at all stages that they can seek help and assistance from quality advice agencies that are suitably trained to help complete forms. There should be a simple advice line where people can quickly check if they are eligible and also obtain guidance on completing application.”  
NHS Lanarkshire

“Formal and adequately funded referral pathways should also be established between the Scottish social security agency and independent advice agencies. This would allow for clients who wanted independent advice on welfare rights and / or income maximisation to be put directly in touch with an appropriate agency.”  
CPAG Scotland

### **Right to be treated with dignity and respect**

6.68 Some respondents underlined the importance of being treated with dignity and respect and that this should be a guiding principle of both the application and assessment processes.

“At the moment the process is humiliating and it seems that they want to avoid paying benefits rather than supporting people with disabilities.”  
Individual

“We should treat people as customers / clients not claimants. We must remove the perceived stigma that those who have disabilities are some sort of welfare benefit cheats.”  
Individual

### **Question - How should the new Scottish social security system operate in terms of the eligibility criteria set for disability related benefits?**

6.69 In total, 179 respondents provided comments on how the new Scottish social security system might operate in relation to the eligibility criteria set for disability related benefits (103 individuals and 76 organisations).

6.70 The main themes emerging were:

- transparent, flexible and fair;
- a holistic and balanced approach;
- automatic entitlement for certain conditions; and
- using best practice.

### **Transparent, flexible and fair**

6.71 A large number of respondents, mainly individuals, organisations with an interest in disability and long term conditions and advice and support organisations, said that the eligibility criteria needed to be clear, transparent and easy to understand. Others also felt that the criteria needed to be sufficiently flexible and sensitive to take account of fluctuating conditions, such as, mental health, MS and fibromyalgia.

“We hope eligibility criteria designed by the Scottish Government will consider the implications of hidden symptoms and fluctuation.”

MS Society Scotland

“The assessment / consideration questions need to be inclusive for all illnesses and disabilities. At present the questions are not necessarily worded to consider mental health issues.”

Dumfries and Galloway Council

“In creating and implementing assessment processes which are specific to Scotland, the often crippling impact of mental health issues on individuals must be given key consideration. It is unfair to suggest that a person’s ability to work should be solely based on physical ability.”

Scottish Women’s Convention

### **A holistic and balanced approach**

6.72 Many respondents, mainly individuals and organisations with an interest in disability and long term conditions, called for a holistic approach to be taken to setting eligibility criteria. Some of these felt that it was important to take a balanced look at how a condition or illness impacted on a person’s daily life, taking account of both care and mobility needs.

“The system should help any person with a disability likely to be long term that impacts on their daily life and restricts what they are able to do without help either through aids or other people. There should be different rates to reflect that some people will obviously have more restrictions than others.”

Individual

### **Automatic entitlement for certain conditions**

6.73 Some respondents, mainly individuals, suggested that there should be a comprehensive list available of conditions and illnesses that would qualify for automatic entitlement to certain benefits. It was felt that this would be more dignified for people with long term or lifelong conditions, as they would not be required to go through regular assessments and re-assessments.

“We would like the forthcoming Scottish social legislation to include a schedule of conditions that automatically qualify for benefit.”

Disability Agenda Scotland (DAS)

6.74 Related to this, the Scottish Commission for Learning Disability felt that there was a strong argument for looking at the feasibility of granting people with learning disabilities lifetime awards following assessment.

### Using best practice

6.75 Some, mainly local authority respondents and individuals, suggested that the eligibility criteria should be informed by best practice from the current DLA, PIP and AA approaches.

“The eligibility criteria should seek to draw on the best of the DLA and PIP criteria and continue to use the impact of an impairment as a proxy for the extra costs of disability.”

CPAG Scotland

6.76 In contrast, a few respondents noted that the current points based system used for PIP was not the most appropriate way to assess a person’s eligibility to benefits.

“Eligibility should be consistent and fair and based on evidence from professionals who know the claimant or condition well. It should never be a stressful tick box exercise carried out with a barely trained person working for a private contractor.”

Scottish Out of School Care Network

### Question - How should the new Scottish social security system operate in terms of the assessment / consideration of the application and the person’s disability and / or health condition?

6.77 197 respondents provided comments on how the new Scottish social security system might operate in relation to the assessment / consideration of the application and the person’s disability and or / health condition (122 individuals and 75 organisations).

6.78 Overall the most commonly mentioned themes were:

- assessments by qualified professionals;
- minimise need for face to face assessments;
- paper based approach that maximises use of existing evidence; and
- automatic entitlement for certain conditions/illnesses.

### Assessments by qualified professionals

6.79 A large number of respondents, mainly individuals and organisations with an interest in disability and long term conditions, highlighted the importance of assessments being carried out by qualified health and care professionals, such as, a GP or consultant, community psychiatric nurse or support worker. In addition, some said that it was important that it was someone who knew the

individual and had an understanding of the impact of their particular condition or illness on their daily life.

“Any assessments of a person's disability should be done by people who are trained in diagnosing that specific health condition.”

Individual

“The medical assessment should be undertaken by someone who knows and understands the condition that the claimant has, and is therefore able to understand how that condition may impact on the daily living of the claimant.”

Action for M.E.

6.80 There was also a strong consensus, particularly amongst individuals, that assessments should not be carried out by private companies or individuals who did not have a relevant qualification.

“Assessment must be made by a medical professional, not a private firm that knows nothing about disability, this is ridiculous. A system geared up with money incentives to refuse claimants in many cases is unjustified.”

Individual

### **Minimise need for face to face assessments**

6.81 Many respondents, mainly individuals and organisations with an interest in disability and long term conditions, felt that face to face assessments should be the exception rather than the norm, for example, in cases where medical evidence is seen to be inconclusive, or where the individual has actually requested a face to face assessment.

“Face to face assessments should only be used in exceptional circumstances or where claimants choose this approach.”

Midlothian Community Planning Partnership / Midlothian Council

6.82 Some also said that if a face to face assessment was required, this should be done in the person's home, or within the local community, to minimise disruption and stress.

6.83 Others suggested that medical assessments should be tailored to an individual's needs, and should also be sensitive to their condition or illness, particularly if this was a fluctuating condition, such as, mental illness, arthritis, or multiple sclerosis.

“The Scottish social security system should look towards ensuring that mental health is given as high a priority as physical disability. Many women in the criminal justice system have mental health issues which can affect their ability to cope with applying for benefits on release from prison.”

Scottish Working Group on Women's Offending

“Women said that they found the assessment process extremely stressful, that it was like an interrogation and that the assessors had no understanding of, or training in domestic abuse. Attending assessments had an enormous impact on their health.”

Scottish Women's Aid

### **Paper based approach that maximises existing evidence**

6.84 Many respondents, mainly individuals and local authority respondents, were of the view that the assessment process should be paper or electronically based, and should make use of existing medical and other supporting evidence. A few local authority respondents also suggested that more should be done to promote data sharing across public sector bodies and agencies.

### **Automatic entitlement for certain conditions / illnesses**

6.85 Some respondents felt that people with certain long term illnesses or conditions should be granted automatic entitlement or lifetime awards, and should not have to go through stressful assessments or re-assessments.

“People with Motor Neuron Disease and other terminal illnesses should not have to face assessment in order to qualify for benefits. This is a hugely stressful process and it is unbelievable that people facing terminal illness are expected to jump through these hoops.”

Individual

### **Question - How should the new Scottish social security system operate in terms of the provision of entitlements and awards?**

6.86 165 respondents provided comments on how the new Scottish social security system might operate in terms of the provision of entitlements and awards (102 individuals and 63 organisations).

6.87 Overall the most commonly mentioned themes were:

- current system of cash benefits work well;
- Motability scheme should be retained;
- wider choice of alternatives to cash benefits; and
- period of awards must be appropriate.

### **Current system of cash benefits works well**

6.88 A large number of respondents, mainly individuals and organisations with an interest in disability and long term conditions, felt that the current system of cash benefits works well. For many, this meant that people were empowered to make their own choices, and were able to live independently.

“Cash would be the best option in our opinion as it provides the client with an appropriate level of choice and independence.”

GEMAP Scotland Ltd

6.89 However, a few respondents noted people should not be required to use their disability benefits to pay for services that their NHS or a local authority provider had a statutory duty to provide.

“It is important however, that people are given a genuine choice between receiving this support or the cash equivalent and that attempts are not made to pressurise people into sacrificing part of their benefit for alternative support.”

Citizens Advice Scotland

## **Motability scheme should be retained**

6.90 A large number of respondents, mainly individuals, called for the current Motability scheme to be retained. Many said that the scheme was a 'lifeline' that helped to promote their independence, and also enabled them to participate more fully in society.

"As a user of Motability, I can hand on heart say; that it has been a godsend to me. It allows me to be mobile and independent, without it, I would most likely be housebound."

Individual

6.91 A few respondents suggested that it might be appropriate to review the current scheme, particularly in relation to extending the eligibility criteria, but also in terms of broadening what might be available under a new Scottish Motability scheme.

"The Motability system is a lifeline and must be continued. However the eligibility for it is too narrow with PIP and the qualifying distance must be increased from 20 meters to a more realistic distance of 50 to 100 meters to qualify for enhanced mobility and the Motability scheme."

Individual

## **Wider choice of alternatives to cash benefits**

6.92 Some, mainly individuals and local authority respondents, suggested that there should be a wider range of 'non cash' options available to individuals, including:

- cheaper energy tariffs;
- access to a range of aids and home adaptations (such as adjustable beds or wet rooms); and
- access to additional specialist care and support, including respite care.

6.93 However, others noted that it would be important that people were given a genuine choice between receiving this type of 'non cash' support, or the cash equivalent, and that attempts should be made not to pressurise people into sacrificing part of their benefit for alternative support.

## **Period of awards must be appropriate**

6.94 A few respondents highlighted that awards needed to be made for appropriate periods of time to avoid the need for regular re-assessments. It was also suggested that extended or lifetime awards be made for approved long term conditions and illnesses.

## **Question - How should the new Scottish social security system operate in terms of the review and appeal process, where a person isn't content with the outcome?**

6.95 In total, 181 respondents provided comments on how the new Scottish social security system might operate in terms of the review and appeal process (112 individuals and 69 organisations).

- 6.96 Overall the most commonly mentioned themes were:
- simplify and speed up the appeals process;
  - review the need for ‘mandatory reconsideration’;
  - provide access to independent advice and support; and
  - clear and accessible information on processes and timescales.

### **Simplify and speed up the appeals process**

6.97 A large number of respondents, mainly individuals and organisations with an interest in disability and long term conditions, called for the appeals process to be fast, straightforward and more transparent, to help minimise the stress and anxiety that appealing a decision can sometimes have on applicants.

“Reviews and appeals are stressful and anxious for the persons at the centre of these and SPAEN would therefore like to see a clear, transparent and easily accessible scheme that provides concise reasoning behind any decisions taken.”

SPAEN

“We would want to make sure that the process is clear and accessible from start to finish, and that people claiming devolved benefits understand how and when their claim will be dealt with.”

Glasgow Centre for Population Health

6.98 In particular, a few respondents recommended that the Scottish social security system included an internal review process, as a way of reducing the demand on the appeals service.

### **Review need for ‘mandatory reconsideration’**

6.99 Some respondents commented on the ‘mandatory reconsideration’ element of the current review process. Their views were mixed. Some of these respondents stated that this process should be abolished, because it was complex and often resulted in lengthy delays. Others felt that it acted as a barrier to applicants who were challenging decisions.

“Mandatory reconsideration should be abolished as it has led to delays and obstacles in claimants being able to exercise their right to appeal.”

Parkhead Citizens Advice Bureau

6.100 In contrast, others felt that ‘mandatory reconsideration’ was useful, as it avoided the applicant having to go through a formal tribunal led appeal process.

“There again is the opportunity to speed up this process by introducing a quick and easy reconsideration process and removing the mandatory reconsideration – an appeals process should be simple for people to go through.”

NHS Lanarkshire

## Provide access to independent advice and support

6.101 Some respondents, mainly individuals, felt that it was important that applicants were given access to independent advice and support throughout the appeals process.

“An independent advocate should be appointed to them to help with the appeals process and advice on what they can appeal on and what they can't.”

Individual

## Clear and accessible information on processes and timescales

6.102 Some respondents called for clear and accessible information to be made available to applicants, setting out the key stages of the review and appeals process, and highlighting the timescales for decisions and outcomes.

“There are currently timescales for the claimant to abide by, but no guidance on how long it can take for the DWP to respond. This is an imbalance that needs to be addressed.”

MND Scotland

## Question - Do you think that timescales should be set for applications, assessments and decision-making? Please explain your answer.

**Table 6.2 Do you think that timescales should be set for applications, assessments and decision-making?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	130	94%	8	6%	138
Organisations	96	100%	0	0%	96
<b>All respondents answering</b>	<b>226</b>	<b>97%</b>	<b>8</b>	<b>3%</b>	<b>234</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.103 234 respondents answered this question. Almost all of those responding (97%) thought that timescales should be set for applications, assessments and decision-making. All organisations agreed.

6.104 218 respondents (121 individuals and 97 organisations) provided a range of comments and suggestions in relation to whether timescales should be set for applications, assessments and decision making.

6.105 Overall the most commonly mentioned themes were the:

- right to clear and realistic timescales; and
- wider impact of delays in award and entitlement decisions.

## Right to clear and realistic timescales

6.106 A large number of respondents, from across a range of respondent groups, felt that there should be clear and realistic timescales set for each stage in the application, assessment and decision making processes. Many felt that this

would add transparency to these processes, and also allow individuals to plan accordingly.

“Timescales provide customers with a clear indication of the standard of service to be provided and can be used as a measure of performance.”

North Ayrshire Council

6.107 A few, mainly local authority respondents, also suggested that timescales should be set out clearly within the Charter.

“Timescales should be set for both assessments and decision making – surely these would be set out in either / or both legislation and the ‘customer charter’ if this is adopted.”

East Lothian Council

6.108 However, a few respondents stated that there should be some flexibility around timescales for processing applications, for example where more detailed medical evidence was required to support a complex claim.

### **Wider impact of delays in award and entitlement decisions**

6.109 A large number of respondents, mainly individuals, highlighted the impact that the delays in decisions about benefit awards and entitlement could have on personal health and wellbeing. Many respondents stated that this was a great source of stress and anxiety, and in some cases individuals said that it had exacerbated their medical conditions.

“For anyone with poor health, or with mental difficulties, the stress of a long drawn-out process can aggravate their condition, and I feel a clear timescale would help with that.”

Individual

“A key concern of the new social security agency must be to reduce the unnecessary stress and anxiety currently being caused by the assessment process.”

Scottish Council for Voluntary Service

6.110 Some respondents also highlighted the financial impact of delays in decisions regarding awards and entitlement. Some said that this could leave people in severe financial hardship, particularly if they were relying on a particular benefit award to passport them to other benefits.

“It is important that any woman who is in prison is given ample time to apply for devolved benefits whilst in prison and that the payment is ready for her to claim on the day of release.”

Scottish Working Group on Women’s Offending

## **Evidence**

6.111 The Scottish Government set out its proposals for evidence in Part 2 of the [consultation document](#).

## **Question - What evidence and information, if any, should be required to support an application for a Scottish benefit?**

6.112 In total, 219 respondents provided comments on the types of evidence and information that should be required to support an application for a Scottish benefit (123 individuals and 96 organisations).

6.113 Respondents made a wide range of suggestions about the types of evidence and information that might be used, including:

- proof of identity, including the applicant's National Insurance number;
- medical evidence from qualified health professionals, for example, GPs or specialist consultants;
- other supporting evidence from people who know the applicant, for example, carers, support workers, housing providers or family members; or
- a personal statement by the applicant, stating how their condition or illnesses impact on their daily life.

“However, it should also be made clear to decision makers that not all claimants will have access to medical evidence and that the absence of it should not automatically weaken the case for awarding a disability benefit. People with M.E. often have difficulty acquiring medical evidence.”

Action for M.E.

6.114 A few respondents also commented that the type of evidence and information required would be determined by the type of benefit being applied for and the related eligibility criteria. Some suggested that the individual should be able to determine which information is provided while others suggested that guidance should be provided with the application form about the types of information that could be provided to support an application.

6.115 Finally, a few respondents called for a more joined up approach that placed more emphasis on information sharing between public sector organisations, where applicants have given their consent. It was felt that this would help to save time, speed up the application process and reduce duplication.

“Some people felt that a more joined up system would mean the social security agency seeking out key information, for example, researching individual's medical history and connecting the processes to determine eligibility for other types of support e.g. blue badge, social care, etc.”

Health and Social Care Alliance Scotland (The Alliance)

## **Question - Who should be responsible for requesting this information? Who should be responsible for providing it? Please explain why.**

6.116 In total, 199 respondents provided comments on who should be responsible for requesting and providing information to support an application for a Scottish benefit (114 individuals and 85 organisations).

6.117 Overall the most commonly mentioned themes were:

- the new social security agency taking lead responsibility for requesting information;
- applicants having the right to decide who provides information;
- the need for clear guidance on what information or evidence is required; and
- the role of health professionals in providing medical information.

### **Requesting information - Scottish social security agency**

6.118 A large number of respondents, mainly individuals, organisations with an interest in disability and long term conditions and local authority respondents, felt that the new Scottish social security agency, as the key decision maker, should take the lead in requesting information or evidence to support applications.

“The social security agency should collect additional information and evidence from those with a knowledge of the claimant and their circumstance. There should be scope for avoiding a face to face assessment altogether if sufficient written evidence is gathered.”

Coalition of Care and Support Providers Scotland (CCPS)

6.119 A few of these respondents also noted that the process for gathering information and evidence should be as simple and straightforward as possible, to minimise stress and disruption for applicants.

### **Requesting information - Applicants should have right to decide**

6.120 Many respondents, mainly individuals and organisations with an interest in disability and long term conditions, felt that applicants should be able to decide who should provide information and evidence to support their applications.

“We would welcome a system that allows people to choose which route they wish to take. Some people may wish to control the process themselves and others may be happy for the Scottish social security agency to act upon their behalf and thus a provision for allowing access to medical records could be developed.”

Glasgow Council for the Voluntary Sector

### **Requesting information - Need for clear guidance**

6.121 Some respondents suggested that there should be clear guidance in the application form about the type of information and evidence that should be provided, whether by applicants themselves, or by health professionals. It was suggested that information requests should be standardised and that a clear template should be used to ensure that the right information and evidence was being gathered.

“ENABLE Scotland suggest that the new Scottish social security system provides an opportunity to redesign the evidence gathering process to ensure that evidence is gathered in the best and most cost effective way.”

ENABLE Scotland

## **Providing information - Health professionals provide medical information**

6.122 In relation to providing information, a large number of respondents felt that medical information should be provided by the appropriate health professional, for example, GP, specialist consultant, Community Psychiatric Nurse (CPN) or Occupational Therapist (OT). However, some of these respondents noted that in some cases individuals might not have had regular contact with their GP or consultant following diagnosis of a long term condition.

“Ideally the Department officers should obtain this information direct but the lack of personal connection between most patients and their GP means that the doctor is not in a position to give the relevant information so, in practice, the applicant should obtain the information so that they can check and, if necessary, correct it.”

Aberdeen Action on Disability

6.123 Some respondents said that applicants should not be charged for evidence or information provided by health professionals. This was seen to be discriminatory and might disadvantage an application. A few suggested that this should be funded by the Scottish social security agency rather than the individual.

6.124 A few respondents also highlighted the fact that some GPs and health professionals were sometimes unwilling to provide evidence or supporting information, as this was time consuming and was having an increasing impact on their workload.

“The claimant should never be stuck in the middle between the social security system requiring the assessment and GPs saying they cannot or will not provide the evidence due to time / resource implications.”

Poverty Truth Commission

## **Providing information - Other supporting information and evidence**

6.125 Many respondents felt that the applicant should take the lead in providing relevant personal and other relevant information and evidence to support their application.

“The service user or their representative. This allows the new agency staff to focus more time on cases that require more support and for non-complex claims to be processed quickly.”

Fife Council

“The individual claiming is responsible for providing it, where it is reasonable and they should be allowed to have others provide it on their behalf if that would be easier for them due to mental or physical health issues.”

Individual

6.126 In addition, some respondents said that the applicant should be responsible for gathering information from others who provide support or care to them, for example, carers, support workers, social workers or family members.

“Other information may only be known by the claimant, his / her carer or a private healthcare provider. In such cases the claimant or appointed person must retain responsibility, but should have clear guidance from the social security agency regarding what is required.”

Individual

**Question - Should the individual be asked to give their consent to allow access to their personal information, including medical records, in the interest of speeding up the application process and / or reducing the need for appeals due to lack of evidence? If no, please explain why?**

**Table 6.3 Should the individual be asked to give their consent to allow access to their personal information, including medical records, in the interests of simplifying and speeding up the application process and/or reducing the need for appeals due to lack of evidence?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	128	92%	11	8%	139
Organisations	99	99%	1	1%	100
<b>All respondents answering</b>	<b>227</b>	<b>95%</b>	<b>12</b>	<b>5%</b>	<b>239</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.127 In total, 239 respondents answered the closed part of this question. The majority (95%) of those responding thought that individuals should be asked to give their consent to allow access to their personal information. There was overall support from across respondent groups.

6.128 Further explanation was provided by 101 respondents (52 individuals and 49 organisations).

### **Informed consent**

6.129 Many respondents agreed with the proposal but stated that individuals or their carers would have to formally give their permission or informed consent. It was suggested that this could be part of the application form.

“Scottish Care has made it clear in other areas of our work that information sharing whilst critical to effective care and support can and must be premised on a basis of permission and consent.”

Scottish Care

6.130 In addition, some of these respondents sought a number of other safeguards, including:

- the right to withdraw consent at any time;
  - respecting privacy and confidentiality;
  - access to advocacy and communication support if required;
  - no bias to entitlement or award decisions if consent has not been granted;
- and

- the new Scottish social security system being flexible enough to accommodate the wishes of individuals.

“It is important to ensure that those who do not give consent or cannot give consent freely are protected; current protections seem to be adequate.”

Ayr Housing Aid Centre

### Reasons for not allowing access to personal information

6.131 The main reason given by those respondents, mainly individuals, who disagreed with this proposal was around confidentiality and data protection. Some of these respondents feared that their personal information might get lost or stolen. Others felt that they should have a say in which health or social care provider should provide evidence to support their application.

**Question - If the individual has given their permission, should a Scottish social security agency be able to request information on their behalf? If no, please explain why?**

**Table 6.4 If the individual has given their permission, should a Scottish social security agency be able to request information on their behalf?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	122	91%	12	9%	134
Organisations	96	97%	3	3%	99
<b>All respondents answering</b>	<b>218</b>	<b>94%</b>	<b>15</b>	<b>6%</b>	<b>233</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.132 In total, 233 respondents answered this question. The majority of respondents (94%) agreed that a Scottish social security agency should be able to request information on behalf of individuals once they have given permission. There was overall support from across respondent groups.

6.133 Further comments and suggestions were provided by 86 respondents (45 individuals and 41 organisations).

### Concerns about access to data

6.134 The main reasons given by those respondents, mainly individuals, who felt that the agency should not be able to request information on behalf of individuals were that there should be limits to any consent, and that in the interests of data protection, an individual might be required to grant consent every time information was required. Others suggested that only NHS medical professionals should have access to medical information.

### Safeguards

6.135 Some respondents felt that the Scottish social security agency should be able to request information on their behalf, provided a number of safeguards were in place including:

- the new system being governed by fairness, trust and transparency;

- IT systems being secure and data and information being protected and treated confidentially;
- informing individuals who information is being shared with; and
- individuals having the right to control access to their information.

## Proposals for eligibility

6.136 The Scottish Government set out its proposals for eligibility in Part 2 of the [consultation document](#).

### Question - Do you agree that the impact of a person's impairment or disability is the best way to determine entitlement to the benefits?

Table 6.5 Do you agree that the impact of a person's impairment or disability is the best way to determine entitlement to the benefits?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	112	85%	19	15%	131
Organisations	81	94%	5	6%	86
<b>All respondents answering</b>	<b>193</b>	<b>89%</b>	<b>24</b>	<b>11%</b>	<b>217</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.137 In total, 217 respondents answered this question. Most respondents (89%) agreed that the impact of a person's impairment was the best way to determine eligibility. There was overall support from most respondent groups.

### Question - If yes, which aspects of an individual's life should the criteria cover and why?

6.138 There were 185 respondents (103 individuals and 82 organisations) who agreed with the proposal that provided a range of comments.

6.139 Overall, the most commonly mentioned themes were:

- assessing impact of the condition is a fair approach;
- need for a holistic approach that balances flexibility with transparency; and
- eligibility criteria need to reflect a wider range of conditions.

### Assessing impact of the condition is a fair approach

6.140 A large number of respondents, from across a range of respondent groups, agreed that the current approach based on assessing the impact of a condition or illness on an individual's daily life was appropriate and fair. It was felt that rather than relying on a 'medical model' of disability, people were assessed on the support needs that were specific to them as individuals, rather than the identified support needs of their specific condition.

“Assessment is based on the impact of a condition rather than on the condition itself. This is one of the positive elements of the current system and should remain.”

Contact a Family Scotland

6.141 However, some respondents noted that this approach was not entirely ‘perfect’, as it did not take account of certain conditions, for example, mental health and other fluctuating conditions. Some felt that in certain cases it could actually penalise individuals who ‘managed’ their condition well.

6.142 Other respondents underlined the importance of ensuring that any assessment of impact on daily living took account of as wide a range of factors as possible, and made a range of suggestions, including:

- **ability** to: dress, cook, do housework, shop, walk, communicate;
- **additional costs** of: heating, laundry, a cleaner; home adaptations; child care, transport; therapies and special dietary requirements; and
- **aspects of condition**: level of pain, fatigue, breathing problems, cognitive issues, mental health issues.

6.143 A few respondents called for disability benefits to be universal and non-means tested.

### **Need for a holistic approach that balances flexibility with transparency**

6.144 Many respondents, mainly individuals and organisations with an interest in disability and long term conditions, suggested that a more holistic view of impact should be taken, perhaps adopting more of a ‘whole of life’ approach.

6.145 Some respondents suggested that the focus of any approach to eligibility should be on the ‘social model’ of disability, and based around what a person ‘can do’ to be independent and participate fully in society, rather than on what they ‘can’t do’.

“Rather we would argue that a person’s life must be assessed in terms of their ability to access all of their rights and live a fully independent life with choice and control.”

ENABLE Scotland

“A focus on participating in community life (general sense) should be the main criteria - social versus medical.”

Volunteer Scotland

6.146 As part of this some respondents highlighted the importance of having a degree of flexibility in how the impact of conditions and illnesses were assessed, but at the same time ensuring that transparency was maintained.

“The current PIP descriptors and points system should be reviewed to enable the new system to operate more flexibly and be suitable for all disabilities and health conditions, particularly fluctuating conditions.”

Citizens Advice Scotland

“This is a difficult area as there is a tension between creating a personalised system and avoiding an overly bureaucratic and complex system. There is likely to be some

form of trade-off between accurately assessing the costs faced by a particular individual and developing transparent entitlement criteria that can be applied consistently and timely.”

Scottish Council for Voluntary Service

### **Eligibility criteria need to reflect a wider range of conditions and illnesses**

6.147 Many respondents, said that it would be important for the eligibility criteria to take account of a wide range of conditions or illnesses, including mental health, and other fluctuating conditions, and also learning disabilities. Some of these respondents said that the current disability benefits (DLA, PIP and AA) tended to focus more on physical disability.

### **Question - If no, how do you suggest entitlement is determined?**

6.148 There were 29 respondents (19 individuals and 10 organisations) that provided alternative suggestions as to how entitlement might be determined. Their suggestions included:

- the focus should be on ‘capability’ not ‘disability’, otherwise this reinforces the ‘medical model’ of disability;
- look at how benefits can help to remove barriers, and enable individuals to participate more fully and equally in society;
- more needs to be done to address discrimination and stigma amongst employers; and
- there should be automatic entitlement for certain conditions.

### **Question - Currently there are only special rules for the terminally ill but should there be others? Please explain why.**

6.149 A total of 169 respondents provided comments on whether there should be special rules for a wider range of conditions and illnesses (102 individuals and 67 organisations).

6.150 A large number of respondents felt that special rules should apply to a wider range of conditions and illnesses that were known to be progressive, degenerative and incurable. For example, Parkinson’s, MS, and Motor Neurone Disease. It was recognised that this was not straightforward, however, many felt that a new Scottish social security agency could draw up a schedule of eligible conditions and illnesses. This would then allow individuals with these conditions to be ‘passported’ to relevant benefits, without the need for assessment and continual re-assessment.

“This would remove the humiliation and stress of continuing to reapply, when medical circumstances will not improve.”

Edinburgh Tenants Federation

“We think a simple process could be devised for doctors to certify conditions as life-long, life-limiting or degenerative to avoid lengthy and intrusive assessments.”

Cyrenians

6.151 However, a few respondents, mainly local authority respondents, voiced caution at developing a definitive list, as this might add complexity to a system that they felt was currently clear and straightforward. Others, including ENABLE Scotland, said that it would be important to ensure that the current rules for people with terminal illnesses were protected and even enhanced.

“The rules for the terminally ill are specific and well understood – to start to add others would lead to an ever increasing list of issues being treated under special rules which could be expensive and ultimately lead to unnecessary delays.”

East Lothian Council

### **Question - How could this be determined?**

6.152 There were 125 respondents that provided comments on how this might be determined (75 individuals and 50 organisations).

6.153 A large number of respondents suggested that this could be determined by using medical evidence from a GP or specialist consultant. A few respondents also suggested that there should be some form of consultation or engagement with a range of medical and health professionals, disability groups and third sector organisations involved in the provision of care and support, about developing a comprehensive list of conditions and illnesses that might qualify for automatic entitlement.

“Pre-determined conditions with evidence / certificate provided by GP / Consultant / other healthcare professional confirming diagnosis / prognosis.”

Dundee Carers Centre

### **Question - What do you think are the advantages and disadvantages of automatic entitlement?**

6.154 In total, 205 respondents provided comments on the likely advantages and disadvantages of automatic entitlement (115 individuals and 90 organisations).

#### **Advantages**

6.155 The main advantages of automatic entitlement identified by respondents included:

- removes anxiety and stress for applicant;
- simplifies and speeds up the assessment process; and
- leads to an increase in uptake / entitlement.

#### **Removes anxiety and stress for applicant**

6.156 A large number of respondents highlighted that automatic entitlement would have a positive impact on applicants as it would reduce stress and anxiety, and also remove financial worry and uncertainty. Others said that it would ensure that needs and dignity of vulnerable individuals were respected, at a time when they and their families were already under considerable pressure.

“Automatic entitlement to disability benefits at the higher rate for people with MND would be the best thing that the Scottish Government could do with these new powers to make the lives of people with MND, and their carers better.”

MND Scotland

We believe that automatic entitlement for life-long conditions should form part of any social security system based on fairness, dignity and respect.”

Cyrenians

### **Simplifies and speeds up the assessment process**

6.157 A large number of respondents also highlighted that automatic entitlement would help to simplify and streamline the assessment process, and could also reduce administration costs, speed up decision making and also ensure more consistent decision making.

“It would remove the need for evidence gathering, improve consistency of decision making, reduce appeals and improve administration and improve speed of processing performance.”

North Ayrshire Council

### **Leads to increase in uptake / entitlement**

6.158 A few respondents thought that automatic entitlement might lead to an increase in uptake of benefits, particularly for those who were put off of applying because of the current application and assessment process. In contrast, a few respondents expressed concern that increased uptake might lead to increased pressure on budgets, and this might lead to less money being available to share amongst a greater number of eligible applicants.

### **Disadvantages**

6.159 The main disadvantages of automatic entitlement that were identified by respondents included:

- inability to predict progression of condition;
- using a medical model of disability; and
- impact on fairness and equity.

### **Inability to predict progression of condition**

6.160 Some respondents, mainly individuals and local authority respondents, stated that the progression of some conditions was often difficult to predict - some people might get better, some people might get worse. It was therefore felt that automatic entitlement might not be flexible enough to respond to the changing needs of individuals, and that some people might be disadvantaged as a result. Others suggested that automatic entitlement criteria might need to be reviewed regularly to take account of advancements in medicine and technology.

### **Using a medical model of disability**

6.161 Some respondents expressed concern that focusing on an approved list of conditions and illnesses to grant automatic entitlement, might be too simplistic, as this would not look at the impact of the condition or illness on the individual.

“The disadvantages are that automatic entitlement takes a step back towards the medical model of disability and may unfairly disadvantage claimants by assessing them purely on their condition.”

AdvoCard

6.162 A few respondents noted that this might leave the system open to abuse or fraud.

### **Impact on fairness and equity**

6.163 Some respondents, mainly individuals and local authority respondents, highlighted the complexity of drawing up a comprehensive list of eligible conditions and illnesses for automatic entitlement. Some of these respondents questioned the equity and fairness of this type of approach, as access to awards would need be determined by diagnosis of a particular condition or illness. It was felt that this would result in a situation where there would be clear ‘winners’ and ‘losers’. A few respondents highlighted that this would be particularly unfair in cases where it was difficult to get a conclusive diagnosis, or where particular illnesses or conditions were not on the ‘list’.

“The main disadvantages are that it could be seen as privileging some conditions over others. It is also problematic in a condition like Parkinson’s where it may take some time to reach a confirmed diagnosis because it is difficult to diagnose Parkinson’s with certainty and clinicians are monitoring the condition’s progression.”

Parkinson’s UK in Scotland

### **Question - Would applicants be content for their medical or other publicly-held records, for example prescribing and medicines information or information held by HMRC, to be accessed to support automatic entitlement where a legal basis existed to do this?**

6.164 Comments were provided by 184 respondents (115 individuals and 69 organisations).

6.165 A large number of respondents felt that applicants would be content, especially if it would reduce delays and speed up decision making. However, many said that prior consent would need to be given for this, and this would need to be clearly communicated to applicants. Others said that safeguards and clear protocols would also need to be in place to protect information, and to ensure confidentiality.

“Yes as long as data protection is stringent and initial consent has been given by the claimant or, where appropriate, on their behalf.”

Rights Advice Scotland

6.166 A few respondents said that people would need to be fully informed of who was accessing their information, the type of information being accessed, and the reason for this. However, some said that they were less in favour of a general consent, and would prefer to give specific consent each time information was required.

6.167 The main reason given by respondents (mainly individuals) who did not agree with the proposal, related to unease about providing access to sensitive medical information, without knowing how this was going to be used. Others expressed a lack of trust of agencies and public authorities as another reason, fearing that their information might be used against them.

“HMRC aren't the most trusted agency but I think folk would trust a Scottish social security agency.”

Individual

**Question - Do you agree that the current UK-wide PIP and AA process for supporting people with terminal illnesses is responsive and appropriate?**

**Table 6.6 Do you agree that the current UK-wide PIP and AA process for supporting people with terminal illnesses is responsive and appropriate?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	61	62%	38	38%	99
Organisations	39	68%	18	32%	57
<b>All respondents answering</b>	<b>100</b>	<b>64%</b>	<b>56</b>	<b>36%</b>	<b>156</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.168 In total, 156 respondents answered this question. Most respondents (64%) agreed that the current UK-wide PIP and AA process for supporting people with terminal illnesses was responsive and appropriate. However, a substantial minority (36%) disagreed. Disagreement amongst organisations came mainly from a few local authority respondents (although, overall this group agreed) and a few disability and long term conditions organisations.

**Question - If yes, should this approach be applied to all disability-related benefits for people with a terminal illness? If no, how could the approach be improved?**

6.169 Additional comments were provided by 90 respondents (50 individuals and 40 organisations).

**Reasons for answering ‘yes’**

6.170 Those who agreed felt that it should be an essential part of the new Scottish social security system, and should be used as the model for dealing with all applicants who have automatic awards. These respondents believed the current approach:

- was responsive and appropriate;
- treated people in a compassionate way; and
- enabled claims to be processed quickly.

6.171 In addition, a few respondents highlighted that there might a role for the new Scottish social security agency to raise greater awareness amongst health professionals about benefit support available to people with terminal illnesses, as they were responsible for issuing the DS 1500 certificates.

### Reasons for answering ‘no’

6.172 Those who disagreed gave a number of reasons for this, including:

- the current definition that death is expected in 6 months is too restrictive and should be reviewed;
- anyone with a terminal illness, regardless of life expectancy, should be granted a DS 1500;
- payments currently take too long;
- the support should be organised by the appropriate health professional, the individual should not have to apply for support themselves; and
- there should be clearer signposting to the types of support available to people who are terminally ill.

**Question - Should there be additional flexibility, for example, an upfront lump sum? Please explain your reasons.**

Table 6.7 Should there be additional flexibility, for example, an up-front lump sum?					
		Yes		No	
Respondent group	Number	%	Number	%	Total
Individuals	87	77%	26	23%	113
Organisations	46	88%	6	12%	52
<b>All respondents answering</b>	<b>133</b>	<b>81%</b>	<b>32</b>	<b>19%</b>	<b>165</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.173 In total, 165 respondents answered this question. Most respondents (81%) agreed that there should be additional flexibility, for example, an upfront lump sum. Individuals were slightly more likely than organisations to disagree. There was overall support across all respondent groups.

6.174 Additional comments were provided by 153 respondents on the proposal about whether there should be additional flexibility (93 individuals and 60 organisations).

### Reasons for answering ‘yes’

6.175 Those who agreed identified a number of reasons for this, including:

- promotes a more sensitive and compassionate approach that helps to improve the quality of a life in the final stages;
- provides individuals with flexibility, control and choice and helps to restore dignity;
- helps to remove hardship and stress at a difficult time; and
- can be used to cover a range of additional costs, for example adaptations and specialist equipment; heating bills; travel and transport costs; additional care costs; family holiday; pay off debts; compensates for lost income; or funeral costs.

“The social security system should be able to act with compassion and understanding towards someone who has a terminal diagnosis, a lump sum might alleviate immediate financial pressures and give a breathing space.”

Scottish Out of School Care Network

6.176 Although agreeing with the idea of lump sums, some respondents said that there should be flexibility in the approach and that individuals should be able to choose what suited them best, based on their circumstances. For example, some might prefer to have a part lump sum, and a part regular benefit payment. A few of these respondents also noted that by accepting a lump sum, people should not have to trade off their wider entitlement to disability benefit, especially in cases where people lived longer than expected.

“This would not come without risks however. For instance, an individual may live longer than their original prognosis and be at risk of the lump sum running out. CAS recommends that individuals considering taking a benefit payment as a lump sum be referred for independent advice on their options.”

Citizens Advice Scotland

### Reasons for answering ‘no’

6.177 Those who disagreed presented a number of reasons for this, including:

- the lump sum must be a ‘one off payment’ that cannot be clawed back at a later point in time;
- payments of large one off sums might be subject to exploitation or fraud;
- some people might find it harder to budget if they get one large lump sum payment, smaller regular payments might be better;
- concern about what would happen if the individual lived longer than expected;
- concern that the payment of a lump sum might impact on other means tested benefits; and
- concern that local authorities would see this as an opportunity to avoid paying for adaptations.

6.178 A few respondents who did not express a view either way suggested that further work was required to identify the overall benefits of one off lump sum payments, and also to clarify eligibility criteria. For example, some questioned whether this would be applicable to all people with a terminal illness, or only those who were eligible for disability benefits.

“The option of upfront payments should be explored if there is a demand for this. There would however have to be clear guidelines on how this works and what happens where survival has exceeded expectation.”

East Renfrewshire Council

## Whole of life approach

6.179 The Scottish Government set out its proposals for a whole of life approach in Part 2 of the [consultation document](#).

**Question - In the longer term, do you think that the Scottish Government should explore the potential for a consistent approach to eligibility across all ages, with interventions to meet specific needs at certain life stages or situations? Please explain why.**

**Table 6.8 In the longer term, do you think that the Scottish Government should explore the potential for a consistent approach to eligibility across all ages, with interventions to meet specific needs at certain life stages or situations?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	116	94%	7	6%	123
Organisations	74	97%	2	3%	76
<b>All respondents answering</b>	<b>190</b>	<b>95%</b>	<b>9</b>	<b>5%</b>	<b>199</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.180 In total, 199 respondents answered this question. Most respondents (95%) agreed that the Scottish Government should explore a consistent approach to eligibility across all ages. There was overall support from across respondent groups.

6.181 Additional comments were provided by 159 respondents (92 individuals and 67 organisations).

### Reasons for answering 'yes'

6.182 Those who agreed identified a number of reasons for this, including:

- provides a fairer, more holistic and person-centred approach, that would remove unnecessary stress at key transition points i.e. from childhood to adulthood, or when people reach 65;
- helps to simplify a complex benefit system by eliminating the need for different levels of benefit at different life stages;
- less bureaucracy and therefore easier, simpler and cheaper to administer; and
- less discriminatory than the current approach, where access to the different disability benefits is determined by age.

“We firmly believe that disabled people should receive the support they need so they can participate fully in their own lives and that of their families, communities and wider society. In order to do this, they need to be able to access social security benefits regardless of their age and stage in life.”

Glasgow Disability Alliance

“Would be beneficial to have a whole life approach. For many of our families, transition is a difficult enough time and they have to think about the implications of other benefits such as ESA. Would be good if they had one less thing to worry about.”

PAMIS

## Reason for answering 'no'

6.183 The main reason presented by those who disagreed with the proposal was that it would be hard to develop and administer standard eligibility criteria for a single disability benefit, as the needs and impact of a health condition or disability may impact differently at different life stages.

## Question - What would the advantages and disadvantages of a single, whole-of-life benefit be?

6.184 There were 164 respondents that provided comments on the likely advantages and disadvantages of a single, whole-of-life benefit (97 individuals and 67 organisations).

6.185 The main advantages of a single, whole-of-life benefit that were identified by respondents, included:

- a fairer and simpler approach, with less stress and anxiety for applicants;
- providing certainty and allows people to plan for the future;
- all age groups would have same level of eligibility, with no need to transition at 16 and 65, and no need to reapply; and
- easier and less costly to administer.

“Consistent criteria across the benefits and the life of a person would seem fairer as it can be confusing for people who move from one benefit to another, and the impact this has on the value of entitlements they receive, only because they are a year older.”

ENABLE Scotland

“...it would tend to reduce the cliff-edges experienced by disabled people where they suffer stress through the worry that their previous entitlement could be lost through being subjected to a new assessment for a different benefit with completely different qualifying criteria.”

Inclusion Scotland

6.186 The main disadvantages of a single, whole-of-life benefit that were identified by respondents, included:

- a potentially more complex application and assessment process, with a range of thresholds;
- eligibility criteria may be difficult to define when amalgamating different benefits;
- possible complications with non-devolved benefits;
- clarity would be required on how to deal with fluctuating conditions or changes in medical conditions; and
- potentially a very expensive benefit to administer.

“To avoid reducing entitlements it would need to be designed to incorporate all existing entitlements from different benefits so may complicate any application and assessment process.”

NHS Lanarkshire

“Where someone is affected by a progressive condition not having specific points in their lives where they are reassessed for benefits may mean they do not get the right level of support if their needs are increasing over time.”

Midlothian Community Planning Partnership / Midlothian Council

## Proposals for assessments

6.187 The Scottish Government set out its proposals for assessments in Part 2 of the [consultation document](#).

### Question - Could the current assessment processes for disability benefits be improved? Please explain how?

**Table 6.9 Could the current assessment processes for disability benefits be improved?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	125	99%	1	1%	126
Organisations	88	100%	0	0%	88
<b>All respondents answering</b>	<b>213</b>	<b>100%</b>	<b>1</b>	<b>0%</b>	<b>214</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication). Due to rounding, although one respondent actually disagreed, the table shows that overall 100% said ‘yes’.

6.188 214 respondents answered this question. All but one individual respondent thought that the current assessment processes for disability benefits could be improved.

6.189 Further comments were provided by 201 respondents (113 individuals and 88 organisations). As almost everyone felt that the assessment processes could be improved, comments mainly came from those who supported improvement of the current processes. These are discussed below.

6.190 Overall the most commonly mentioned themes were:

- a more holistic and simplified approach based on evidence;
- minimise the need for face to face assessments;
- be sensitive to the impact of conditions and illnesses;
- auto entitlement and life time awards for certain conditions; and
- access to advice and support.

### A more holistic and simplified approach based on evidence

6.191 A large number of respondents, from across respondent groups, felt that there was a need for a more holistic and simplified approach to assessment that was paper-based, and informed by evidence gathered from medical or social care professionals, similar to the current Attendance Allowance approach.

“Inclusion Scotland believes that the great majority of assessments should be ‘paper’ assessments which rely on the information provided in the application form plus additional supportive evidence from carers, care and social work staff and health professionals.”

Inclusion Scotland

“The Scottish Government should look to the model of social security in Northern Ireland which takes a more holistic view of social security and supports claimants to establish what they are entitled to, rather than a system that creates barriers to claimants securing entitlements.”

Scottish Campaign on Welfare Reform

6.192 Some of these respondents also noted that the new Health and Social Care Partnerships should allow a more joined up approach to be adopted across health and social care practitioners. Others highlighted the importance of supporting evidence being provided by people who knew the applicant well, for example, carers, support workers and family members.

“If there was more of a partnership approach to the assessment process between external assessors and local health and social care professionals the assessment process for disability benefits would be less adversarial and would perhaps command more confidence from the wider public. It would also be fairer and more balanced.”

Aberdeenshire Council

“In assessing people’s eligibility for disability benefits, much greater emphasis should be given to evidence from people who know the claimant, including health and other relevant professionals, carers and family members.”

Citizens Advice Scotland

6.193 Some respondents expressed concern that the current application forms were confusing, repetitive, hard to complete and should be simplified. In addition, a few called for a single assessment form that could be used to determine access to a range of benefits.

“We feel the application process needs to be made simpler. The forms are complicated, repetitive and many people feel they are designed to confuse.”

Glasgow Disability Alliance

“Any assessments should be co-ordinated so that a single assessment for one benefit provides access to as wide a range of benefits as possible. In particular there should be close links to social work assessments.”

Argyll and Bute Council

### **Minimise the need for face to face assessments**

6.194 A large number of respondents, from across respondent groups, felt that the requirement for face to face assessments should be kept to a minimum. For example, where requested by the applicant, or where insufficient supporting evidence had been provided. Some of these pointed to the overreliance of the PIP assessment process on face to face assessments, and the negative impact that this had had on people’s health and wellbeing.

“The PIP face to face assessments are not fit for purpose and often the independent professional is underqualified to understand the conditions in their entirety.”

Individual

“For people who have learning disabilities a face to face assessment with someone they have never met is unlikely to lead to an accurate picture of their care and mobility needs. For a learning disability, a face to face assessment will generally be based on the claimant’s responses and a list of rudimentary cognitive assessments.”

ENABLE Scotland

6.195 Respondents felt that medical assessments should be carried out by properly trained and qualified medical professionals, and not by private companies. Others suggested that assessments should be carried out in the person’s home, or as close to the person’s home as possible, to avoid people having to travel long distances to get to assessment centres.

“In the Dumfries and Galloway area our clients can be sent to Carlisle or Glasgow for an assessment. This is too far when there is an assessment centre in Dumfries.”

Citizens Advice Scotland

### **Approach needs to be sensitive to the impact of conditions and illnesses**

6.196 Some respondents, mainly individuals and organisations with an interest in disability and long term conditions, felt that the approach to assessment had to be sensitive to the impact of a condition or illness on an individual. These respondents called for a more person-centred approach that treated people with dignity and respect.

“The current process appears rigid and lacking a meaningful understanding of the fluctuating nature of certain conditions. Also it seems unresponsive to stable or progressively deteriorating conditions, and instead forces everyone in this situation to undertake an assessment and, sometimes, retesting.”

Scottish Council for Voluntary Service

“The use of modern IT systems and linkage between Health / Social Care and Scottish social security agency in a planned and a sustainable manner would help implement a person-centred approach and would be both beneficial to applicants and the system itself.”

Ayr Housing Aid Centre

### **Automatic entitlement and lifetime awards for certain conditions**

6.197 Some respondents, mainly individuals and poverty organisations, called for people with certain long term conditions and illnesses to be given automatic entitlement, and applicants given access to lifetime awards without the need for continual re-assessment.

“The existing assessment process could be improved by introducing automatic entitlement to disability benefits where it can be established that a person has a long term condition that is unlikely to improve.”

Disability Agenda Scotland (DAS)

### **Access to advice and support**

6.198 Some, mainly local authority respondents, highlighted the need for people to be able to access appropriate advice and support to guide them through the application and assessment process.

“There is little or no information about where to get help to complete forms and many services that once did this have lost funding or have huge waiting lists.”

Glasgow Disability Alliance

6.199 A few also suggested that in a new Scottish social security system, local authorities could potentially act as a single point of contact and provide an application and assessment service alongside information, holistic support and benefit delivery to customers.

**Question - For those people that may require a face to face assessment, who do you think should deliver the assessments and how?**

6.200 In total, 220 respondents (125 individuals and 95 organisations) provided additional comments on who should deliver face to face assessments and how this should be done.

6.201 Respondents provided a range of suggestions on who should deliver these assessments, including:

- suitably trained health professionals with a knowledge of the particular conditions, who are registered with the NHS;
- not-for-profit organisations supported by other health or social care professionals – but not private sector contractors driven by profit;
- the Scottish social security agency could have its own in-house team of medical experts responsible for undertaking assessments; or
- done by the person’s own GP or specialist consultant, or co-ordinated through the local Health and Social Care Partnership.

“We believe that assessments should be carried out by a not-for-profit organisation which adopts a person-centred approach and is not incentivised by targets or profits, and which invests in the proper training of its frontline workers.”

Cyrenians

6.202 Respondents also provided some suggestions as to how the assessments should be undertaken, including:

- taking place at local and accessible locations, and at times that suit the individual, with the option of a home assessment;
- treating people with dignity and respect;
- providing a supportive approach, sensitively tailored to the individual’s needs; and
- allowing individuals to bring a support workers to the assessments.

**Question - What are the advantages and disadvantages of different types of assessments e.g. paper based, face to face, telephone?**

6.203 Comments on the likely advantages and disadvantages of different types of assessments were provided by 183 respondents (105 individuals and 78 organisations).

## **Paper based assessments**

6.204 The advantages identified were:

- quick and straightforward, minimises stress and reduces administration costs;
- easier for advisors to provide support to applicants with their application forms;
- less intrusive for the applicant, and provides a record and reminder for them; and
- applicants can take their time to complete the application – they can review and refine as they go along.

6.205 The disadvantages identified were:

- not good if applicant does not have sufficient evidence to support their claim;
- forms are too long and complex, and deadlines for returning completed applications are often very short;
- people might not understand or misinterpret questions, and not provide the right information;
- not all applicants are able to explain their conditions in writing; and
- people are not always able to access support and advice to help them complete their applications.

## **Face to face assessments**

6.206 The advantages identified were:

- a more balanced and fair way to assess the impact of a condition or illness on an applicant,
- if the assessment is done at the applicant's home, the assessor can get a better understanding of the individual's needs;
- an opportunity for the applicant to explain their circumstances in more detail; and
- beneficial if the applicant does not have sufficient evidence to support their claim.

6.207 The disadvantages identified were:

- intrusive, intimidating and stressful experience for some applicants – can cause anxiety and distress for applicants, especially if held in an unfamiliar setting;
- difficult for some applicants to get to assessment centres, especially if they are outwith their local community. This can create complex logistical problems that leave the applicant out of pocket;
- only provides a 'snap shot' of a person on one particular day, and not an overview of how a person might be day to day. This is a particular issue for people with fluctuating conditions; and
- sometimes assessors lack sensitivity in the way that they deal with applicants at assessments, sometimes leaving applicants feeling demoralised.

## Telephone assessments

6.208 The advantages identified were:

- can happen in the person's home, removes stress and anxiety of having to travel to an assessment centre; and
- efficient, quick and cost effective.

6.209 The disadvantages identified were:

- not possible to observe body language. This can make it difficult for people to understand what is going on;
- not everyone is able to, or likes to use a telephone. This can be a barrier for a wide range of groups, for example, people with hearing impairments; communication impairments; mental health issues; older people, people with memory problems or people who are not able to concentrate;
- people are sometimes reluctant to talk about their condition or illness on the telephone; and
- people might feel intimidated if they are being asked lots of questions by telephone, they might get confused and not answer correctly.

## Question - How could the existing assessment process be improved?

6.210 There were 158 respondents that provided comments on how the existing assessment process could be improved (89 individuals and 69 organisations). They provided a range of suggestions, including:

- **application form** should be simplified, removing the repetitive questions, and timescales for returning applications should be extended;
- **more reliance on evidence** from people who know the applicant, for example, carers, support workers, family, occupational therapists, or community psychiatric nurses;
- **a national approach** is required to assessment that ensures consistency in decision making and equal treatment of all applicants;
- **assessment process** must be person-centred, and flexible enough to take account of their needs and the impact of their condition or illness, especially for those with fluctuating conditions;
- **there should be a flexible staged assessment process** - from simple desk assessment; followed by telephone interview, if required, to gather more evidence; to a face to face assessment, only if there is lack of appropriate supporting evidence;
- **face to face assessments** should only be undertaken by suitably qualified health professionals, and definitely not by private companies driven by targets and quotas;
- **there should be improved collaboration** between external assessors and local health and social care professionals;
- **no re-assessments** for people with long term conditions or illnesses, instead they should have automatic entitlement and access to lifetime awards;
- **staff** need to be better trained and supported to ensure that applicants are treated with dignity and respect;
- **applicants** should have access to local independent advocacy and support; and

- there should be a clear map of all of the key stages in the application, assessment and appeals processes, with associated timescales.

**Question - Could technology support the assessment process to promote accessibility, communication and convenience? Please explain why. If yes, please explain what technology would be helpful?**

**Table 6.10 Could technology support the assessment process to promote accessibility, communication and convenience?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	88	79%	23	21%	111
Organisations	71	97%	2	3%	73
<b>All respondents answering</b>	<b>159</b>	<b>86%</b>	<b>25</b>	<b>14%</b>	<b>184</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.211 In total, 184 respondents answered this question. The majority of respondents (86%) thought that technology could support the assessment process – but individuals were slightly less supportive of this than organisations. There was overall support from across respondent groups.

6.212 Additional comments, mostly relating to how technology might improve the assessment process, were provided by 170 respondents (96 individuals and 74 organisations). These comments were largely made by those who answered ‘yes’, or didn’t answer the closed part of the question.

6.213 Respondents provided a range of suggestions, including:

- make more use of skype and video conferencing, especially in rural and remote rural areas;
- use smart phones, tablets and other devices to overcome barriers faced by some groups, for example, those who may need BSL interpretation;
- need to guard against disadvantaging people who might be digitally excluded, or people who live in remote rural areas where there is a poor broadband connection; and
- technology must not be used as a default position, as is the case for Universal Credit, instead it should be one of a range of options that people can choose from depending on their needs and capabilities.

“For some people in more remote locations with difficulty travelling such technology would be advantageous, assuming they are capable of using it and have a good enough internet connection.” Individual

“Skype or video conferencing could be used to enable the customer in a remote location have a face to face with a decision maker. Would need to be very clear however about the availability / functionality of required technology and the resources required to provide.”

Dumfries and Galloway Council

## Proposals for awards

6.214 The Scottish Government set out its proposals for awards in Part 2 of the [consultation document](#).

**Question - If the individual's condition or circumstances are unlikely to change, should they have to be re-assessed? Please explain why.**

**Table 6.11 If the individual's condition or circumstances are unlikely to change, should they have to be re-assessed?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	23	17%	112	83%	135
Organisations	11	11%	85	89%	96
<b>All respondents answering</b>	<b>34</b>	<b>15%</b>	<b>197</b>	<b>85%</b>	<b>231</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.215 In total, 231 respondents answered this question. Most respondents (85%) thought that people should not have to be re-assessed where their condition or circumstances were unlikely to change. This view was shared across most respondent groups.

6.216 Further comments were provided by 206 respondents (117 individuals and 89 organisations).

### Reasons for disagreeing

6.217 The main comments provided by those who disagreed, included:

- the impact on the individual, as re-assessments can cause unnecessary stress and anxiety, and can also be demeaning and demoralising;
- it would help to reduce administration costs, and free up staff time to focus on other aspects of the disability benefits;
- need for a more flexible approach in the new Scottish social security system, where the onus should be on the individual to report any changes in condition or circumstances – whether a particular situation has improved or deteriorated; and
- indefinite or lifetime awards should be awarded to people whose conditions will not get better, for example, people with learning disabilities or people with progressive conditions like MS, Parkinson's Disease or Motor Neurone Disease.

Why should someone have to go through reassessment every couple of years if their condition won't improve? It's worrying, knowing that you'll have to be reassessed and the next person might change the decision. Being assessed is very stressful."

Individual

"When talking about this, it is important to acknowledge that the issue for people with progressive conditions is not that their situation will not change, but that it will not get better. Parkinson's UK believes that the terminology used should reflect this."

## Reasons for agreeing

6.218 The main comments provided by those who agreed, included:

- the importance of regularly reviewing whether an individual's condition or circumstances have changed;
- the impact of advances in medicine, treatments and technology need to be considered over time;
- re-assessments should happen over a longer timeframe, between every 5 to 10 years, or whenever requested by the individual, if their condition or circumstances have changed for the worse; and
- the necessity of safeguards to minimise fraud or abuse of the system.

"Some conditions can vary in their severity, some improve over time, and others worsen over time. For long term conditions, a reassessment should be done around every 5 years, if they are conditions in which things can change."

Individual

## Question - What evidence do you think would be required to determine that a person's condition is not likely to change? (Or should not be reassessed?)

6.219 In total, 203 respondents (125 individuals and 78 organisations) provided comments on the types of evidence that would be required to determine whether a person's condition was likely to change.

6.220 Overall, respondents agreed that medical evidence, either from a GP or specialist consultant, should be provided to confirm a diagnosis and likely prognosis of any condition or illness. A few also suggested that other supporting evidence could be provided by people who know the applicant, for example, carers, support workers or family members.

## Question - Who should provide that evidence?

6.221 Comments on the types of evidence that would be required to determine whether a person's condition was likely to change were provided by 193 respondents (118 individuals and 75 organisations).

6.222 A large number of respondents, from across respondent groups, agreed that medical information should be provided by the appropriate health, social care or allied health professional, for example, GP, specialist consultant, Community Psychiatric Nurse (CPN) or Occupational Therapist (OT). However, some of these respondents noted that in some cases individuals might not have had regular contact with their GP or consultant following diagnosis of a long term condition.

"Evidence should be provided by whoever is in the most appropriate position to produce information on diagnosis and prognosis for that particular individual."

MS Society Scotland

6.223 Some respondents, mainly individuals, suggested that the applicant should be responsible for providing the evidence in the first instance, and this could then be verified by the appropriate health or social care professional.

“The person involved should give written permission to approach their medical team so the assessors could then collect the information required.”

Individual

6.224 A few respondents, mainly individuals, felt that evidence should also be provided by carers, social care workers or third sector workers, who provide support and care to the person on a daily basis, because they would be in a better position to evidence the impact of the condition or illness on the individual, than a consultant or GP who might only see the person infrequently, if at all.

“Whoever is dealing with this person on a regular basis, whether this is clinical, mental health worker etc.”

Individual

“What they should be doing is go to the people who you see on a regular basis and ask for their input.”

The Poverty Alliance

## Alternatives to cash

6.225 The Scottish Government set out its proposals for alternatives to cash in Part 2 of the [consultation document](#).

**Question - Do you think people should be offered the choice of spending some of their benefit for alternative support, such as reduced energy tariffs or adaptations to their homes? Please explain why.**

**Table 6.12 Do you think people should be offered the choice of spending some of their benefit for alternative support, such as reduced energy tariffs or adaptations to their homes?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	85	69%	38	31%	123
Organisations	46	61%	30	39%	76
<b>All respondents answering</b>	<b>131</b>	<b>66%</b>	<b>68</b>	<b>34%</b>	<b>199</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.226 In total, 199 respondents answered this question. The majority of those responding (66%) thought that people should be offered the choice of spending some of their benefit for alternative support. However, a substantial minority (34%) disagreed. In terms of organisational respondents, disagreement mainly came from some local authority respondents, a few

disability and long term conditions organisations, a few housing and homelessness organisations and a few advice and support organisations.

6.227 Additional comments or suggestions were provided by 187 respondents (106 individuals and 81 organisations) on the types of alternative support that benefit could be used to fund. Often the same points were made by those who agreed and those who disagreed.

### **The importance of choice**

6.228 The main reason for answering ‘yes’ related to the importance of choice and control for individuals. A large number of respondents, who agreed with the proposal, as well as a few who disagreed, felt that this would offer increased choice to individuals and enable them to take control of managing their care and support needs. Although some of these respondents stated that there had to be real choice. Others highlighted the importance of providing clear information of the range of options that might be available, as this was not clear from the consultation paper.

“It is important however, that people are given a genuine choice between receiving this support or the cash equivalent and that attempts are not made to pressurise people into sacrificing part of their benefit for alternative support.”

Citizens Advice Scotland

“People should be free to spend their benefit exactly how they choose. It's not a present with strings attached.”

Individual

6.229 These respondents also highlighted a number of other issues that would need to be considered in more detail, including:

- preference that goods and services were provided by not-for-profit companies, to avoid vulnerable people being exploited by private companies and unscrupulous marketing companies;
- need for greater clarity on the boundaries between social security support – in the form of cash, and social care support – in the form of services; and
- whether increased choice would lead to increased costs.

### **Other issues**

6.230 Other respondents, who both agreed and disagreed, did not feel that people should be offered a choice, and stated that cash should remain the default position. These respondents felt that this would ensure that people were treated with dignity and respect, and had the freedom to decide how they met the additional costs associated with their disability or illness.

“Should the Government decide to go down this route, then it must be clear that this is a choice for people to opt-in to, with cash remaining as the default. They must also be able to opt out of this at any time.”

The Poverty Alliance

6.231 Some respondents who agreed and some who disagreed (mainly local authority respondents) also commented that there was a lack of detail in the consultation paper about what the alternatives to cash might be. A few respondents also expressed concern that increased choice might lead to increased administration costs.

“There is limited commentary available in the document around what types of services this could include, how this would be procured / managed therefore additional information would be required to allow an informed discussion to take place.”

COSLA

6.232 Respondents also highlighted a number of other issues, including:

- reduced energy tariffs should be available as a right for all vulnerable people in Scotland, and not as an alternative to disability benefit;
- Scottish Government should take the lead in negotiating cheaper tariffs, independently of the benefits system; and
- concern about how ‘in-kind’ benefits might affect other passported benefits.

“As an aside, the Scottish Government should tackle fuel poverty so that legislation is passed that those on card / key meters (who are often those with least money) do not have to pay more for fuel than those on ordinary meters.”

Edinburgh Tenants Federation

6.233 One area where respondents, who both agreed and disagreed with the proposal, sought clarity on was in relation to adaptations. Many of these respondents felt that this was already funded through local authorities, and that individuals should not be expected to meet these costs from their disability benefits. This might lead to local authorities withdrawing their funding support. It was suggested that a more joined up approach would need to be developed on this between the new Scottish social security agency and local Health and Social Care Partnerships.

### **Question - What alternative support do you think we should be considering?**

6.234 Comments were provided by 106 respondents (68 individuals and 38 organisations) on alternative support that should be considered. These respondents provided a range of suggestions on alternative types of support, these are listed in order of priority below:

- access to a wide range of aids and adaptations for the home (including stair lifts, bath hoists, special beds);
- reduced energy tariffs;
- retention of the Motability scheme, with the possibility of extending this to all people entitled to disability benefits;
- access to a range of travel concessions, for buses, trains and ferries, and also support with transport costs, for example, taxi cards;
- support for food, clothing, home decoration, laundry costs or cost of employing a cleaner;

- subsidised telecommunication packages;
- support to sustain education, training and employment, and rehabilitation support;
- support to run a car if not eligible for the Motability Scheme; and
- support for independent living, including the installation of assistive technology.

**Question - Would a one-off, lump sum payment be more appropriate than regular payments in some situations? Please explain why.**

<b>Table 6.13 Would a one-off, lump sum payment be more appropriate than regular payments in some situations?</b>					
		<b>Yes</b>		<b>No</b>	
<b>Respondent group</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Total</b>
Individuals	58	52%	53	48%	111
Organisations	31	58%	22	42%	53
<b>All respondents answering</b>	<b>89</b>	<b>54%</b>	<b>75</b>	<b>46%</b>	<b>164</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.235 In total, 164 respondents answered this question. Views of respondents who answered the closed part of this question were quite evenly split – with just over half (54%) feeling that a one-off lump sum payment would be more appropriate than regular payments in some situations, and just under half (46%) disagreeing. Overall, the main respondent groups reflected this split position.

6.236 Further comments were provided by 138 respondents (81 individuals and 57 organisations).

6.237 Those respondents who agreed with the proposal provided a range of suggestions, including:

- this should only happen in certain situations. For example, where the person is terminally ill, or where a person’s condition has changed suddenly and their home needs to be adapted or they need to purchase a suitable vehicle (if they are not eligible for the Motability Scheme);
- people should have choice and the new Scottish social security system should be flexible enough to respond to individual needs;
- any lump sum should be disregarded as capital for other means tested benefits, as many claimants will often be reliant on such benefits; and
- this type of approach would need to be underpinned by clear eligibility criteria.

“Care needs to be taken over the potential effects of a lump sum on other benefits to avoid deprivation of capital rules. The lump sum would be an exact amount for the adaptation. The lump sum would be preferable if any reduction in benefit would cause hardship.”

Individual

6.238 Those respondents who disagreed with the proposal also made some suggestions, including:

- where a person is terminally ill, accessing a one-off lump sum, might limit their entitlement to benefit at a later stage, if they live longer than expected;
- that regular payments are better than one-off payments, although there should be an alternative option for some people to have a lump sum payment, in addition to regular payments; and
- that potential for budget mismanagement for people who are not good with money, and it also exposes vulnerable people to exploitation.

“...we would support people diagnosed with a terminal illness being given the option of an up-front lump sum if that is what they choose to do. However, CAS recommends that individuals considering taking a benefit payment as a lump sum be referred for independent advice on their options.”

Citizens Advice Scotland

“The money may be spent unwisely or stolen by unscrupulous relatives or 'friends'.”

Individual

### **Question - What would be the advantages and disadvantages of such an approach?**

6.239 In total, 105 respondents provided comments on the likely advantages and disadvantages of one-off lump sum payments. Comments were provided by 62 individuals and 43 organisations.

6.240 The main advantages that were identified by respondents in relation to one-off lump sum payments, included:

- lump sum could cover large scale costs that are required quickly, as a result of a sudden change in an individual's condition or circumstances;
- more choice and control given to the individual to decide how they use their money – helps to restore dignity and respect; and
- helps to improve an individual's quality of life immediately.

“This approach provides much greater choice for the individual and would, we believe, signify a much more accessible and responsive system that enables and empowers individuals to make choices. This would be a practical application of the dignity and respect principles on which the system will be founded.”

Glasgow Council for the Voluntary Sector

6.241 The main disadvantages that were identified by respondents in relation to one-off lump sum payments, included:

- loss of entitlement, especially where the effects of a condition persist longer than the time covered by the one-off lump sum payment;
- potential loss of regular income, how will on-going expenses be covered;
- less empowering as a form of social security, might be perceived as more like a charity grant scheme;

- people may already struggle to manage their finances, having access to a lump sum payment may make them even more vulnerable to exploitation;
- people may feel coerced into using their lump sum to pay for costs that are currently covered by other organisations, for example, some aids and adaptations currently funded by local authorities; and
- adds another level of assessment to be able to determine eligibility.

“This should be exceptional with conditionality built in as there is risk that people may not use such sums appropriately over a timeframe. One off lump sums may potentially have an impact on eligibility for other UK benefits by exceeding capital limits.”

Scottish Borders Council

“The ongoing daily costs in caring for someone with PMLD is costly (see elsewhere in this consultation) and families rely on the regular payment they currently receive possibly not being able to afford to trade any of this for reduced energy tariff, lump sum etc.”

PAMIS

## Mobility component

6.242 The Scottish Government set out its proposals for the mobility component in Part 2 of the [consultation document](#).

**Question - Should the new Scottish social security system continue to support the Motability Scheme? Please explain why.**

**Table 6.14 Should the new Scottish social security system continue to support the Motability Scheme?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	117	96%	5	4%	122
Organisations	76	97%	2	3%	78
<b>All respondents answering</b>	<b>193</b>	<b>97%</b>	<b>7</b>	<b>4%</b>	<b>200</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication). Rounding percentages to the nearest whole number has led to the overall breakdown in the table to add to 101%.

6.243 In total, 200 respondents answered this question. Almost all respondents (97%) agreed that the Scottish Government should continue to support the Motability scheme. There was overall support from across respondent groups.

6.244 Further explanation were given by 175 respondents.

### Reasons for supporting the Motability scheme

6.245 Three very positive aspects of the current scheme were reported by respondents:

- A large number of respondents spoke of the difference that the scheme makes to the lives of disabled people. The scheme was described as a

- 'lifeline' and respondents spoke of benefits in such as independence; reducing social isolation; and providing opportunities to work.
- Some respondents spoke of the benefits of the financial support to provide mobility, and of the wrap round leasing arrangement.
  - Some respondents stressed the importance of the scheme in rural areas, both because of the distances to services and the relatively limited access to public transport.

"The Motability scheme is awesome. It is quick, simple, efficient and flexible. It is one of the best benefits available to disabled people. Please keep. Without Motability, I would have far less freedom."

Individual

"For many people living in rural isolated areas where public transport is limited or non-existent access to a car is an essential part of life. This is especially true for vulnerable people with health conditions or impairments particularly those with mobility issues, as they will rely on the vehicle as means for everyday life including attending doctor / hospital appointments."

Highland Council

### **Areas for further consideration**

6.246 Some respondents said that the opportunity should be taken to widen access to the scheme. The main suggestions were to:

- remove the age limit – and allow those over 64 access;
- allow access to Motability for all people entitled to disability benefits;
- change the criteria for entitlement so that the relevant distance is increased from 20 metres to at least 50 metres;
- avoid people losing out when transferring from DLA to PIP; and
- consider full protection for those going through an appeals process – with a claimant keeping the car (at least) until after the appeal outcome is known.

"The Scottish Government should seek to reform the rules applying to situations in which entitlement to disability benefits is lost and the claimant is in the process of challenging the decision. Case evidence suggests that claimants often lose their vehicles in these circumstances, despite eligibility for disability benefits subsequently being reinstated."

CPAG Scotland

"The continuation of the Motability scheme as it functions under DLA should be considered in the transition to PIP. The assessment criteria for mobility under PIP, as opposed to DLA, leaves fewer people on the higher rate of mobility allowance and consequently unable to use the scheme. This has resulted in a number of DLA claimants who are dependent on Motability being removed from the scheme when they are transferred onto PIP. The negative effect of the difference in provision between DLA and PIP ought to be mitigated to ensure the continued benefit to claimants of the Motability scheme."

Action for M.E.

6.247 A few respondents said that there was a need for a smooth transition from the UK Government to the Scottish Government. They suggested that the

existing scheme should be retained (at least for a period) and spoke of the advantages of economies of scale in a UK programme. A few suggested that there should be a dedicated scheme for Scotland. Different suggestions were made about who might run this, with a dedicated Scottish company, the Health and Social Care Partnerships and the Scottish Government all being mentioned.

### **Reasons for not supporting the Motability scheme**

6.248 A few respondents argued that the focus on private cars to improve mobility was having an adverse impact on the development of a more effective public transport infrastructure, which would improve access for all.

“The money currently used for the Motability scheme may well be better spent on better infrastructure for public transportation. For example, a bespoke bus service or car sharing scheme only available for those with mobility issues might be better value for money.”

Aberdeenshire Council

### **Question: How could the new Scottish social security system support older people with mobility problems not eligible for a mobility allowance?**

6.249 There were 153 responses on how the new Scottish social security system should support older people with mobility problems not eligible for a mobility allowance (97 individuals and 56 organisations).

6.250 Overall, the most commonly mentioned themes were:

- proposals for change to existing benefits;
- alternative transport solutions;
- improved alignment of mobility schemes; and
- widen access to support for travel costs.

### **Proposals for change to existing benefits**

6.251 A large number of respondents suggested that the system should be changed. Respondents suggested three main ways that this could be done:

- by introducing a mobility element for pensioners getting Attendance Allowance;
- by disengaging age criteria from PIP assessment; or
- by merging AA and PIP.

“Currently people whose disabilities affect their mobility once they are aged 65 or over, do not qualify for any mobility related benefit. Consideration could be given to introducing a Mobility component into Attendance Allowance.”

North Ayrshire Council

“A merger of AA and PIP should be considered to remove the age discrimination currently affecting people aged 64+ who are not eligible to apply for PIP. Doing this would enable older people’s eligibility for Motability (or future replacement scheme).

We feel this is the simplest, most cost effective way to support older people's mobility needs."

Glasgow Disability Alliance

"Many of the disabled people at our engagement events favoured extending the mobility component of PIP and / or DLA to older disabled people. They felt it was unfair and discriminatory that older disabled people whose mobility was impaired received no support with their mobility costs. However, there was some acknowledgement that simply extending entitlement to a large group of older disabled people would be expensive and that funding would need to be identified to do this."

Inclusion Scotland

6.252 In addition, a few respondents believed that the best solution was to create a single disability benefit, and that this should remove the need for a separate mobility component. A few suggested an increase in the basic pension to allow older people to be better placed to pay transport costs.

### **Alternative transport solutions**

6.253 Many respondents suggested that a wider range of transport solutions could be developed and supported. These included community based transport; dial-a-bus; taxi vouchers; taxi sharing; and increased travel concessions (train and ferry).

"Review the taxi card scheme to ensure that people who cannot use public transport have the same opportunity to travel as people have in receipt of the bus pass."

Scottish Older People's Assembly

### **Improved alignment of mobility schemes**

6.254 A few respondents highlighted the importance of ensuring that national mobility schemes and local schemes provided by local authorities and Health and Social Care Partnerships were carefully aligned to have maximum impact.

### **Widen access to support for travel costs**

6.255 A few respondents suggested that supporting carers' travel costs could be helpful for disabled people. And a few respondents noted that a change in mobility support for the large and growing population of older people would be very expensive.

## **Question - How could the new Scottish social security system better support people of all ages with mobility problems who are in receipt of a mobility allowance?**

6.256 There were 117 responses on how to support people of all ages with mobility problems who are in receipt of a mobility allowance (71 individuals and 46 organisations).

6.257 Some respondents said that the Scottish Government should retain (or retain and build on) the existing mobility schemes. Other key themes emerging were:

- develop a range of accessible transport options;
- automatic passporting to mobility schemes;
- fairer and more equitable assessment criteria;
- improved access to advocacy and advice; and
- role of Health and Social Care Partnerships in supporting mobility.

### **Develop a range of accessible transport options**

6.258 Some respondents said that transport had to be made more accessible for disabled people. Suggestions included promoting community transport; the use of taxi vouchers; improved public transport infrastructure; and concessions for train travel. A few of these respondents spoke particularly of the need to ensure that staff working in transport (including buses, taxis, trains and aeroplanes) were properly trained in dealing with disabled people in a sympathetic manner. This would be in line with the Scottish Government's Accessible Transport Strategy.

“Accessing wheelchair accessible taxis is currently quite difficult depending on where you live. There are small numbers of them, they require to be booked days or weeks in advance. High taxi rate makes it costly for some families to transport their cared for person to places such as respite (potentially a 20 mile round trip or more). Something that reduces this type of cost would be beneficial.”

SPAEN

### **Automatic passporting to mobility schemes**

6.259 A few respondents suggested that all those with mobility awards (whether at low, medium or high rate) should have access to Motability and similar schemes. A few suggested much greater use of passporting – so that once someone was eligible for a mobility award, a number of other supports should be made available automatically.

“The mobility allowance should continue as a passport – though should not be the exclusive route to access entitlements such as Blue Badges, travel pass, etc.”

CPAG Scotland

### **Fairer and more equitable assessment criteria**

6.260 A few suggested that there should not be an age restriction to access support. A few also wanted to see improvements in mobility assessments, which it was felt were too simplistic.

“We strongly feel that age barring restrictions should be lifted – i.e. for younger disabled children and for older disabled people to enable them to receive support related to their own mobility needs.”

Glasgow Disability Alliance

“The problem is for those with sometimes severe mobility problems who do not receive a mobility allowance. The assessment needs to be more realistic.”

Aberdeen Action on Disability

### **Improved access to advocacy and advice**

6.261 A few respondents said that there was a need for improved independent advocacy and advice.

“It is important that people are able to access independent advice and advocacy services and are advised of their right to do so. The social security agency should signpost people to organisations that will be able to support them throughout the process.”

The Poverty Alliance

### **Role of Health and Social Care Partnerships in supporting mobility**

6.262 A few respondents felt that mobility support should be provided by Health and Social Care Partnerships, rather than through the social security budget.

“It may be better to consider mobility in the context of health and social care rather than linked to benefits entitlement, reflecting that mobility is intrinsically linked to a person's overall well-being.”

PAMIS

## **Additional support**

6.263 The Scottish Government set out its proposals for additional support in Part 2 of the [consultation document](#).

### **Question - What kind of additional support should be available for people who need more help with their application and during assessment?**

6.264 There were 188 responses to this question (104 individuals and 84 organisations).

6.265 Overall, the most commonly mentioned themes were:

- simplify the application and assessment process;
- improve access to information and advice at the local level;
- increased support for advocacy services; and
- local and accessible assessment centres.

### **Simplify the application and assessment process**

6.266 Some respondents suggested that the whole system should be simplified. It was felt that if this was done, that the need for additional support would be very greatly reduced. Specific suggestions included overhauling the application and assessment process; improved training of assessors; and making sure that each claimant had a named person within the social security agency.

“A clear, simple application process, featuring straightforward wording of documents and navigation of web pages is essential if uptake of benefits is to be maximised.”

Individual

“In fact the system should be the one filling the forms. A system that asks people to apply and fill their own application is a system that is looking to find excuses to deny entitlement to the many while privileging the few who have the know-how.”

Individual

### **Improved access to local information and advice**

6.267 A large number of respondents believed that there would be an on-going need to provide access to information and advice. Respondents raised a number of points:

- Most of those making this point stressed the importance of information and advice services being appropriately funded. Some drew attention to the pressures on information and advice services because of reducing budgets. Respondents felt that information and advice services should be free for claimants.
- Many respondents stressed the importance of good signposting to available information and advice services, with some suggesting that national standards for information and advice delivery should be in place.
- Most of those seeking information and advice services said that the independence of the advisors was important, as was the accuracy of the information provided. Most felt that this advice and information role was best delivered by Third Sector organisations. However, a few suggested that skilled advisors might be employed within the new social security agency or within the Scottish Government.
- Most of those responding felt that information and advice services should be local and accessible. Some mentioned the value of face to face discussions and home visits for those that needed this. A few suggested that information and advice services should be located in places that people who might apply for support would go – such as GPs surgeries. Some suggested that there were advantages of tailored services rather than generic services.

“Carers at many of our events said they really valued the support they received from advice workers at their local carer centre who were able to provide advice on social security benefits and assistance with form filling.”

Carers Scotland

“Independent advice plays a key role in a well-functioning social security system, including support with entitlement, take-up, applications, complaints, appeals, access to information, outreach and continuous improvement.”

Citizens Advice Scotland

“Ensure that there is local info, advice and representation in locality. For rural areas this is a significant problem. At present the independent advice agencies are underfunded and slowly disappearing.”

Gordon Rural Action

“Overwhelmingly, people stated that they would like tailored support services. Advice services that are tailored for their specific conditions as opposed to generic advice agencies. For example, advice workers who specialise in mental health conditions, advice services for those with learning disabilities and specific advice agencies tailored to physical disabilities.”

AdvoCard

### **Increased support for advocacy services**

6.268 Many respondents stated their support for advocacy services being made available. A few others stated that claimants should be able to be accompanied by a supporter, mentor or friend at any assessments.

“We have seen the hugely positive difference that can be achieved by using an advocate at the different stages of the social security process. The ‘success’ rates for people who use the services of an advocate are significantly higher than those who do not afford themselves of the opportunity for assistance. Currently, the only groups of people within legislation who are entitled to be informed how to obtain the services of an advocate are people with mental health issues and those with a learning disability. We would like to see this right to advocacy extended to all who may require that level of support.”

Scotland’s National Action Plan: Right to an Adequate Standard of Living Reference Group

“An advocacy system, where independent help can be given for form filling, used to be available in most areas but this has slowly been taken away as an option for many people. Maybe a mobile advocate who could help people with applications and travel to assessments with them could be possible.”

Individual

### **Local and accessible assessment centres**

6.269 A few respondents argued for assessment centres to be local and accessible. Some of these suggested that home-based assessments should be carried out for those that need them.

## **Alignment with other devolved services**

6.270 The Scottish Government set out its proposals for alignment with other devolved services in Part 2 of the [consultation document](#).

**Question: How could disability benefits work more effectively with other services at national and local level assuming that legislation allows for this?**

6.271 There were 146 responses to this question (71 individuals and 75 organisations).

6.272 Overall, the most commonly mentioned themes were:

- more effective joined up working;
- greater focus on information sharing; and

- a person-centred approach.

### **More effective joined up working**

6.273 A large number of respondents supported improved joined up working between interested organisations. Most commonly, responses referred to effective working between the social security agency and Health and Social Care Partnerships. Respondents also referred to links with the justice system, employability services and vocational rehabilitation services. Reference was also made to the importance of signposting, improved information and advice and, possibly, staff co-location.

6.274 A few respondents recommended that each applicant should have a key worker who should be their point of contact throughout the process and would work across all the organisations involved.

“Professionals must begin by relinquishing their hold on their own services, they must be told to do this. Working together is the only way forward.”

Individual

“Specifically, participants thought there should be clear links between services dealing with disability benefits and other services for disabled people, so that those services could advise about entitlement to benefits and vice versa. Some thought there should be a specific person responsible for identifying and putting together a package of support for a disabled person.”

Citizens Advice Scotland

“HIV Scotland would envisage that a new Scottish agency would work collaboratively with existing services, including health and social care providers. This would ensure that claimants are better supported when accessing the social security system.”

HIV Scotland

6.275 A few respondents stressed that joint working should not lead to the merger of the benefits system and health and care provision. A few expressed concern that local authorities were increasingly using DWP benefits to subsidise care provision.

“ENABLE Scotland strongly supports the idea that those delivering the new devolved benefits see themselves as working alongside other services that are often crucial for people who have learning disabilities. This could bring opportunities to help develop the knowledge of those delivering the benefits to give them a rounded view of the services that people with disabilities might access and the difficulties they often face. We are clear however that social security is a distinct policy area in its own right and must remain as such.”

ENABLE Scotland

“Many recipients pay a contribution to the cost of their care based on the amount they receive in benefits. We urge the Scottish Government to be cognisant of the interaction between social security and social care funding and the possible implications for individuals. For example, it would make little sense to increase

benefit levels only for this increase to be absorbed by increases in local authority care charges.”

Scottish Commission for Learning Disability (SCLD)

### **More focus on information sharing**

6.276 Many respondents supported personal information being shared, on a confidential basis, between professionals. Some of these stated that this should only be done following informed consent from the applicant.

6.277 Some respondents suggested that a single shared assessment should be used, with the information shared with each of the organisations directly involved. This could lead to increased automatic entitlement to or passporting of other services.

“If a new Scottish disability benefit were to be designed from scratch, a decision would have to be made on the correct balance of investment between cash benefits paid to individuals and public services free at the point of delivery to disabled people. Under the current system, if information sharing were to be more extensively used in support of benefit applications, information gathered through (for example) the PIP application and assessment process might equally be shared with other service providers to ensure all available support was being provided.”

Individual

### **A person-centred approach**

6.278 Some respondents expressed support for a greater focus on person-centred services, including Self Directed Care.

“Improving people’s experience must be a shift away from the current reactive fragmented model of advice and support normally when an individual has encountered problems with their benefits, towards one that is more proactive, holistic and preventive, in which people with health conditions or disabilities are encouraged to play a central role in the support they receive from the social security system, devolved services and the public sector.

A wrap around shared assessment that identifies support requirements from the outset, and thereafter puts in place the appropriate levels of support, would significantly improve the way in which people are supported.”

Highland Council

### **Question: How do you think this might be achieved?**

6.279 There were 106 responses to this question (56 individuals and 50 organisations). Most respondents referred to their responses to the previous question.

6.280 Overall, the most commonly mentioned themes were:

- strengthened multi-agency work;

- more effective information sharing;
- a person-centred approach;
- more streamlined assessment process; and
- access to specialist advice and support.

### **Strengthened multi-agency work**

6.281 Many respondents suggested ways that multi-agency work could be strengthened. A few of these specifically mentioned the importance of service users being involved in the design of the new arrangements. Comments were made on the need for organisational culture to change and for effective partnership to be an outcome for organisations and for success in joint working to be rewarded.

“There needs to be a multi-agency, holistic approach to assessment / review. The current paradigm is that agencies are very much working in partnership but still retaining separate governance, identity and most importantly of all, budgets. Greater collaboration is required which means a change of culture and conversations and a way of working which includes Public Agencies, Third Sector, Independent Sector and Communities. This is some way off as agencies are struggling with their own survival but the current context also offers opportunities for changes to be made. In order for greater collaboration, there must be an accessible and easy way for any request for supporting information to be received quickly. This will depend on health, social work and other agencies to work together and cooperate with each other and the process.”

Glasgow Disability Alliance

### **More effective information sharing**

6.282 Some respondents referred to the arrangements that would need to be in place to deliver effective information sharing. Most of these referred to improved regulations about data sharing and a few referred to informed consent or the requirement to have improved IT to ensure easy, timely and confidential sharing of information.

### **A person-centred approach**

6.283 A few respondents reinforced the need for a person-centred approach.

“Having a new social security system offers an opportunity for a genuinely person-centred approach which recognises that it is the applicants who know their condition or disability best and how it affects them.

There needs to be an understanding of the impact a condition has on people’s lives. Questions need to be designed to help applicants articulate the impact their condition or disability has on them and could involve an individual describing their condition or disabilities rather than responding to questions about what they can or can’t do.”

Fife Council

### **More streamlined assessment process**

6.284 A few respondents suggested that the assessment process should be improved and that a single assessment should be used for benefits and access to services.

## **Access to specialist advice and support**

6.285 A few respondents repeated the importance of access to specialist advice centres. A few also commented on the importance of claimants having a single point of contact through a key worker.

### **Question - What are the risks?**

6.286 There were 110 responses to this question (60 individuals and 50 organisations). Many respondents felt that there was a risk of data breaches; of shared data being used inappropriately; or of out of date information being used.

6.287 Many respondents felt that there was a risk of a lack of multi-agency cooperation – with a risk of failure to share information or to design integrated services.

“Separate entities seek to protect their own position and do not buy into the overall vision. This will require careful management and direction from the highest level. The process of alignment should be transparent and be designed to accommodate future transfer of powers.”

Ayr Housing Aid Centre

“Failure of integration of various different databases and computer systems, distrust and competition among agencies if funding is gained through certain criteria and targets that mean sharing knowledge is counter-productive.”

Individual

6.288 Some respondents were concerned that a move to a single assessment would mean that if the assessment was ‘incorrect’ then this would affect all benefits and services.

“Closer association between disability benefits and social care always risks creating an all or nothing system where those not eligible for disability benefits struggle to access social care services, and vice versa.”

CPAG Scotland

6.289 Some respondents saw a risk that Scotland wide, non-means tested cash disability benefits would not be retained – and expressed concern that there would be an increasing move for disability benefits to be used to pay for support care costs.

“It is vital that a Scotland-wide system of non-means tested cash disability benefits is retained, and that these are not clawed back in care charges or reductions to other benefits.”

Scottish Council for Voluntary Service

6.290 Some respondents saw a risk from the cost and bureaucracy of the proposed system.

6.291 A few respondents felt that there was a danger of an impersonal system, where disabled people were subject to a non-human, 'digitalised' approach to assessment and delivery of services.

6.292 A few respondents also noted that the greatest risk was not making changes to the current system.

## **Industrial Injuries Disablement Benefit (IIDB)**

6.293 The Scottish Government set out its proposals for IIDB in Part 2 of the [consultation document](#).

### **Question - If DLA and PIP help meet the additional costs of disability, what is the role of IIDB and its supplementary allowances (Constant Attendance Allowance, Reduced Earning Allowance etc.) in the benefits system?**

6.294 There were 99 responses to this question (55 individuals and 44 organisations). However, many simply stated that they did not know what steps needed to be taken; that they were not experts in the area or provided a broader response.

6.295 Overall, the most commonly mentioned themes were:

- role of IIDB and its supplementary allowances;
- refining the system; and
- discontinuing IIDB.

### **Role of IIDB**

6.296 A large number of respondents supported the continuation of IIDB as a separate scheme. Some of these suggested ways that the current system could be improved. However, some respondents stated that there should not be a separate IIDB. There was a marked difference between the views of organisations and individuals that responded. Continuation of the scheme was supported by 30% of individuals and 97% of organisations.

### **Compensation for injury at work**

6.297 The main reason given for retaining the IIDB scheme was its role in compensating those who were injured at work.

"IIDB is a non-contributory, non-means tested benefit paid to compensate those injured at work. It is not an income replacement benefit but a compensatory benefit."  
Rights Advice Scotland

6.298 These respondents made clear their view that the scheme was not related to the extra costs arising from disability, but was a compensation for earnings and health, lost as a result of industrial accident or disease.

“IIDB, unlike DLA and PIP is not paid to cope with the extra costs arising from disability, but as a compensation for earnings and health lost as a result of industrial accident or disease.”

Inclusion Scotland

### **Reduced Earning Allowance (REA)**

6.299 A few respondents stated that the REA benefits have a small and shrinking number of people who are eligible since this is limited to accidents or diseases arising before 1990, and therefore led to very little extra cost.

### **Constant Attendance Allowance (CAA)**

6.300 A few respondents noted that entitlement to CAA was limited to claimants with entitlement to Industrial Injuries Benefit or War Disablement Pension. One of these respondents suggested that there was an opportunity for the new Scottish social security agency to review how CAA currently operates.

“The Scottish Government now has the opportunity to review this issue. One possible recommendation would be to merge the component parts of CAA and ESDA into one lump sum payment, payable in the first year, in addition to the weekly award of IIDB, followed by weekly payments after the first year.”

Clydeside Action on Asbestos

### **Refining the system**

6.301 A few of those who responded described ways in which the system should be refined. These were mainly around the list of prescribed diseases (which it was argued reflected the more industrial age in which the scheme was introduced) and the gender impact of this.

“The current scheme is perceived by some to be unequal in terms of payment amounts / gender and doesn’t necessarily reflect the changes in work place safety and / or the nature of work in Britain being very different ...”

COSLA

### **Discontinuing IIDB**

6.302 Some respondents stated that the IIDB scheme should cease. The main reason given for this was that IIDB should be merged with other systems, with a few suggesting a single system for all payments to people with disabilities. A few respondents suggested that employers should take full responsibility for compensation for injuries and diseases sustained at work.

“IIDB should be scrapped, and folk come under the standard disability payments. Lump sums of compensation could be paid by the employer’s insurance, and ongoing disability benefits could also be reclaimed from supplier. [People should] receive sufficient income to support a decent standard of life.”

NHS Lanarkshire

## **Question - What is right with the IIDB scheme? What is wrong with the IIDB scheme? Please explain your answers.**

6.303 There were 117 responses to this question (71 individuals and 46 from organisations). However, many simply stated that they did not have the information to give a substantive response or did not respond directly to the question. Therefore, there were 71 substantive comments on this question.

### **What is right with the IIDB scheme?**

6.304 Views on IIDB were generally positive. For example, Citizens Advice Scotland noted that the IIDB scheme “can provide crucial support for people who have been injured or developed a long term condition from carrying out their jobs”. Here to Help Mobility Company Limited described IIDB as a “necessary benefit to support individuals”, and individuals described IIDB as “a worthwhile benefit” and “vital”. A few respondents suggested that IIDB could be incorporated into Disability Living Allowance and Personal Independence Payments.

6.305 In considering the positive aspects of the scheme, some respondents highlighted the importance of the scheme not being means tested and some welcomed the fact that it was a ‘no fault’ scheme.

“It is a no fault scheme so can be paid to those who do not have the wherewithal to sue an employer or are unable to successfully attribute blame. It is a non-means tested benefit so can be paid to claimants who have other household income or savings.”

Midlothian Community Planning Partnership / Midlothian Council

### **What is wrong with the IIDB scheme?**

6.306 Although IIDB was generally seen as important by respondents, many responses highlighted areas for improvement in the scheme. The main areas identified were:

- Some respondents said that the list of prescribed illnesses was too limited and out of date. It was seen to be based on a more industrial world, and did not reflect today’s world of work.
- Some respondents drew attention to the complex application process.
- Some respondents were concerned that IIDB was taken into account in relation to means tested benefits.
- Some respondents felt that the scheme was not well publicised.
- A few respondents felt that employers should take more (or all) responsibility for compensating those with illnesses or conditions arising from their work.
- A few respondents suggested that there should be better alignment with other support. The two main suggestions were better links with employability support projects to help people back into the employment market; and merging the IIDB with DLA and PIP.
- A few respondents said that the scheme should cover self-employed and agency staff.

## Questions - Should different approaches be taken for people with life limiting conditions compared to people with less severe conditions?

**Table 6.15 Should different approaches be taken for people with life limiting conditions compared to people with less severe conditions?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	67	81%	16	19%	83
Organisations	35	97%	1	3%	36
<b>All respondents answering</b>	<b>102</b>	<b>86%</b>	<b>17</b>	<b>14%</b>	<b>119</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.307 In total, 119 respondents answered this question. Most respondents (86%) agreed that different approaches should be taken for people with life limiting conditions. Individuals were slightly more likely than organisations to disagree. There was overall support from across respondent groups.

### Question - What would be the advantages and disadvantages of such an approach?

6.308 There were 103 responses to the follow up question on the advantages and disadvantages of this approach (59 individuals and 44 organisations).

6.309 Most of the responses stated advantages for taking different approaches for people with life threatening conditions. The main advantages identified were:

- Some respondents said that it would allow the establishment of a fast track process, with automatic entitlement and less frequent (or a one off) assessment. This would lead to less stress for claimants and the potential for administrative efficiencies.
- Some respondents said that taking different approaches would bring greater fairness and equity to the process, and be more responsive to an individual's particular condition or circumstances.
- A few respondents said that it could allow different payment arrangements – for example giving the same compensation over a shorter period; the opportunity to make a lump sum payment; or the payment to dependents in the case of death as a consequence of industrial injury.

“... entitlement should be automatic and ongoing to minimise unnecessary distress and negotiation of complex systems at a time when stress levels and difficulties are already at very high levels ...Special rules and automatic entitlement would increase administrative efficiency; increase the number of claims that are easy to resolve; and increase transparency and ease of use for clients.”

Children in Scotland

6.310 Some respondents felt that IIDB should be designed around the needs of each individual, and this would help to ensure that appropriate responses were tailored to meet the needs of people with life limiting conditions.

6.311 A few respondents suggested that IIDB should be replaced by an enhanced 'whole of life' disability benefit.

**Question - Are there situations where a one off lump sum payment would be more appropriate than a regular weekly IIDB benefit payment?**

<b>Table 6.16 Are there situations where a one off lump sum payment would be more appropriate than a regular weekly IIDB benefit payment?</b>					
		<b>Yes</b>		<b>No</b>	
<b>Respondent group</b>	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	<b>Total</b>
Individuals	31	57%	23	43%	54
Organisations	20	67%	10	33%	30
<b>All respondents answering</b>	<b>51</b>	<b>61%</b>	<b>33</b>	<b>39%</b>	<b>84</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.312 In total, 84 respondents answered this question. Most respondents (61%) agreed that there were situations where a one off lump sum payment would be more appropriate. However, a substantial minority (39%) disagreed. Most disagreement came from a few local authority respondents.

**Question - What are they, and why? What would be the advantages and disadvantages of such an approach?**

6.313 There were 81 responses to the follow up question on the advantages and disadvantages of this approach (43 individuals and 38 organisations). Most of these respondents had answered 'yes' to the closed question. Comments mainly related to the advantages and disadvantages, rather than identifying specific situations.

**Advantages**

6.314 The main advantages mentioned by respondents were:

- Some respondents suggested that a lump sum payment could allow for the purchase of specialist equipment or of making necessary adaptations.
- Some respondents said that a lump sum, which could be treated as a capital payment, may be better than a regular income for those that were in receipt of means tested benefits.

**Disadvantages**

6.315 The main disadvantages mentioned by respondents were:

- Some respondents were concerned that (depending on length of life) a one-off lump sum might be lower over the period than a regular, on-going payment. Respondents drew attention to the added difficulties of budgeting on a fixed sum when one's life expectancy was not known.
- A few respondents felt that any lump sum should be paid by employers (possibly through insurance).
- A few respondents felt that any decision on a lump sum should be made by the individual claimant – and that no-one should be forced to take a

one-off lump sum in place of regular payments unless they wished to do so.

“Where the claimant is entitled to means tested benefit, a one off payment could be paid without necessarily affecting entitlement (would be treated as capital not income), but a disadvantage would be that overall entitlement may be reduced by loss of benefit over time.”

West Lothian Council

“It would mean applicants would have to gamble against a lump sum payment over the length of any difficulty in their care or in some cases their life expectancy. It would ... potentially cause an increased burden on social security and local authorities / HSCPs in future when the lump sum had gone and care services still have to be provided.”

East Ayrshire Council

### Question - Should the Scottish Government seek to work with the UK Government to reform the IIDB scheme?

**Table 6.17 Should the Scottish Government seek to work with the UK Government to reform the IIDB scheme?**

Respondent group	Number	Yes		No		Total
		Number	%	Number	%	
Individuals	43	21	67%	21	33%	64
Organisations	19	12	61%	12	39%	31
<b>All respondents answering</b>	<b>62</b>	<b>33</b>	<b>65%</b>	<b>33</b>	<b>35%</b>	<b>95</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.316 In total, 95 respondents answered this question. Most respondents (65%) felt that the Scottish Government should seek to work with the UK Government to reform the IIDB scheme. However, a substantial minority (35%) disagreed. Disagreement came mainly from a few local authority respondents.

### Question - If yes, what should the priorities be? What barriers might there be to this approach?

6.317 72 respondents provided comments in relation to this follow-up question (39 individuals and 33 organisations). Comments were mainly made by those who had answered ‘yes’ to the previous question.

#### Priorities

6.318 The responses on priorities fell into two main categories – general points about the way that the two Governments might work together and specific comments on the improvements that could be made to the IIDB system.

6.319 The general points were:

- Some respondents reflected on the fact that the UK Government was intending to review IIDB and suggested that it would be appropriate for the

Scottish Government to seek to reach agreement to a joint review with the UK Government. Often these respondents wished the Scottish Government to retain the right to make its own decisions if the review did not lead to an outcome which met their aspirations.

- A few respondents drew attention to the fact that there would be links between the powers transferred to the Scottish Government and those reserved by Westminster. The UK Compensation Recovery Unit was raised. It was stated that arrangements will need to be put in place with the UK Government to ensure that recovered benefits are returned to the Scottish social security system.

6.320 The more specific points about priorities related to points that had been made to earlier questions about IIDB. A few respondents mentioned the responsibilities of employers for compensation for industrial injury; the need to modernise the test and criteria for IIDB; the desire to have IIDB disregarded in terms of means tested benefits; and the replacement of IIDB with a 'whole of life' disability support.

### Barriers identified

6.321 There were two main barriers identified:

- Some respondents referred to the potential conflict between the Scottish Government's "fairer" approach and the UK Government's approach to welfare reforms, which was considered to be predicated on saving benefit costs rather than improving the service and benefits available to recipients.
- A few respondents stated that the Scottish Government should determine priorities from a Scottish perspective.

## Severe Disablement Allowance

6.322 The Scottish Government set out its proposals for severe disablement allowance in Part 2 of the [consultation document](#).

**Question - Do you agree with the Scottish Government's approach to Severe Disablement Allowance? Please explain why.**

Table 6.18 Do you agree with the Scottish Governments approach to Severe Disablement Allowance?					
Respondent group	Number	Yes		No	
		Number	%	Number	%
Individuals	64	13	83%	17%	77
Organisations	33	7	83%	18%	40
<b>All respondents answering</b>	<b>97</b>	<b>20</b>	<b>83%</b>	<b>17%</b>	<b>117</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

6.323 In total, 117 respondents answered this question. Most respondents (83%) agreed with the Scottish Government's approach to Severe Disablement Allowance.

6.324 There were 92 responses to the follow up question on the advantages and disadvantages of this approach (51 individuals and 41 organisations).

### **Reasons for agreeing with the Scottish Government's approach**

6.325 Those who agreed with the Scottish Government's proposed approach focused on three main points:

- Many respondents welcomed the continuity that this would provide and argued that for the small and reducing number of people supported, any reform would be unsettling and unnecessary.
- Some respondents drew attention to the fairness of this approach.
- A few respondents supported the continuation of SDA for existing claimants, but recommended that the Scottish Government should use its powers to offer enhanced support to severely disabled people who are not able to access SDA following its closure to new applicants in 2001.

"It is submitted that the Scottish Government in proposing to accept the withering on the vine approach to Severe Disablement Allowance is to fail to recognise the opportunity it presents to offer enhanced support to severely disabled people. SDA is an income replacement benefit for those without a [sufficient] national insurance history... When closed to new applicants in 2001 the arrangements put in place at that time provided for severely disabled young people who were unfit for work to satisfy the national insurance conditions and receive instead [support] ... through a mechanism known as Incapacity in Youth. As part of its Welfare reforms the UK Government abolished [Incapacity in Youth] for new claimants, effectively making severely disabled people increasingly or wholly dependent on means testing for their weekly income.

The opportunity to provide young people in particular with a guaranteed minimum income free from the limitations of a means test is one that the Scottish Government should embrace and, rather than allow to disappear, develop."

Rights Advice Scotland

### **Reasons for disagreeing with the Scottish Government's approach**

6.326 A few respondents gave reasons why they disagreed with the Scottish Government's proposed approach. These included suggestions to stop the scheme entirely; to merge it with other programmes; or to leave the responsibility to the UK Government.

# Part 2: The Devolved Benefits – Other Devolved Benefits

## About this Part of the Consultation

The second half of Part 2 of [the consultation](#) focused on a range of further benefits:

- Carers' Allowance;
- Winter Fuel and Cold Weather Payments;
- Funeral Payments;
- Best Start Grant;
- Discretionary Housing Payment;
- Job Grant; and
- Universal Credit Flexibilities.

## Key Themes

Here we provide an overview of the main themes emerging from the consultation responses, for the second half of Part 2 of the consultation.

### **Continuing or expanding eligibility**

In general, respondents supported a broad continuation of current eligibility, with support for the expansion of some benefits – such as Carers' Benefit, Winter Fuel or Cold Weather Payments, Funeral Payments, and Best Start.

A few respondents cautioned against more generous approaches where there was not a strong case for this, or called for a more targeted approach to some benefits.

### **Improved awareness and access**

Across a range of benefits, respondents called for improved awareness raising and information provision. There was concern that benefits are often not well known or understood, and that take up is low as a result. Respondents called for work to improve general awareness amongst the public. There was also support for more targeted promotion through existing advice or support services, and public sector agencies in contact with eligible groups. Respondents highlighted the stigma attached to receiving certain benefits, and asked for this to be considered when raising awareness or considering the alignment of different benefits.

In general, respondents asked for simpler, clearer information and application forms. At times, there was concern that changes might introduce greater complexity.

Respondents said that some benefits currently take too long to access. For example, respondents criticised the waiting time to receive first payments of Universal Credit, Funeral Payments, Discretionary Housing Payment, Cold Weather and Winter Fuel Payments. These delays were leading to crisis situations in some cases, or preventing people taking forward key processes – such as securing a property, or paying for a funeral. Respondents supported longer application windows for Best Start and Funeral Payments.

### **Person-centred services and choice**

There was a strong focus on ensuring benefits responded to needs and individual circumstances. Respondents often supported greater choice – for example, in relation to payment frequency, between goods and services, direct payments to landlords, or on issues such as split payments for Universal Credit. At times there was concern that some proposals might be demeaning or stigmatising (such as offering goods instead of cash), or that recipients might be put under pressure to make certain choices (such as having housing element payments paid directly to their landlord).

### **Simple processes**

Respondents emphasised the importance of ensuring that systems are simple and straightforward. There was support for streamlining eligibility and assessment processes, with respondents looking for specific opportunities to build on existing activity or systems. This was seen as being important to improve access, and limit administrative costs. A few respondents suggested the Scottish Government needs to carefully consider the administrative complexities of some proposals – such as additional payment points, or increasing choice on issues such as splitting or changing payment frequency of Universal Credit.

### **Improving fairness**

Respondents wanted to see the system operate in as fair a way as possible. At times, they identified aspects of existing benefit processes they felt were unfair to some groups. For example, current restrictions on Carers Allowance mean that people can only receive payments for caring for one individual, and overlapping rules mean that people receiving other income-replacement benefits at a higher amount than Carers Allowance will not receive any additional amount.

There was concern that recent welfare reform has had negative consequences for some groups, and particularly in relation to Universal Credit. For example, there was widespread concern about usually making one payment per household, and reductions or limitations on the housing element. There was also concern that using Discretionary Housing Payments to mitigate the impact of the bedroom tax has reduced the resources going towards people in housing crisis situations.

Some respondents highlighted the variability in administration of some payments in different local authority areas.



## **7. Carer's Allowance**

## Proposals for a future Scottish Carer's Benefit

7.1 The Scottish Government set out its proposals for a future Scottish Carer's Benefit in Part 2 of the [consultation document](#).

**Question - Do you agree with the Scottish Government's approach to developing a Scottish Carer's Benefit? Please explain why.**

Table 7.1 Do you agree with the Scottish Governments approach to developing a Scottish Carer's Benefit?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	84	92%	7	8%	91
Organisations	77	86%	13	14%	90
<b>All respondents answering</b>	<b>161</b>	<b>89%</b>	<b>20</b>	<b>11%</b>	<b>181</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

7.2 A total of 181 respondents answered the closed part of this question. Most respondents (89%) agreed with the Scottish Government's approach to developing a Scottish Carer's Benefit. There was overall support from respondents from across respondent groups. Local authority respondents were more split than respondents overall, with a higher proportion (36%) disagreeing.

7.3 When asked to explain their response, 164 respondents provided further comments (97 organisations and 67 individuals).

7.4 The main themes emerging were:

- the level of the benefit;
- the impact on related benefits, paid employment and education; and
- the benefits of joint working.

### The level of the Scottish Carer's Benefit

7.5 A large number of respondents commented on how to set the appropriate monetary level for a Scottish Carer's Benefit. Many broadly welcomed an increase in Carer's Allowance in the form of a Scottish Carer's Benefit.

7.6 Many supported this increase to the same level as Jobseeker's Allowance, but still had some reservations, mainly that this level of benefit would still be too low. A few respondents felt that the Jobseeker's Allowance level would not reflect the amount of work involved as a carer, and the fact that carers are already doing a full time caring role that prevents them looking for paid employment. There was some concern that the proposed increase still fell significantly below the minimum wage and living wage (at just over £2 an hour). A few wished to see the Scottish Government choosing to use tax raising powers to increase the resources available, and to help lift many carers out of poverty.

“The poverty rate climbs the more hours per week spent caring.”

Joseph Rowntree Foundation

“This still equates to slightly over £2 per hour, are we saying that this is now an acceptable level?”

NHS Lanarkshire

7.7 A few respondents felt that the increase should be treated as a minimum initial improvement, with a plan to uprate it over time. A few felt that a low level also indicated that the Scottish Government did not place enough importance on the work of a carer. However, a few felt that the increase, however small, was a symbolic recognition of the work that carers do. In addition, a few wanted to see a human rights approach adopted.

7.8 Some respondents commented on the savings generated for public health and social services by carers every year. Respondents pointed out that carers keep those they care for out of long term health care institutions, and that this should be recognised financially and otherwise. It was suggested that carers should receive an increase in their benefit level to reflect these resource savings.

“It is important that the Scottish Government recognises this enormous contribution as it develops its priorities for introducing a new Scottish Carer’s Benefit, and makes a strong commitment to providing adequate financial support.”

Midlothian Community Planning Partnership / Midlothian Council

“We are a hidden asset, largely ignored and deserve so much more.”

Individual

### **The impact on related benefits, paid employment and education**

7.9 A large number of respondents commented on issues around the impact of a Scottish Carer’s Benefit on other benefits or activities. Some were concerned about the potential impact on reserved benefits such as Housing Benefit or Income Support, with many believing that an increase in Scottish Carer’s Benefit might result in a reduction in their Income Support under the new Universal Credit rules. They felt that carers may be no better off, may have to navigate a confusing system and may experience administrative errors, delays and overpayments. A few felt that those on the lowest incomes would be most affected.

“We must ensure that any increase doesn’t reduce entitlement to means tested benefits which are reserved to Westminster.”

Rights Advice Scotland

7.10 A few felt that it was unfair that those in receipt of the state pension could not claim a Carer’s Allowance, while others of working age could receive a Carer’s Allowance and income support.

7.11 Some talked about the Carer’s Allowance in relation to paid employment, with concern that the qualifying earnings threshold was too low – minimising

opportunities for carers to take up other work opportunities. Some respondents said that any Carer's Benefit should remain non-means tested, as many carers had no choice but to reduce or give up work to carry out their caring responsibilities. Similarly, some respondents wanted to see the relationship between caring and studying revised. Respondents felt that carers should be encouraged to pursue personal goals and to develop the skills they would need to return to the labour market when their caring role ended.

"I sometimes get asked to work a little extra at work but I have to say no because my Carer's Allowance would be stopped."

MS Society Scotland

### **Caring time and for more than one person**

7.12 Some felt that the '35 hour rule' of caring for the same person each week to qualify for Carer's Allowance was too restrictive. Some welcomed the Scottish Government's commitment to increasing Carer's Allowance for those looking after more than one disabled child. However, a few queried why this would not also be the case for those looking after more than one adult. A few felt that the consideration should be whether people are caring for more than one person, whether adults or children.

### **Joint working between services**

7.13 Some talked about joint working between services, with some emphasising that while an increase in the allowance for caring is important, it was also important to think about other forms of social support. A few expressed a desire for more integrated services and support for carers, for example, through Health and Social Care Partnerships and through a wider network of support services for carers. However, a few (particularly local authority respondents) felt that more consideration needed to be given to the integration of delivery mechanisms for both the Scottish Carer's Benefit and the Carers Act 2016. A few welcomed the intention to improve the inclusion of carer voices in the design and development of support services.

"It must be remembered, especially for young carers, that support is not just about more money and access to and provision of other support services are equally important."

Bobath Scotland

### **Wider comments**

7.14 A small number of respondents also highlighted issues around:

- **Support for young carers** – There was support for exploring a young carer's allowance, combined with an enhanced Job Grant payment, with a few commenting on the lack of availability of support and opportunities for young carers.
- **Creating awareness of carer entitlements** – A few respondents wished to see proactive targeting of carers eligible to claim benefits, to raise awareness of the available support.
- **Eligibility criteria and assessments** – A few respondents discussed the age limit for eligibility, the assessment process at local level, and the 84

day rule currently preventing families with a seriously ill or disabled child from receiving Disability Living Allowance once they have been in hospital for the same condition for more than 84 days.

- **Health and wellbeing of carers** – A few respondents emphasised the importance of looking after the wellbeing of carers, and the risk of poor health and wellbeing outcomes for carers if not addressed.
- **Caring and gender roles** – Given that the majority of carers in Scotland are women, a few expressed disappointment that the new approach did not take more account of gender and the impact that this can have on exacerbating inequality, particularly if a Carer’s Benefit is set at a lesser rate than Jobseekers Allowance.
- **The words used to describe the benefit** – A few felt that words like allowance and benefit made them feel as if they were claiming from the state without providing anything in return.

## Proposals for the short to medium term

7.15 The Scottish Government set out its proposals for the short to medium term priorities for developing a Scottish Carer’s Benefit in Part 2 of the [consultation document](#).

**Question – Do you agree with our proposed short to medium term priorities for developing a Scottish Carer’s Benefit? Please explain why.**

**Table 7.2 Do you agree with our proposed short to medium term priorities for developing a Scottish Carer’s Benefit?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	72	90%	8	10%	80
Organisations	54	79%	14	21%	68
<b>All respondents answering</b>	<b>126</b>	<b>85%</b>	<b>22</b>	<b>15%</b>	<b>148</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

7.16 A total of 148 respondents answered this question. Most respondents (85%) agreed with the Scottish Government’s short to medium term priorities for developing a Scottish Carer’s Benefit. Individuals were slightly more likely than organisations to agree. There was overall support from across most respondent groups. Local authority respondents were more split than respondents overall, with 36% disagreeing.

7.17 Further comments were provided by 105 respondents (64 organisations and 41 individuals).

7.18 The main themes emerging were:

- impact on other benefits and paid employment;
- support for young carers;
- advice and support;
- joint-up services; and

- advice, advocacy and support.

### **Impact on other benefits and paid employment**

7.19 Some respondents supported an increase in the level of a Scottish Carer's Benefit, and some agreed that it should be raised to at least the level of Jobseeker's Allowance. A few said that an increased and more flexible Scottish Carer's Benefit would ensure that carers are recognised for their contribution to society and to cost savings for health and social care services.

7.20 However, a few respondents felt that the increase was not enough, as it would not meet the minimum income required to address financial hardship of carers. They believed that the Scottish Government should have an aspiration to increase the Carer's Allowance over time.

"The increased allowance of £11 per week will not make a meaningful difference to women's lives especially for those who are caring for children in addition to older, disabled or ill relatives."

Engender

7.21 Many respondents talked about an increased Carer's Benefit, and its potential impact on other benefits. A few respondents believed that Carer's Allowance should be treated separately from other benefits. They were concerned that an increased Scottish Carer's Benefit could mean that other non-devolved benefits may be reduced.

7.22 Some respondents talked about combining caring and paid employment. There was a general view amongst these respondents that the current earnings threshold should be removed or reviewed. These respondents said that the current earnings limit was too low, and didn't replace loss of income due to caring. This forced some carers to give up better paid work, made it more difficult for some to find suitable employment, or disqualified them from receiving Working Tax Credit or the Carer's Allowance.

"The Carers Allowance should be a benefit which replaces the potential earnings of those who are either unable work or have had to reduce the number of hours that they are available to work."

ENABLE Scotland

7.23 A few respondents said that enabling carers to take on paid employment more easily would have a positive impact on their health and wellbeing, self-esteem and social life. A few respondents like to see further development of the Carer Positive scheme, which encourages employers to support carers in their workplace.

### **Support for young carers**

7.24 Many respondents discussed issues around young carers. Some welcomed the Scottish Government's plans to provide additional support and introduce a Young Carer's Allowance. A few had concerns about 'formalising' the role of young carers, as it should not be assumed or expected that a young person will willingly take on a caring role.

“Ideally, young people's caring duties should be reduced so they can take up the educational, employment and social opportunities available to other young people.”  
Orkney Islands Council

7.25 Some respondents called for the removal of restrictions around young carers, in relation to age, and for young carers in full time education or work. They felt that these eligibility criteria should be broadened, otherwise education, employment and life choices would be restricted in the longer term.

“Typically, full time students who do not have a caring role will supplement their incomes by way of part time or temporary work. For many young carers, however, their caring role means that this is not possible.”  
ENABLE Scotland

7.26 A few respondents wanted more clarity around proposed support for young carers. There was concern that the consultation document did not clarify at what age a young person would qualify as a ‘young carer’, as currently a carer under 16 cannot claim Carer’s Allowance. A few respondents made suggestions about how to approach support for young carers, including:

- financial support, for example, grants for transport costs and leisure activities;
- more support services, for example, respite care and additional education tuition;
- a student grant for carers;
- protecting additional school supports such as means tested Education Maintenance Allowance and free school meals; and
- increased benefits for parents with disabilities to ensure that they are not forced to rely on their children for care.

### **Advice and support**

7.27 A few respondents highlighted their concerns around advice and support for carers of disabled adults and children. They felt that they were being given the wrong advice about what their entitlements were. These respondents felt that additional support should be put in place for carers in these circumstances.

### **Joined up services**

7.28 Some respondents wanted to see a more joined up approach in relation to all carers (including young carers). They felt that services for young people including health, social care and education should be supporting young carers in a more integrated and holistic way. The health and wellbeing of young carers was a concern for these respondents and they felt it was the role of Health and Social Care Partnerships to ensure this was a priority. Joined up services for adults were also discussed by these respondents. They felt that social security and health and social care services should be working together to provide a robust yet flexible package of support for carers.

“We also know that joined up holistic services and access to more flexible support, including goods and services will benefit the whole family.”  
Glasgow Disability Alliance

## **Advice, advocacy and wider support for carers**

7.29 Many respondents discussed the importance of offering well-funded and easily accessed support services to carers. It was emphasised that carers should have the choice of support services where and when it suits them. These included person-centred information, advocacy and advice services, such as:

- additional tuition to maximise learning and education outcomes;
- respite, carer networks, centres and groups promoting socialisation and preventing isolation, perhaps delivered through the voluntary sector;
- a telephone helpline for carers in remote geographical locations;
- a national ‘one stop shop’ carer’s advice service, signposting carers to appropriate support and providing Scotland-wide consistency;
- advice services on a range of issues, including finance and employment;
- advocacy support through representative organisations and networks;
- a simplified, user friendly, quick and supported application and awarding process, giving carers “dignity and respect”;
- ‘in kind’ benefits such as reduced utility tariffs and discounted travel; and
- an awareness campaign to identify carers who are unaware of their status as a carer, their entitlement to benefits or of the wider advice and support available.

“Additional investment in carer support services is needed to ensure that support is available across the whole of Scotland, with particular focus on rural and remote geographies.”

MS Society Scotland

## **Wider issues**

7.30 Some respondents highlighted wider issues in relation to this question:

- voluntary alternatives to cash payments;
- ensuring that the approach to a Scottish Carer’s Benefit is developed in line with wider strategy and policy, such as health and social integration and the Carers (Scotland) Act 2016; and
- implementing change incrementally to avoid a shock to the system and to claimants.

## **Question - How can we improve the user experience for the carer (e.g. the application and assessment process for Carer’s Benefit)?**

7.31 In total, 114 respondents answered this question: 67 organisations and 47 individuals.

7.32 The main themes emerging were:

- pre-assessment information, advice and support services;
- the application and assessment process for carers; and
- eligibility criteria for receiving the Scottish Carer’s Benefit.

## Information, advice and support services

7.33 Many respondents discussed the importance of pre-application information, advice and support services for carers. Some suggested additional support and advice services that would be useful, including:

- a carers support telephone line;
- peer support groups and access to respite, for adult and young carers;
- concessionary travel;
- accessible online information, for example, relevant links on the Scottish Government website;
- joined up support through integrating services, such as the development of an online carer's portal, or 'one stop shop' allowing people to access all the financial, resource, support and advocacy information they need; and
- national promotional campaign around carer's entitlement, to engage those who don't, but who are eligible, to claim.

"More carers support groups are necessary. This type of support can be invaluable in helping individuals to complete application forms, which can be confusing and complicated."

Scottish Women's Convention

7.34 A few respondents talked about the consequences of poor pre-application information. They felt that unpaid carers must be proactively identified.

"Be transparent. Carers need to know they are valued and supported and have information about all of their options."

Bobath Scotland

## The application and assessment process for carers

7.35 A large number of respondents commented on the application and assessment process. Some felt that the current application and assessment process for Carer's Allowance was reasonably straightforward, in comparison to other benefits. A few respondents did not believe that it required any change, but must continue to prioritise and value the carer and cared for person.

7.36 A large number of respondents who were quite satisfied with the application and assessment process still felt improvements could be made. Speed of decision making and simplification of the process were particularly highlighted. Improvements suggested included:

- reducing the length of time between making a claim and receiving payment;
- Involving carers in the design of application and assessment processes to ensure they best fit the needs of the people using them.
- Developing a single integrated assessment which considers carers' needs in a holistic way, giving carers the choice over how their support is provided.
- Making a range of paper-based, telephone, face to face and online claims easily accessible.

- Revising application forms and processes so that they are simpler and easier to understand, including an Easy Read option.
- Introducing free phone numbers for carer enquiry lines.
- Employing claims assessors who are well trained and knowledgeable with an understanding of caring, to make the process less impersonal.
- Including carers on the Claimant Panel.
- Regular communication with the claimant at all stages of the process.
- Ensuring that any changes to a carer's eligibility criteria does not complicate or delay the application process.
- Clearer procedures for carers who wish to challenge decisions to stop or refuse payments.
- A well-designed monitoring and evaluation framework to ensure the system is fit for purpose, identify any issues and continually improve the service where required.

“Carers don't have time for multiple calls and completing extremely long forms.”  
Carers Trust Scotland

7.37 Some respondents had more serious concerns about the current application and assessment process. These were wide ranging and included issues around inadequate communications and administration:

- Issues with communication about claims for Carer's Allowance. For example, lengthy telephone hold times;
- Reporting changes in circumstances could be complicated, resulting in delays and overpayments; and
- Lack of joined up working between services where information could be shared, with consent, about carers and those they care for to make the application and assessment process simpler.

“At present, application and assessment processes for carers benefits are unnecessarily long and arduous.”  
Scottish Women's Convention

### **Eligibility criteria for receiving the Scottish Carer's Benefit**

- 7.38 Many respondents expressed concern about eligibility criteria. For example:
- **UK-Scotland links** - Some respondents were concerned about the potential for tensions between the Scottish Carer's Benefit and other reserved benefits, in case the existing overlapping rules meant that they could not receive carer entitlement, or reduced other benefits. They felt that benefits for carers and those cared for should be separated, rather than each dependent on the other, and that a system streamlining the interaction between different benefits should be in place.
  - **Clarity** - Revising any unclear information about eligibility criteria.
  - **Timescales** - Difficulties in claiming Carer's Allowance because of delays including re-assessments in the payment of PIP and DLA awards for the people they cared for, or the Scottish Carer's Benefit process becoming lengthier and more complicated.
  - **Restrictions** - Limitations around carers in employment were noted by a few respondents, who felt that the earnings limit should be raised and that

many carers are living in poverty. A few respondents mentioned the need to remove restrictions around caring and full time study.

- **Evidence** - A few respondents felt that carers should have to evidence that they cared for some for at least 35 hours a week.

“Ensure that the rules are not ambiguous and are precise in their definitions.”  
Carers Scotland

“Above all, treat people as individuals, with dignity and respect.”  
Aberdeen Action on Disability

**Question - Should the Scottish Government offer the choice of exchanging some (or all) of a cash benefit for alternative support (e.g. reduced energy tariffs)? Please explain why.**

Table 7.3 Should the Scottish Government offer the choice of exchanging some (or all) of a cash benefit for alternative support (e.g. reduced energy tariffs)?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	40	56%	32	44%	72
Organisations	29	54%	25	46%	54
<b>All respondents answering</b>	<b>69</b>	<b>55%</b>	<b>57</b>	<b>45%</b>	<b>126</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

7.39 A total of 126 respondents answered this question (72 individuals and 54 organisations). Views were fairly split with just over half of respondents (55%) feeling that the Scottish Government should offer the choice of exchanging some (or all) of a cash benefit for alternative support. A fairly split position was observed across most respondent groups.

7.40 When asked to explain why, 116 respondents commented further on this question (61 organisations and 55 individuals). Many felt it would offer choice, flexibility and control.

**Choice**

7.41 Many respondents emphasised that carers should be given the choice over how they would prefer to receive their benefit. They believed that a cash payment should be the default, and carers could then choose if they would prefer an alternative to cash. A few felt that it should be a voluntary and genuine choice, which would not reduce access to other benefits.

“Being able to make the choice would demonstrate the Scottish Government’s commitment to ensuring the dignity and respect of those claiming Carer’s Allowance.”  
Scottish Women’s Convention

## Flexibility and control

7.42 Many respondents felt that offering alternatives to carers provided them with greater flexibility and control. They believed that this may suit some carers, would make the best use of resources available and could ensure that the benefit was tailored to meet individual needs. There was some interest in discounted energy and utility bills, which some felt could reduce fuel poverty and allow the carer to focus more of their time on the person they care for.

“This may enable people to manage / budget their money better whilst providing a more useful alternative to cash for many.”

Fife Council

7.43 A few respondents felt that it would be useful to consider other discounts including discounted travel costs, food bills, fuel bills, clothing and equipment, such as mobility scooters.

## No alternatives should be offered

7.44 Some respondents did not agree that there should be alternatives to cash payments. A few felt that offering vouchers was “stigmatising”. Some respondents felt that discounted goods and services should be offered and delivered separately from social security benefits.

“Everyone who cares should receive Carer’s Allowance – the choice of what they want to do with it is up to them.”

Parkhead Citizens Advice Bureau

7.45 A few respondents declined to answer ‘yes’ or ‘no’ to this question, as they felt they had not been given enough information about how such a system would work.

## Question - What alternative support should be considered?

7.46 In total, 83 respondents answered this question (43 organisations and 40 individuals). A large number of respondents said that carers required more than just financial support, and should be offered a range of services – designed in consultation with carers.

“Carers should be consulted on the type of support they require and how it can be provided.”

North Ayrshire Council

## Goods and services

7.47 Some respondents were interested in:

- **Respite** - Access to free or affordable respite care and discounted short breaks, leisure and sports activities. Some respondents discussed the importance of carers getting a break, whether an evening at the cinema or a week on holiday.
- **Bills** - Some respondents discussed discounted utility bills for carers. For example, they felt that energy costs for carers should be discounted.

Some of these respondents also believed that carers should be offered Council Tax Reduction, and discounted telephone and internet tariffs.

- **Travel** - Some respondents highlighted the importance of discounted travel costs including bus passes, and Motability for disabled claimants. They felt that this should particularly apply where the carer does not live with the person they care for. Respondents said that discounted travel should be available to carers whether or not they were with the person they care for.
- **Adaptations** - A few respondents said that access to a service for housing adaptations and repairs for carers would be useful.
- **Health** - A few respondents talked about free health costs for carers, including optical and dental treatment, and discounted food and clothing.

7.48 Respondents felt that some services such as free bus passes and relaxation therapies could have significant positive impacts on the health and wellbeing of carers.

### **Wider support**

7.49 Many were interested in services to help reduce isolation and build confidence and self-esteem. A few respondents talked about the importance of carer support organisations. They believed that the Government should invest more funding into new and existing carer support groups and agencies as these are often the main source of support for carers, offering employment, financial, housing and other assistance. A few respondents felt that there should be better signposting to relevant services for carers around the country, and better transition support once they had reached the end of their caring journey, especially for those who have given up work to care for someone.

“What happens when caring stops?” As women, we lose pension rights and returning to work becomes hard.”

Engender

7.50 Again, respondents emphasised the importance of effective signposting to the appropriate support organisations, which could perhaps be achieved through a dedicated registration system.

“Rather than looking at alternative support, the Scottish Government should consider what additional support they can provide for carers.”

The Poverty Alliance

### **Question - How can we achieve a better alignment between a future Scottish Carer’s Benefit and other devolved services?**

7.51 In total, 87 respondents answered this question (32 individuals and 55 organisations).

7.52 The main themes emerging were around:

- national level administration;
- local level administration;

- developing and signposting to carer support mechanisms; and
- consultation with carers.

### **National level administration**

7.53 Some respondents stated that establishing central administration for devolved services, through a body such as the new Scottish social security agency, would be the most effective way of administering a Scottish Carer's Benefit.

7.54 A few respondents also raised concerns about potentially delivering a Scottish Carer's Benefit through local authorities. They said that the budget for the new Carer's Benefit should not be merged with social care budgets. One respondent said that the Scottish Government performance in this area could be linked to and measured by the National Performance Framework and outcomes. Another said that the new Carer's Allowance should be closely aligned with the Scottish Carers (Scotland) Act 2016.

“Achieving positive outcomes for both carers and the individuals they care for must be seen as a desired national economic investment. This would require a holistic approach including reducing fuel poverty and tackling social isolation.”

Scottish Council for Voluntary Organisations

“We share concerns about the potential implications of integrating social security and social care services. However, it is imperative that budgets to support carers remain distinct from social care budgets at local authority level, and that the Scottish Carer's Benefit is administered by the new, central agency.”

Engender

7.55 A few respondents talked about the need to improve communications between the DWP and devolved services. They said that information sharing between the two would be essential. A few respondents felt that aligning a Scottish Carer's Benefit and other devolved services could be difficult, because currently entitlement to Carer's Allowance impacts on the existing premiums of reserved benefits. These respondents felt that reserved benefits which might be affected by the new Scottish Carer's Benefit, such as Self Directed Support, must be protected.

### **Local level administration**

7.56 Some respondents talked about the need to have devolved Scottish social security benefits including the new Scottish Carer's Benefit under the control of integrated health and social care services within local authorities.

“Local Government delivery could mean a wrap-around approach to service delivery at the earliest opportunity.”

Perth and Kinross Council

7.57 A few respondents said that to ensure the success of local level approaches, information sharing between the Scottish social security agency, health, social work and other public services would need to be improved. Local offices or 'one stop shops' staffed with knowledgeable people would be required to offer practical support.

“The integration of the HSCP should allow better information sharing and joined up working at the local level. The important issue will be how the system can recognise that a person is undertaking the role of a carer in the first instance, and then ensure that all relevant agencies are aware.”

East Ayrshire Council

### **Developing and signposting to carer support mechanisms**

7.58 Some respondents believed that appropriate support mechanisms were as important for carers as social security benefits. Respondents said that the devolution of Carer’s Benefit offered the opportunity to signpost and refer carers to support services as soon as a benefit application is made. Similarly, people using carer’s support services who do not already claim Carer’s Benefit, could be made aware of this entitlement and services could be automatically alerted if a person’s circumstances change.

“There are many good carer groups out there but not everyone finds them.”

Citizens Advice Scotland

7.59 Other respondents talked about the need for the development of a single portal or point of contact for accessing all financial and other carer support. They felt that it would simplify the process of accessing support for carers, allowing financial and other resources to be pooled in a holistic way.

“The systems and processes in place to deliver self-directed support have significant potential in this respect.”

COSLA

### **Consultation with carers**

7.60 A few respondents said that consultation with carers was the best way to find out how best to achieve a better alignment between a future Scottish Carer’s Benefit and other devolved services. These respondents felt that consultation should take place with carers, people who are cared for, those delivering carer’s support services and any relevant partner agencies.

“The ethos adopted throughout the development of the strategy should be that carers should be partners in the plan.”

One Parent Families Scotland

### **Question - How can we improve the support given to young people with significant caring responsibilities – beyond what is currently available?**

7.61 In total, 60 respondents answered this question (29 individuals and 31 organisations).

7.62 The main themes emerging were:

- general views on Young Carer’s Allowance;
- availability of non-financial, wider support;
- access to education and employment for young carers;
- identifying young carers; and

- supporting young people out of their caring responsibilities.

### **General views on Young Carer's Allowance**

7.63 Some respondents talked generally about the proposed Young Carer's Allowance. Most felt that there is a need to reach beyond what is currently being provided.

“According to the Scottish Government, there are currently 44,000 carers under the age of 16 in Scotland and it is estimated that in monetary terms, the care they provide is worth in excess of £300m.”

Children and Young People's Commissioner Scotland

7.64 Respondents talked about how a Young Carer's Allowance should be administered. Some felt that a direct cash payment would be acceptable. There were varied views about whether this payment was made directly to the young carer, or to the person they care for. Some said that this should not have a negative impact on other benefits like EMA or Child Benefit. Others thought that a voucher scheme might be more appropriate. A few said that any financial benefit for young carers should consider assistance with housing costs. A few felt that they needed more detail on what the scheme would entail, before they could make an informed judgement.

7.65 Concerns were raised about whether young carers under the age of 16 should receive a Young Carer's Allowance. It was suggested that payments could be made into a trust fund for young carers to access when they got older. Others felt that young carers might not have the maturity to manage an allowance effectively, or the person they cared for may feel that the allowance should be given to them, particularly when caring for someone with an addiction.

### **Availability of non-financial, wider support**

7.66 Many respondents talked about improving the support for young people with significant caring responsibilities. Generally, these respondents welcomed the idea of better support, however, they were not sure that a financial payment was the right approach to take.

“We do not think that a financial allowance for young carers is feasible.”

Parkhead Citizens Advice Bureau

7.67 Respondents echoed concerns around giving cash payments directly to young people, especially under the age of 16. Other respondents felt that young carers required a package of support, which may or may not include a cash payment. They felt that investment in young carer support services would be more worthwhile, including:

- access to respite and short breaks / holidays;
- free or discounted access to leisure facilities;
- more skills and personal development projects aimed at young carers;
- concessionary transport;
- help in the home;
- extra support from social work, mental health and education services;

- alternative education, for example, remote learning packages;
- access to counselling, mentoring and peer support opportunities; and
- rolling out the Young Carer's Charter.<sup>5</sup>

7.68 It was suggested that greater collaborative working with third sector partners would be required to deliver non-financial packages of support for young carers.

### **Access to education and employment for young carers**

7.69 A few respondents welcomed the idea of removing restrictions on young carers in full time education. Respondents said that many young carers were prevented from claiming Carer's Allowance because they studied or worked alongside caring.

“Removing or changing the rules related to the earnings threshold and studying would support this cohort without the need for a separate Young Carer's Allowance.”  
Scottish Council for Voluntary Organisations

7.70 Citizen's Advice Scotland highlighted a Scottish Youth Parliament public petition to the Scottish Parliament in 2013, suggesting the development of a Young Carer's Grant for those in full time education or under 18, who were not eligible for Carer's Allowance. The idea behind this grant was to support the health and wellbeing of young carers throughout their studies and prevent them from dropping out.

7.71 Respondents questioned why young carers should have to sacrifice achieving qualification and skills for the future, because they have caring responsibilities. These respondents felt that this creates a barrier to employability and a potential group of unskilled working age people in the future.

### **Identifying young carers**

7.72 A few respondents talked about developing better processes to identify young carers before being able to decide what additional support they might require. Respondents said that currently there were issues in identifying young carers, partly because not all young carers have a Young Carer Statement or Support Plan, so many go unrecognised. They felt that cross referrals with health, social care, education and housing were required, as many young carers are socially isolated and disadvantaged. A few suggested the introduction of incentives for GPs to register young carers.

“There are additional barriers for young carers who may be eligible for support, such as the family's fear that children will be taken into care, so they are often 'hidden' from health, social care and education services.”

Action for M.E.

### **Supporting young people out of their caring responsibilities**

7.73 A few respondents said that the Scottish Government should be placing more focus on establishing a route out of caring for young people. They felt that by

<sup>5</sup> <http://www.gamh.org.uk/media/1194/gamhyoungcarersuncrcreport.pdf>

developing a Young Carer’s Allowance, this might pressurise young people to continue with caring, and prevent them from considering alternative future possibilities. Respondents suggested that by investing more in adult carers, there would be less need to rely on young carers.

## Proposals for the longer term

7.74 The Scottish Government set out its proposals for the longer term in Part 2 of the [consultation document](#).

### Question – Do you agree with our proposed long term plans for developing a Scottish Carer’s Benefit? Please explain why.

Table 7.4 Do you agree with our proposed long term plans for developing a Scottish Carer’s Benefit?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	73	92%	6	8%	79
Organisations	57	88%	8	12%	65
<b>All respondents answering</b>	<b>130</b>	<b>90%</b>	<b>14</b>	<b>10%</b>	<b>144</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

7.75 A total of 144 respondents answered this question. Most respondents (90%) agreed with the Scottish Government’s proposed long term plans for developing a Scottish Carer’s Benefit. There was overall support from across respondent groups.

7.76 Further explanation was provided by 104 respondents (38 individuals and 66 organisations).

7.77 The main areas discussed were:

- definition of a carer and eligibility criteria;
- level of the Scottish Carer’s benefit; and
- implementation processes and timescales.

### Definition of a carer and eligibility criteria

7.78 A large number of respondents focused on eligibility criteria. Many said that the differing definitions of carers currently used were confusing. These respondents welcomed the Scottish Government’s long term aim of widening the definition of a carer under the Carers (Scotland) Act 2016, but felt that this needed to be communicated clearly.

“The definition of a carer is simply someone who provides care for someone. Any alteration to this definition to exclude people who provide care should be opposed.”  
Individual

7.79 Most felt that the benefit needed to remain non-means tested. Most said that there was a need to review the eligibility for Carer’s Benefit, as currently it was

too restrictive. These respondents felt that many carers were losing out on much needed payments as a result. A few of these respondents said that as part of the re-classification of Carer's Benefit in Scotland, the overlapping rules should be disregarded.

"We need to be aware of how any changes we make might impact on reserved benefits. Giving with one hand and taking away with the other is of little use."

Angus Community Planning Partnership, in co-operation with the Angus Welfare Reform Group

7.80 Respondents raised a range of issues relating to eligibility, including:

- enabling carers to receive Carer's Benefit while studying full time (more than 21 hours per week) or earning more than £110 per week;
- allowing carers of any age to claim Carer's Benefit – with the overlapping rule meaning that carers cannot claim Carer's Allowance as well as the state pension being seen as unfair, and support for young carers under 16 receiving a Young Carer's Benefit;
- considering introducing a two-tier payment structure for carers with a lower and higher rate of award. For example, a universal level plus additional payment to carers on the lowest incomes, and those caring for people with more complex needs, as an earnings replacement benefit or higher carer premium; and
- removing the rule that means Carer's Allowance is stopped if the person they care for is admitted to hospital for a prolonged period.

"The stopping and starting of CA currently leads to serious problems for claimants."

One Parent Families Scotland

"Removing the connection between Carers Allowance and qualifying disability or ill health benefits would be beneficial for many carers who are looking after someone who does not qualify for the benefits but still needs to be looked after."

Carers Scotland

### **Level of the Scottish Carer's benefit**

7.81 Some respondents said that while the increase in Carer's Benefit was welcome, it did not go far enough. It was suggested that the Scottish Government should work towards paying carers a Living Wage. Most of this group of respondents believed that the current Carer's Allowance did not enable a carer to be financially independent or socially included.

"We believe that there is further work to be done in establishing whether the level proposed by the Scottish Government is enough, as effectively it falls well below the minimum wage."

Public and Commercial Services (PCS) Union

7.82 Related to this, some respondents felt that people who care for more than one adult or child should receive a Carer's Benefit for each of those individuals. Similarly, it was suggested that two people caring for one person who requires 24-hour care should each be able to claim Carer's Benefit.

“The level of Carers Allowance should not be based on how many people you care for. It should be based on the level of disability and complexity of need / care required for the individual.”

Individual

### **Implementation processes and timescales**

- 7.83 Some respondents talked about the implementation of a new Scottish Carer’s Benefit. They discussed what the model might look like, commented on proposed timescales, or on potential administrative costs of setting up such a system (mainly local authority respondents).
- 7.84 A few respondents emphasised the need to ensure effective communications between the DWP and the devolved Scottish benefits system, otherwise there could be administrative errors, delays and overpayments. A few respondents talked about the need to be mindful of data security, especially when sharing personal and sensitive information between agencies.
- 7.85 Some felt that change should happen as quickly as possible, with a few suggesting changes before the establishment of a new social security agency.

“Carers whose opportunities, wellbeing, income and future pensions are being eroded by current restrictions to Carer’s Allowance should not have to wait for years on end for a fairer system when the Scottish Government could take action now.”

Engender

- 7.86 A few respondents said that the new system had to be well-publicised to address historically low take up rates of Carer’s Allowance.

“Proactive efforts must be made to identify carers so they are aware of their support entitlement.”

Scottish Council for Voluntary Organisations

### **Question – Do you have any other comments about the Scottish Governments proposals for a Scottish Carer’s Benefit?**

- 7.87 In total, 94 respondents answered this question (40 individuals and 54 organisations). Respondents largely reiterated earlier points.

### **Education and employment**

- 7.88 Some respondents reiterated points made in previous questions about:
- the earnings threshold for carers claiming Carer’s Benefit should be higher than £110 per week;
  - carers being forced out of work or having to reduce their hours and rates of pay to combine work and caring; and
  - that being a carer should not be a barrier to gaining an education.
- 7.89 A few of these respondents said that providing increased access to respite might allow carers more time to study while caring. Respondents felt that this was particularly important in relation to young carers.

## **Proposed level of the Scottish Carer's Benefit**

7.90 Some respondents reiterated concerns over the proposed monetary level of the new Scottish Carer's Benefit. Within this group, some pointed out that caring is a job that many haven't chosen, feeling that the new Scottish Carer's Benefit won't meet minimum living standards and reiterating that it should vary with the needs of those being cared for. Some reiterated an interest in a two-tier system, with higher payments for some.

## **Scottish Carer's Benefit and non-devolved benefits**

7.91 Some respondents expressed concerns over the interaction between the new Scottish Carer's Benefit and reserved benefits. A few pointed out that an increase in Scottish Carer's Benefit could mean that other benefits such as Income Support and the Severe Disability Premium are reduced. It was suggested that the Scottish and UK social security systems will always be inter-twined, therefore any changes made to devolved benefits must be carefully scrutinised.

“Is there any scope the Scottish Carer's Allowance could be legislated to be deemed wholly disregarded as income for all benefits, including those administered by UK Government?”

Prospect Community Housing

## **Caring for more than one person**

7.92 Some respondents reiterated that carers who care for multiple people should be able to claim a greater amount of Carer's Benefit, while others reiterated that caring for two people with moderate needs might be less intensive than caring for one with more intensive needs.

“Caring for more than one person is more expensive as well as more difficult and stressful, and people in this situation are much less likely to be able to undertake paid employment alongside caring.”

Carers Scotland

## **Age restrictions**

7.93 A few respondents talked about the age restrictions currently placed on some carers from claiming Carer's Benefit - for either being too old, or too young. However, some reiterated that more money should be invested into adult caring, to reduce expectations around young people becoming carers in the first place.

## **Wider support services**

7.94 A few respondents mentioned the importance of wider support services for carers. They felt that the Scottish Government must commit to investing in and strengthening these services, to enable carers to seek assistance how, when and where they need to.

### **Assessment process for carers**

7.95 A few respondents discussed the assessment process for carers, with a few reporting negative experiences. These respondents said that comprehensive needs assessments of carers and those they care for should be provided, to ensure that they are receiving the right level of support and not at risk of social isolation.

“Forms are far too long and complicated. Online, face to face and phone applications should be considered.”

Engender

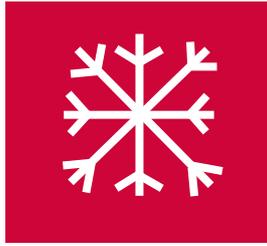
### **Transitional arrangements for carers**

7.96 A few respondents felt that Carer's Benefit should be tapered, rather than immediately stopped, for carers whose circumstances change. Additionally, Carer's Allowance stops eight weeks after the death of the person cared for, and this can be an abrupt transition for someone who may have cared for a significant time. A few respondents said that a holistic approach should be developed to supporting carers when their caring responsibilities come to an end. This should include employability, education, leisure and health and wellbeing agencies.

7.97 Respondents also talked about instances in which the person being cared for is admitted to hospital for longer than 28 days, and their disability payment stops. This means that Carer's Allowance stops at the same time. This 'stopping and starting' of Carer's Allowance was seen as unfair, and a sudden drop in income would place additional pressures on carers.

### **Health and wellbeing of carers**

7.98 A few respondents discussed the fact that the health and wellbeing of carers was often overlooked. A few felt that this breached the human rights of carers, and those they care for.



## **8. Winter Fuel and Cold Weather Payments**

## Proposals for winter fuel and cold weather payments

8.1 The Scottish Government set out its proposals for winter fuel and cold weather payments in Part 2 of the [consultation document](#).

### Question - Do you have any comments about the Scottish Government's proposals for Winter Fuel and Cold Weather Payments?

8.2 In total, 164 respondents answered this question (82 individuals and 82 organisations).

8.3 The main themes emerging were comments on:

- eligibility and qualifying criteria;
- methods of improving fuel efficiency; and
- awareness and understanding of the payments;

### Eligibility and qualifying criteria

8.4 Overall, a large number of respondents felt that Winter Fuel and Cold Weather Payments were necessary to tackle fuel poverty and inequality and they generally welcomed the approach.

"I agree with the approach taken to identify local weather trigger points, as this is fairer and, one hopes, more flexible than the current system."

Individual

"We commend the on-going commitment of the Scottish Government to reduce fuel poverty."

Scottish Care

8.5 A large number of respondents said that they were in favour of expanding the eligibility criteria to include families with children receiving the higher rate of DLA / PIP and accelerating payments to people off the main gas grid. They were also keen that the Scottish Government should continue to look at expansion of these payments to other groups at risk of fuel poverty that do not qualify for the higher rate of DLA / PIP.

"Consideration could also be given to those in receipt of the lower rate of DLA / PIP. I hope that the Scottish Government will in due course consider extending this to other vulnerable groups, for example lone parent families, many of whom are considered to be in fuel poverty."

Children and Young People's Commissioner Scotland

### Improving fuel efficiency

8.6 Whilst respondents appreciated the new proposals, they also mentioned the need to improve fuel efficiency through upgrading existing homes (e.g. through insulation or smart meters) and building more energy efficient housing.

“Current claimants appreciate the help towards their bills. Improving the quality of housing is important to reduce fuel poverty, too.”

Individual

8.7 Some respondents felt that universal provision of the payment should be reconsidered. They felt that means testing or allowing people to opt-out would be more cost efficient, and would still ensure that people needing the payment received it. However, a few respondents stated their preference for payments to remain universal, and were not in favour of means testing.

“While we do appreciate and understand the reasons for not means-testing, many wealthier older people wish to refuse the payment based on the fact that they are not struggling financially, and want the money to be used by someone more in need.”

Midlothian Community Planning Partnership / Midlothian Council

“Non means tested Winter Fuel payments to pensioners should be reviewed. Millions of pounds are being given every year to pensioners who are not in financial difficulties and have retired on comfortable private pensions as well as a state pension. They may also have substantial savings. This is an inadequate way of distributing a benefit that is intended to act as a safety net for the more vulnerable in society.”

Individual

- 8.8 A few respondents also mentioned:
- the need for increased awareness of these payments, to ensure that all people receive their entitlements;
  - the possibility of redesigning or merging the two payments;
  - the current requirement for seven days of cold weather to occur before the Cold Weather payment is triggered is too long and a more flexible approach would be preferred; and
  - that these payments should only be available to people living continuously in Scotland, not those living or spending significant periods of time abroad.

**Question - Could changes be made to the eligibility criteria for Cold Weather Payments? For example, what temperature and length should Cold Weather Payments be made on in Scotland?**

8.9 141 respondents answered this question (73 individuals and 68 organisations).

8.10 Most respondents answering this question felt that some changes could be made to Cold Weather Payments. A few respondents noted that the system for Cold Weather Payments needs to be simpler and easier to understand.

8.11 The main issue discussed was related to eligibility criteria. Many respondents felt that the eligibility criteria should be more generous and flexible to account for the extreme changes in weather over a short period of time, which disqualify people from the payment. They wanted the time period of seven days to be reduced and for the temperature limit to be raised above zero degrees Celsius.

“Rather than 7 consecutive days which does not recognise where a warmer day has broken a spell of cold weather which may have persisted over a longer time, we would ask for consideration of qualifying days being considered over a longer time so as to minimise situations where a warmer day is atypical in a much colder period, for example if considering whether temperature has been zero degrees for 7 days in any two-week period.”

Rights Advice Scotland

- 8.12 Some respondents said that the eligibility criteria should also take account of wind chill, wind speed, regional variations and housing conditions, as these can all impact on the need to heat a home.
- 8.13 A few respondents were in favour of a new benefit addressing fuel poverty that would be easier to administer and would better support people over the entire winter period. Alternatively, respondents suggested that these funds could be used to boost income related social security payments so that people were better able to manage their fuel payments. A few respondents queried whether Cold Weather Payments could be linked to other energy efficiency initiatives.

“Ideally benefit payments and energy bills should be at a level that allow everyone to heat their home adequately without the need for piecemeal allowances that are only paid out in very extreme weather.”

Individual

- 8.14 Some respondents felt that Cold Weather Payments should be made available for a wider range of people including carers, disabled people and people on low incomes.

“Eligibility for cold weather and winter fuel payments should include all vulnerable groups: the elderly, the disabled and families with disabled children and children of pre-school age, mediated by predefined trigger points suitable to Scottish conditions as referred to in the consultation.”

Scottish Federation of Housing Associations



## 9. Funeral Payments

## What should the benefit cover?

9.1 The Scottish Government set out its proposals for what the benefit should cover in Part 2 of the [consultation document](#).

### Question – Which of these elements do you think should be paid for by the Funeral Payment?

<b>Table 9.1 Which if these elements do you think should be paid for by the Funeral Payment?</b>			
	<b>Element</b>	<b>% of respondents</b>	
		<b>Yes</b>	<b>No</b>
Mostly supported	Removal or collection of the deceased	99	1
	Care and storage	99	1
	Coffin	98	2
	Hearse or transport	98	2
	Professional funeral director fees: advice and admin	94	6
	Fees associated with the ceremony	86	14
	Travel expenses to arrange / attend funeral	69	31
Mixed views	Memorial headstone / plaque	56	44
	Limousines or cars	48	52
	Death notice	46	54
Mostly unsupported	Order of service	36	64
	Flowers	36	64
	Venue hire	23	78
	Catering for wake / funeral	22	78

9.2 A total of 156 respondents answered this question (72 organisations and 84 individuals). The question listed 14 elements for respondents to decide if they should, or should not, be included in the Funeral Payment benefit. The table above provides an overview of which elements were largely supported, unsupported, or where there were mixed views.

9.3 The elements there was most support to include were:

- removal or collection of the deceased;
- care and storage of the deceased before the funeral; and
- hearse or transport; and professional funeral direct fees.

9.4 There were mixed views around the inclusion of some of the other elements in the Funeral Payment benefit. These included the provision of limousines, a headstone or plaque and the death notice.

9.5 The elements that respondents most strongly felt should not be included in the Funeral Payment benefit were venue hire and catering for a wake / funeral reception.

**Question – Are there other elements that you think should be included or explicitly excluded? Please explain why.**

<b>Table 9.2 Are there other elements that you think should be included or explicitly excluded?</b>					
<b>Respondent group</b>	<b>Yes</b>		<b>No</b>		<b>Total</b>
	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>	
Individuals	18	31%	41	69%	59
Organisations	31	50%	31	50%	62
<b>All respondents answering</b>	<b>49</b>	<b>40%</b>	<b>72</b>	<b>60%</b>	<b>121</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

9.6 A total of 121 respondents answered the closed part of this question. Over half of respondents (60%) did not think there were other elements that should be included or explicitly excluded. However, a significant minority (40%) did. Organisations were slightly more likely than individuals to answer 'yes'. Those answering 'yes' came mainly from local authority respondents and organisations in the funeral group respondents.

9.7 Further comments were provided by 81 respondents (34 individuals and 47 organisations). Comments mainly came from those who answered 'yes' to the closed part of the question, or didn't answer it at all.

**Additional elements for inclusion**

9.8 Many respondents who said 'yes' suggested additional elements to the list provided in the consultation document. Suggested elements for inclusion in the Funeral Payment were:

- disposal costs;
- dressing of the body and viewing of the deceased;
- death certificate and additional copies;
- language and communications support for people with communication difficulties;
- taking the deceased home to rest;
- church fee, session clerk or organist;
- embalming and hygienic treatment;
- burial plot; and
- childcare.

9.9 Some of these respondents, most notably local authority respondents, believed that additional costs might be incurred for medical, religious or cultural reasons. For example, a pacemaker may have to be removed prior to cremation.

"Respect for a person's religion or beliefs is a basic principle in our country and the state should assist a family in observing any relevant practices."  
Society of Allied Independent Funeral Directors (SAIF) Scotland

- 9.10 A few respondents talked about the need for a contingency fund to be put in place to cover additional costs in the event of unusual deaths. Such circumstances could include when an inquest is held, where clean up is required after a violent death or where the next of kin is not UK-based.

### **Suggested exclusions**

- 9.11 Respondents who answered 'yes' also suggested exclusions in their comments. These exclusions included elements already considered in the closed part of this question. The main exclusions identified in comments were:

- flowers;
- limousines, or cars for anyone other than immediate family;
- death notice in local newspaper;
- order of service sheets;
- catering or a venue for the wake;
- memorial headstone or plaque; and
- routine embalming.

- 9.12 A few respondents explained their reasoning for excluding certain items from the list in the consultation document. For example, a reception or wake could be held at the home of someone related to or close to the deceased. Order of service sheets could be printed at home, and hiring several cars to transport family, carers and friends could be replaced by a minibus. These respondents felt that only collection, storage and cremation or burial of the body were essential costs. All others they felt were non-essential and not reasonable to expect taxpayers to cover.

### **Standardising costs**

- 9.13 Some respondents, mainly those who answered 'yes' to the question, talked about the requirement of a Funeral Payment to cover basic, fixed cost funerals. Respondents had slightly different views on what the essential elements of a basic funeral were and how this should be covered.
- A few respondents felt the average cost of a funeral should be established – including all elements – and the Funeral Payment grant set at a level which is a proportion of that sum (to cover the essential elements).
  - A few respondents felt that a fixed cost payment would allow families to better understand the costs of a funeral and what the payment should and should not cover.
- 9.14 A few respondents (the majority of whom answered 'yes') said that the current level of the DWP Funeral Payment was too low. They pointed out that the Funeral Payment only covers part of the cost of a funeral, while families have to find the funds to meet the rest.

"The current DWP payment (capped at disposal costs plus a small allowance for extras) does not meet the full cost of a funeral on most occasions."

Citizens Advice Scotland

- 9.15 A few respondents also discussed setting a reasonable cap for costs on an agreed list of essential elements. They felt that a list of fees should be developed by funeral directors and the Scottish Government. Some felt that interest free loans could be provided to families and carers for non-essential elements.
- 9.16 It was suggested that the Scottish Government should focus on its wider funeral poverty work, by engaging with local authorities to look at the variations in fees charged across the country. It was felt that funeral charges should be reduced or at least prevented from increasing in the future, and that the Scottish Government should be taking steps to regulate funeral fees.
- 9.17 Other suggestions of how to standardise funeral costs covered by the Funeral Payment (made by those who answered 'yes' and 'no') included:
- using a standard wood coffin, furnished to a basic standard, defined by the Scottish Government in conjunction with funeral directors;
  - using a standard hearse as opposed to alternative modes of transport such as a horse-drawn carriage, or limousines; and
  - developing state funeral offerings as an alternative to packages from private providers, to help drive costs down.

### **Individualised funerals providing dignity and respect**

- 9.18 A few respondents (both those who answered 'yes' and 'no') talked about the importance of providing state-funded funerals which, above all, promoted dignity and respect. A few respondents who answered 'no', said that itemising a funeral was not person-centred, or that providing a list of essential elements for inclusion was too prescriptive, as families and communities place different values on different elements of a funeral ceremony. A few who answered 'yes' believed that no-one should be denied a meaningful and dignified funeral. This included the costs involved in respecting the requirements of different faith groups.

"The payment, as a minimum, should cover the immediate and essential requirements of providing a respectful funeral."

Humanist Society Scotland

- 9.19 Respondents also talked about funeral poverty and lower income families. They felt that full expenses for a dignified simple funeral should be provided. High funeral costs can leave low income families vulnerable to loan sharks and other forms of high interest borrowing.

"Bereavement is frequently a trigger for debt amongst low income families who struggle to cope with the financial impact of bereavement at a time when they are most emotionally vulnerable."

Perth and Kinross Council

### **Reasons for answering 'no'**

- 9.20 Of those respondents who answered no to the closed part of this question, a range of points were made. A few felt that itemising funeral costs did not provide either the deceased or the bereaved with dignity or respect. A few

argued that funerals should be individualised, treated on a case by case basis, or that each element should be considered within the context of different cultures and traditions. Others said that the elements outlined in the consultation document were satisfactory, or that state funerals should be as basic and simple as necessary.

## Eligibility

9.21 The Scottish Government set out its proposals for eligibility in Part 2 of the [consultation document](#).

### **Question – How can we improve the process for identifying whether someone is responsible for the funeral and should receive the funeral payment?**

9.22 A total of 113 respondents answered this question (67 organisations and 46 individuals).

9.23 The main themes that emerged from the responses were:

- the application and identification process;
- eligibility requirements for those receiving the Funeral Payment;
- linking the Funeral Payment directly to the deceased;
- sensitivity and respect;
- Funeral Payment fraud; and
- information and advice.

### **The application and identification process**

9.24 Some respondents talked about the need to develop a defined system for identifying who should receive a Funeral Payment. Some felt that the current application and identification system was too lengthy, complex or unfair. A few respondents stated that the application system needed to be clearer and more transparent, but did not see any immediate issues with the identification process.

“The long process endured before receiving a decision on a Funeral Payment is stressful in itself but can also delay the funeral taking place.”

Society of Allied Independent Funeral Directors (SAIF) Scotland

9.25 Other respondents did have concerns about identifying the person responsible for the funeral. Suggestions included:

- **Incorporating this process into the wider social security system** - For example, individuals completing forms for other benefits could at that point nominate one person who they would like to be responsible for their funeral, which would make the process more person-centred.
- **Involving funeral directors** – A few felt that funeral directors were best placed to identify who is responsible for the funeral and assist bereaved people to complete the application form. It was felt that they could identify who should receive the payment quickly and sensitively.

A few respondents suggested that direct payments to funeral directors would speed up the process.

- **Involving local authorities** – A few respondents suggested that local authorities would be best placed to administer the process and payment, because they would already have the deceased's and potentially the applicant's information. The local authority could act as a single point of contact for the bereaved and signpost to the appropriate services.
- **Simplifying the criteria** - Citizens Advice Scotland recommended using a 'nearest relative test', which is currently used in the Human Tissue (Scotland) Act 2006. This is the test recommended by the Burial and Cremation Review Group. Other respondents agreed that the simplification of identifying who was responsible for the funeral was essential.

### **Linking the Funeral Payment directly to the deceased;**

9.26 Some respondents talked about the possibility of linking the Funeral Payment to the deceased, rather than to the relatives or next of kin left behind. It was suggested that consideration should be given to the benefit status of the deceased, as opposed to the person arranging the funeral. This would reduce the need for intrusive questions about family relationships, simplify and speed up the process.

9.27 In addition, a few of these respondents felt that shifting entitlement of the Funeral Payment onto the deceased and away from relatives would make the identification process easier, quicker, and potentially make more people think about end of life finances ahead of time.

“Access to good insurance may be a better way of supporting those that cannot afford funeral costs – we aim to normalise this.”

Volunteer Scotland

9.28 It was also suggested that a closer relationship between funeral directors and the Government would be beneficial. Funeral directors have direct contact with bereaved people and are skilled at sensitively establishing circumstances surrounding family relationships.

### **Eligibility requirements for the Funeral Payment**

9.29 Respondents also talked about expanding or amending the eligibility criteria for the Funeral Payment to consider low income families, those on Working Tax Credit, Attendance Allowance, carers, care leavers and people with learning disabilities. They believed that Funeral Payments for people on low income benefits should be part of a wider devolved benefits strategy, which addresses the fact that funeral costs vary across local authorities. They felt that more could be done to establish a lower pricing structure for those on low incomes. Low cost loans were also mentioned as a possible alternative to the Funeral Payment.

“The Scottish Government should develop a system where the Social Fund Funeral Payment (SFFP) is raised to cover the cost of a basic funeral, and for funeral directors to provide a basic funeral with a clear, visible price.”

The Church of Scotland

### **Sensitivity and respect**

9.30 The complexities of some cases were discussed by some respondents. For example, if a child in care dies, funeral payments can only be made to the carer if the birth parent is in receipt of a qualifying benefit. This can be even more emotionally challenging for families with difficult or non-existent relationships.

“Each family situation is unique, and should be treated as such, with sensitivity and respect.”

CELCIS

9.31 Respondents mentioned that selecting estranged family members to receive the Funeral Payment can make a difficult time even more challenging. Some of these respondents felt that decision makers should consider the difficulties bereavements have on already fragile relationships, and approach Funeral Payment in a person-centred way.

“Decision makers should consider not only their relationship with the deceased but also their relationship with the applicant / persons organising the funeral.”

Quaker Social Action

### **Funeral Payment Fraud**

9.32 A few respondents commented on fraudulent claims in relation to Funeral Payments. While a few believed fraudulent claims were not common or cause for concern, others suggested the system should be monitored effectively.

“Is there much evidence of Funeral Fraud to justify the concerns around who is the most appropriate person?”

Grampian Housing Association

“Perhaps following the principles of the Death Certification Review Service, applications could be processed more quickly but randomly called in for scrutiny.”

National Association of Funeral Directors

### **Information and advice**

9.33 A few respondents felt that more information and advice could be provided by the Scottish Government and partner agencies about the Funeral Payment. They said that clear guidelines should be issued to the public by decision makers, around who is and is not eligible for the Funeral Payment. Some felt that face to face, telephone and online information and advice should be available.

“We feel that a clearer explanation of what would be covered and who was eligible to claim should be available.”

Fife Federation of Tenants and Residents Associations (FFOTRA)

**Question - In terms of the Scottish Funeral Payment, are there any qualifying benefits (e.g. Pension Credit) that you would add to or take away from the current qualifying benefit list? Please explain your answer.**

**Table 9.3 In terms of the Scottish Funeral Payment, are there any qualifying benefits (e.g. Pension Credit) that you would add to or take away from the current qualifying benefit list?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	29	49%	30	51%	59
Organisations	34	64%	19	36%	53
<b>All respondents answering</b>	<b>63</b>	<b>56%</b>	<b>49</b>	<b>44%</b>	<b>112</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

9.34 A total of 112 respondents answered the closed part of this question. Views were fairly mixed, with 56% of respondents agreeing and 44% disagreeing that there were qualifying benefits that they would add to or take away from the current qualifying benefit list. Organisations were slightly more likely than individuals to answer 'yes'.

9.35 Further comments were provided by 96 respondents (39 individuals and 57 organisations).

### **No changes to qualifying benefits required**

9.36 Some respondents were happy with the qualifying benefits included in the consultation document. It was suggested that people might be encouraged to take out insurance or savings plans, to prepare for such events, rather than increase the number of people entitled to assistance.

### **Additional qualifying benefits for the Scottish Funeral Payment**

9.37 Many respondents suggested additional qualifying benefits in relation to the Scottish Funeral Payment. These included:

- Council Tax Reduction;
- Carer's Allowance / Scottish Carer's Benefit;
- Working Tax Credit;
- Disability Living Allowance / Personal Independence Payment
- Contribution based benefits, such as Employment and Support Allowance;
- Any means-tested benefit, Tax Credit or Disability Allowance;
- State pension;
- Child Tax Credit; and
- Attendance Allowance.

"These [contributory based] benefits are no longer paid at higher rates than their income based counter parts therefore there should be no exclusions because of this."

NHS Lanarkshire

## **Qualifying benefits that should be excluded from the Scottish Funeral Payment**

- 9.38 Only a few respondents said that certain qualifying benefits should be excluded from the Scottish Funeral Payment. A few respondents felt that only those in receipt of Pension Credit should qualify for the Funeral Payment, as this would simplify the system.
- 9.39 A few other respondents suggested that some people claiming Pension Credit should not be eligible for the Funeral Payment, if they have a high weekly applicable amount or significant savings.
- 9.40 A few also suggested that the various elements of Universal Credit should be reviewed as all may not be relevant to the Funeral Payment. A few said that non-income based benefits should be excluded.

“It may be necessary to review eligibility of Universal Credit claimants as this can cover a wide range of circumstances.”

Argyll and Bute Council

- 9.41 A few respondents suggested that means-testing should be introduced in some circumstances.

### **Special considerations**

- 9.42 A few respondents talked about special circumstances that they felt the Scottish Government should take into consideration when administering the Funeral Payment. They said that decision makers in the new Scottish social security agency could have recourse to 'exceptional circumstances' regulations, to ensure that some cases which risk falling through the net are considered. For example, a few felt that some people are ineligible for the Funeral Payment even though they are experiencing severe financial hardship. Some of these circumstances included:
- a special funeral grant for a stillborn baby;
  - discretion to make payments to people who are marginally above the threshold for benefits, with no means to pay funeral costs;
  - consideration of how to support those eligible for certain benefits, but who are not receiving them;
  - those in full time education; and
  - single people with no immediate family or relatives.

“Funeral Payment should also be available to households who are not in receipt of any of the listed benefits but who have an income below an established threshold.”

CPAG Scotland

- 9.43 A few respondents stated that the Scottish Funeral Payment must be a flexible benefit, assessed on a case-by-case basis.

“Nothing should be ruled out or ruled in.”

Scottish Working Group on Funeral Poverty

## Targeted support

9.44 A few respondents felt that the Funeral Payment should be reserved for those most in need of support, including those receiving Pension Credits. They said that the Scottish Government must ensure that it reaches the right people. Such respondents talked about funeral poverty, and the negative impact that it could have on those bereaved. Often, they felt that the measures outlined in the consultation would go some way to addressing this, although there was concern that the proposals would not provide enough help for families on low incomes. The development of an automatic base payment for all older people, which would increase with age, was suggested.

## Application window and process

9.45 The Scottish Government set out its proposals for the application window and process in Part 2 of the [consultation document](#).

**Question - Is the three month application window for a Funeral Payment sufficient time for claimants to apply? If no, please explain your answer and suggest an alternative length of time in which a claim should be made.**

**Table 9.4 Is the three month application window for a Funeral Payment sufficient time for claimants to apply?**

Respondent group	Number	Yes		No		Total
		Number	%	Number	%	
Individuals	42	65%	23	35%	65	
Organisations	34	54%	29	46%	63	
<b>All respondents answering</b>	<b>76</b>	<b>59%</b>	<b>52</b>	<b>41%</b>	<b>128</b>	

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

9.46 A total of 128 respondents answered this question. Views were fairly mixed. Most respondents (59%) thought that the three month application window for a claimant to apply was sufficient time, but a significant minority (41%) disagreed.

9.47 A total of 72 respondents provided further comments (49 organisations and 23 individuals).

9.48 In addition to the time frame for Funeral Payments, respondents also discussed:

- the emotional impact of bereavement and ill health;
- the application process, delays and other practicalities; and
- the impact of qualifying benefits and other insurance.

## Suggested timeframes

9.49 While many supported the current three month timeframe, a few respondents suggested that extensions and appeals may be required to accommodate the needs of people in exceptional circumstances. This could include illness or

injury, people with learning and physical disabilities, situations where people were unaware of their entitlement or had been given incorrect information about it, or where a death was sudden or unexpected (including the death of a child). It was suggested that funeral directors might play an important role in assessing special circumstances, and this should be built into the process.

9.50 Many respondents suggested alternative timeframes for the Funeral Payment application window and process:

- Many indicated that the timeframe should be extended to 6 months. A minority of these respondents said that this should only be the case under special circumstances.
- A few respondents suggested a 9 to 13 month window.

9.51 A few respondents felt that extending the window beyond three months would increase pressure on funeral services, who may become reluctant to deal with people receiving Funeral Payments in the future.

### **Consideration of the emotional impact of bereavement and ill health**

9.52 Some respondents said that the three month application window was too narrow, particularly for claimants who are ill, have physical and mental disabilities, or who are struggling with the emotional challenges of a bereavement. Such respondents said that certain individuals may be emotionally fragile, and not capable of making decisions or dealing with practical issues at such a stressful time. Respondents added that this can be a difficult time for people with learning disabilities, especially if it relates to the death of a carer.

“A longer window of application would provide some leeway for those applicants with significant changes to their life or who are going through difficult grieving processes.  
Citizens Advice Scotland

9.53 These respondents said that while most applicants will apply within a short time period, a longer window is required to ensure that all eligible individuals can apply. It was suggested that a longer window would help those who are struggling with on-going funeral debts. A few respondents supported a system in which benefit claims could be fast-tracked, prior to the death of a person with a terminal illness.

### **Consideration of the application process, delays and other practicalities**

9.54 Many respondents indicated that a three month window to apply for the Funeral Payment was not sufficient for more specific practical reasons. These reasons included:

- people who are eligible being unaware of the benefit;
- allowing for retrospective applications under certain circumstances;
- claimants being given the wrong information about the payment;
- people who require pre-application advice and support;
- giving claimants time to access funds and clear funeral debts;
- providing more time to deal with necessary application forms and paperwork;

- allowing more time to deal with the many practicalities of arranging a funeral, including dealing with the deceased’s estate, approaching a funeral director, organising the burial or cremation, transport, ceremony or wake;
- accounting for delays in the system including the assessment process and administrative errors, such as lost application forms; and
- giving people time to appeal a rejected application.

“The Scottish system should seek to ensure that all who are eligible make a claim and any time limit acts as a barrier to this.”

Scottish Campaign on Welfare Reform

“There is a great deal to do, in a short period of time.”

Scottish Out of School Care Network

9.55 Some of these respondents felt that the process would be much more supportive and effective, if extended beyond 3 months.

“We do not feel that increasing the time period to six or twelve months would bring any significant issues given the limited scope of the scheme.”

ENABLE Scotland

9.56 A few of these respondents believed that the time limit should be flexible and assessed on a case-by-case basis.

### **Impact of qualifying benefits and other insurance**

9.57 Closely related to the above, a few respondents talked about the impact of qualifying benefits on claiming the Funeral Payment. These respondents highlighted that Funeral Payments can only be awarded when a qualifying benefit is in place. This means that if there is a stoppage in or dispute about a qualifying benefit, most commonly a carer or disability benefit, then this individual cannot apply. Respondents also talked about the difficulty of sorting out relevant insurance claims, relevant to the death, within a three month application window.

“As the run on of Carer’s Allowance following the death of a cared for person is shorter than the application window for a Funeral Payment, it is possible for a carer to lose the ability to claim a Funeral Payment following the end of the run on of income support.”

Carers Trust Scotland

## **Simplification**

9.58 The Scottish Government set out its proposals for simplification in Part 2 of the [consultation document](#).

**Question – What are your views on the options for speeding up and simplifying the payment?**

- 9.59 A total of 116 respondents answered this question. 67 of these respondents were organisations, and 49 were individuals.
- 9.60 Some respondents agreed with proposals outlined in the consultation. These respondents felt that the ideas were good, and a step in the right direction. They said that the proposals should simplify the process of arranging and financing a funeral, and seemed workable and sensible. Others felt that the proposals would make a difficult process more considerate and compassionate.
- 9.61 The main themes emerging were:
- application and decision-making process;
  - checking eligibility;
  - the payment process;
  - fast tracked payments for people with terminal illnesses; and
  - family relationships.

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

- 9.62 A large number of respondents discussed the application and decision making process. Some of these respondents wanted to see the time for decisions reduced to 10 days or less following an application, so that a decision is made before a funeral takes place.

"Funeral Directors need to know at the time of arranging the funeral if the funeral can and will be paid for. DWP should make a quick decision and pay the funeral director if approved."

Mark Shaw Funeral Services Ltd

- 9.63 A few respondents felt that allowing decisions in principle would give families and funeral directors the confidence to proceed with funeral arrangements immediately. These respondents liked the idea of an immediate decision in principle for claimants, combined with up front interim payments, as this would help to ensure that individuals on low income would not get into debt.

"We support the proposal to process applications within ten working days of receipt and make payments as soon as practicable thereafter, especially if this reduces the need for funeral directors to take a deposit from the bereaved."

Parkhead Citizens Advice Bureau

- 9.64 Some respondents suggested that local authorities should play a greater role in speeding up the application and decision making process. Others talked about involving funeral directors in making payment claims on behalf of families, which they felt would streamline the process.
- 9.65 In contrast, a few respondents felt that funeral directors could complicate and lengthen the payment process. It was suggested that people are often encouraged to commit to a funeral they could not afford, prior to any payment being agreed or made. It was also suggested that funeral costs could be standardised across local authority areas.

“The Church of Scotland is a member of the Funeral Poverty Alliance which has developed the Fair Funeral Scheme. This calls on Funeral Directors to sign a pledge to recognise that funerals can be expensive, and people struggle with the cost.”

The Church of Scotland

### **Checking eligibility**

- 9.66 Some respondents talked about the need for clearer guidelines around eligibility. They felt that qualification criteria regarding the applicant and the deceased should be easier to understand and that signposting should be improved so that claimants know where to go for help and advice. Respondents said that they would like to see more information shared between statutory agencies rather than requiring applicants to gather it themselves, which they felt would speed up the process.
- 9.67 Some respondents talked about the proposal to develop an online eligibility checker, and most of these respondents welcomed this. This would enable early checking of eligibility for claimants, allowing for better funeral planning.
- 9.68 A few respondents also suggested a telephone eligibility service. This would enable people to more quickly check if they are eligible for the benefit, and how much they would be likely to receive. This would give the bereaved and funeral directors the assurance to proceed.

"Our advisers are able to provide this service to people by asking a series of questions and because of strong knowledge of the eligibility criteria their accuracy rate is around 100%."

Quaker Social Action

### **Payment process**

- 9.69 Some respondents talked about the possibility of introducing interim or advance payments, or a deposit scheme to help in the early stages with funeral costs. Most funeral directors will not proceed without a deposit. A few respondents talked about developing a low-cost funeral loan option, for those who do not qualify for the Funeral Payment.

“There is already provision for advance payments in other benefits therefore this could be easily implemented.”

NHS Lanarkshire

- 9.70 Some respondents supported a fixed payment amount to contribute to funeral expenses. It was suggested that this would give some certainty to the bereaved at a difficult time. It could also provide clarity to families over which costs the payment would cover (and which it would not). Others said that the fixed payment would make the process more predictable and less administratively onerous. It was felt that it would allow funeral directors to proceed more quickly with the funeral arrangements.
- 9.71 Some respondents discussed the option of funeral directors being paid a deposit, interim payment or fixed cost directly. A few respondents said that when full costs are established, families could be advised whether they are

liable for reimbursement. These respondents said that by working directly with funeral directors, the process could be significantly quicker.

"This should result in an easier and quicker process for applicants."

Humanist Society Scotland

9.72 A few respondents were unsure about or disagreed with the idea of a fixed payment. A few thought that this might take choice and flexibility away from families, in arranging the type of funeral they want. These respondents also highlighted the variation in costs across funeral service providers, and questioned whether the fixed payment amount would be a good idea, or lead to inequity across different areas. A few wanted clarification over what the fixed amount would cover.

"No, I think you need to pay the proper allowable costs; an estimated amount could leave people out of pocket."

Individual

### **Fast tracked payment for people with terminal illnesses**

9.73 A few respondents believed that the Funeral Payment should be fast tracked for people with terminal illnesses. This would allow them to be involved in the planning of their own funeral should they wish, and make the process less stressful for family and friends. These respondents agreed with proposals that the DWP DS1500 form could be used to fast track the benefit under such circumstance, allowing an application to be made, and decision in principle received, before they die.

"This would be very comforting for the person who is dying to know that their family is going to be free from crippling financial burdens following their death."

Individual

9.74 A few disagreed with this idea. They felt that it was disrespectful to the person with a terminal illness.

### **Family relationships**

9.75 A few respondents said that there was a need to remove the requirement to check family relationships before the funeral benefit is awarded. It was suggested that this was the biggest cause for delay in the system. Such respondents supported the Scottish Government's proposal that contributions from families and friends are not deducted, as often these relationships involved estranged individuals. This could make the process more intrusive and distressing for the bereaved. They felt that removing this requirement would help simplify the application process.

"I think it would be much simpler and better to base it on the deceased benefits-financial estate."

Western Isles Carers, Users & Supporters Network (WICUSN)

## Deductions

9.76 The Scottish Government sets out its proposals for deductions in Part 2 of the [consultation document](#).

**Question – The other funds which are deducted from the DWP funeral payment are listed below. What sorts of funds do you think it is appropriate to deduct from a Scottish FP?**

<b>Table 9.5 Which sorts of funds do you think it is appropriate to deduct from a Scottish Funeral Payment?</b>		
<b>Possible deductions (ordered by level of support)</b>	<b>% of respondents</b>	
	<b>Yes</b>	<b>No</b>
Funeral plan / insurance policy	<b>93</b>	<b>7</b>
Money from a burial club	<b>84</b>	<b>16</b>
Funds in the deceased's bank account	<b>76</b>	<b>24</b>
Money from an occupational pension scheme	<b>66</b>	<b>34</b>
Contributions from charities / employers	<b>64</b>	<b>36</b>

9.77 A total of 134 respondents (59 organisations and 75 individuals) answered this closed question. Five suggestions were listed, and respondents were asked to decide if each should, or should not, be deducted from the DWP funeral payments.

9.78 There was overall support for the deductions listed, with more respondents saying 'yes' than 'no' for all of them. There was most support for deductions associated with funeral plans or insurance policies, and money from burial clubs.

9.79 At the end of the question, respondents were offered the chance to comment on any other funds that would be appropriate to deduct. 54 people provided a response. Substantive comments are discussed under the next question which asked the same thing.

**Question – Are there any other funds that you think are appropriate to deduct?**

9.80 A total of 66 respondents answered this open question (37 organisations and 29 individuals).

9.81 The main themes emerging were:

- no other deductions would be appropriate;
- use of contributions from the deceased's estate;
- other deductible funds; and
- funeral savings plans.

## **No other deductions appropriate**

9.82 Some respondents said that they did not believe that there were any other funds that would be appropriate to deduct from the Scottish Funeral Payment. Respondents suggested that simplification of the process was of utmost importance, and deductions sent out a confused message to claimants. Other respondents said that if sufficient funds were made available through the Scottish Funeral Payment, then deductions would not be an issue.

## **Contributions from the deceased's estate**

9.83 Some respondents reiterated that contributions from the deceased's estate should help pay for the funeral costs, and would therefore be appropriate to deduct from the Funeral Payment. This could include funeral insurance, stocks and shares, savings or investments, or a burial plan. A few suggested it was only appropriate to deduct bank funds over a set amount.

“Any money, including that paid out under insurance provisions on their death, should be deducted from awards made to applicants.”

Citizens Advice Scotland

“It is appropriate to deduct income or savings that belong to the deceased as well as any pre-paid arrangements that have been made.”

ENABLE Scotland

## **Other deductible funds**

9.84 A few respondents mentioned other funds which could be deducted from the Funeral Payment. An example given was of a care home building up a small fund for a resident, through payments from relatives, was provided. This was contributed to the cost of the deceased's funeral. Other potential deductible funds included:

- benefits, rent, Council Tax or utilities overpayments; and
- proceeds of crime.

9.85 Some respondents however, felt that it was not appropriate to deduct contributions from pension funds, family, friends or other charitable grants. It was highlighted that currently the DWP makes deductions for money raised to help pay for a funeral deposit from family, friends or other initiatives including 'crowdfunding'. Respondents were concerned that in some instances this led to the accumulation of funeral debt. Sometimes, small charitable grants, for example, from military service charities, helped contribute to initial costs. They did not think that it was fair to include these donations in the calculation of the Scottish Funeral benefit, because the basic benefit is not enough to cover the full costs of the funeral.

“The average Funeral Payment covers only 37% of the cost of a basic funeral.”

Inverclyde Council / HSCP

## **Funeral savings plans**

9.86 A few respondents talked about the need to promote plans for saving for funeral costs. They felt that this could be promoted through local authorities

and relevant third sector agencies. This would reduce the need for deductions, and therefore simplify the process further.

## Improving take up

9.87 The Scottish Government set out its proposals for improving take up in Part 2 of the [consultation document](#).

### Question – Which services should promote awareness of the Funeral Payment to ensure that claimants know about it at the relevant time?

9.88 In total, 121 respondents answered this question (51 individuals, 70 organisations). The most commonly mentioned services were:

- Funeral directors / funeral homes;
- Registrars;
- NHS / health professionals;
- Hospitals / health centres;
- Hospice / palliative care services;
- GPs;
- Advice services / third sector/community groups;
- Bereavement support services;
- Local authorities;
- Social care / social work services; and
- Scottish Government / DWP / Scottish social security agency.

9.89 A full list of services mentioned by respondents is included in Appendix 3.

### Question – Are there any other points that you would like to raise in connection with the new Scottish Funeral Payment?

9.90 A total of 84 respondents answered this question. 51 of these were organisations, and 33 were individuals.

9.91 The main themes emerging were:

- **Recognition of funeral poverty** – The need to develop a Scottish Funeral Payment that would help reduce or eliminate funeral poverty for low income families and individuals.
- **Controlling funeral costs** - Most respondents wanted to see funeral costs decreased or capped, and standardised across local authorities and funeral directors
- **Level of Funeral Payment** - Payments should increase in line with costs and inflation and felt that funeral directors should commit to offering affordable, basic funeral packages.
- **Religious, cultural and equality considerations** – Consideration should be given and any extra costs should be taken into account.
- **Funeral savings plans** – People should be encouraged to save for funeral payments in advance.

- **Awareness raising** – The Scottish Government and local authorities should run a promotional campaign to raise public awareness.

“Full expenses for a dignified simple funeral should be provided recognising that bereavement is frequently a trigger for debt.”

Rights Advice Scotland

“Expenditure on SFFP grants has increased only 4.5% since 1988. This represents a massive real-term decrease in expenditure.”

Quaker Social Action

“People in our society no longer make provision for their future funeral as a matter of course in the same way that older generations did.”

Scottish Borders Council

“There may be ways to improve information provided about funerals and funeral payments, to ensure people are able to access what they are entitled to and are better prepared.”

Scottish Campaign on Welfare Reform

### **Other factors for consideration**

9.92 Many additional points were made by some respondents that were highlighted in previous questions of the consultation. These included:

- awarding an interim payment or deposit to address the issue of up front funeral payment costs;
- providing ring fenced funding to be distributed through, for example, housing associations;
- direct payments to funeral service providers;
- not deducting contributions from family, friends, charities or employers from the Funeral Payment;
- better regulation and possible licensing of funeral directors – transparency of costs;
- considering low interest loans to cover funeral payments;
- designing a person-centred system, aided by better joined up working between services and agencies;
- a National Insurance contribution scheme to fund funeral payments; and
- including a universal basic funeral package into the free treatment we receive such as giving birth and normal health care.



## **10. Best Start**

## Proposals for identifying eligible families

10.1 The Scottish Government set out its proposals for identifying eligible families in Part 2 of the [consultation document](#).

### **Question - What are your views on who should receive the Best Start Grant?**

10.2 In total, 115 respondents answered this question (39 individuals and 76 organisations).

10.3 The main themes emerging were:

- support for providing the Best Start Grant (BSG) to families on low incomes, and in receipt of broadly similar grants to the Sure Start Maternity Grant (SSMG);
- there was also some support for targeting the grant more on those most in need;
- eligibility could be extended to cover those receiving Council Tax Reduction or Housing Benefit (who are not currently eligible for the SSMG);
- broad support for the proposed overall increase in the grant, the inclusion of payments for second children, and at key stages after birth; and
- opportunities to improve the reach and effectiveness of the grant by making changes to when people become eligible, and more effective promotion.

10.4 While many respondents related their comments to the specific three example options set out in the consultation document, others spoke in more general terms about their priorities for this grant.

### **Similar eligibility to SureStart Maternity Grant**

10.5 Although respondents were not asked to select a particular model for eligibility, of the three example options set out in the consultation document, there seemed to be most support for providing the grant to those in receipt of any Tax Credit or Universal Credit – a broadly similar approach to eligibility for SSMG. Only a few respondents (mainly a few local authority respondents) clearly advocated a more targeted approach.

10.6 Those supporting this approach emphasised different reasons for their support. In particular:

- This approach was seen as relatively easy to administer – as it would be straightforward to identify the families receiving these existing benefits.
- There was a sense that the current eligibility for SSMG is sufficiently targeted at those on low incomes. Respondents explained that it would still be important for those who may not be eligible for much other support, such as those earning more than the living wage. They felt that these families would still benefit significantly from additional financial support at key stages.

“Amongst advisers and clients who participated [in CAS’s consultation on social security] there was a general consensus that the widest proposed criteria should be used, due to its inclusion of working parents. CAS would support the proposals in the consultation document for all parents in receipt of Tax Credits or Universal Credit to be eligible.”

Citizens Advice Scotland

“In terms of eligibility, BSGs should be available to all those families currently eligible for SSMGs.”

Children in Scotland

“We support the option of a broad number of children and families to get the grant – so that it reaches those families at risk of poverty as well as those in poverty.”

One Parent Families Scotland

### **Widening eligibility**

10.7 Among those who broadly supported eligibility based on the current approach, some called for families in receipt of other benefits to be included as well. In particular, a few respondents wanted to ensure that recipients of Housing Benefit (which does not qualify people for SSMG) would be eligible for BSG. A few others suggested Council Tax Reduction, Pension Credit and Disability Living Allowance.

10.8 Some respondents identified particular groups of people who they thought should be eligible for the BSG. In particular,

- parents who are Looked After Young People or care leavers;
- kinship carers; and
- parents under 18.

“Anyone receiving any Tax credits, Universal Credit, Housing Benefit or Council Tax Reduction should receive the BSG. Anyone under 18 should receive BSG, regardless of income. Any child that is looked after by a local authority, or subject of a kinship care order or guardianship order, regardless of income.”

Parkhead Citizens Advice Bureau

“. . . There is a strong case for considering the particular situation of care experienced young people or those on kinship care orders to have access to this benefit from age 16 years, where appropriate. Further consideration could be given to other vulnerable groups in future.”

Children and Young People’s Commissioner Scotland

10.9 A few respondents also identified recent migrants and refugees, disabled people, and gypsy travellers as groups which could be better supported through the Best Start Grant. A few respondents made the more general point that the system should have a degree of flexibility, in order to respond to the needs of vulnerable groups, or specific families.

### **Other suggested approaches**

10.10 Some respondents made fairly general points that the grant should be targeted at low income families or those who need it most. In these cases, it

wasn't clear whether they supported any of the specific examples identified in the consultation document.

- 10.11 A few individual respondents specifically called for the grant to be income based, rather than based on the receipt of specific benefits. A few others proposed a tapered approach with a lower level of grant for families in receipt of universal and tax credits, but with additional sums for those most in need. A few others suggested the grant should be universal or abolished.
- 10.12 A few local authority respondents, including COSLA, made very similar responses. They emphasised the need to focus resources on those most in need, and suggested that the grant should go to those eligible for additional free early learning and childcare at two years of age.

“Families entitled to the free early learning and childcare at two years of age seems like the group who have the most to gain from this provision.”

COSLA

### **Improving access**

- 10.13 A few respondents suggested that the Scottish Government may need to consider when people become eligible for the grant, to ensure that those who need it receive it. Respondents highlighted potential problems - such as young mothers not becoming eligible until after their babies are born, challenges for kinship carers, and situations where recent migrants may not have been eligible for the birth element, but whose children should be able to access grants at nursery and school start times.
- 10.14 A few respondents also highlighted that Best Start could be better promoted to improve take up – potentially via health visitors, schools and nurseries, or others in contact with low income families. This issue was also raised by some respondents later in the consultation.

### **Wider views**

- 10.15 Some respondents took the opportunity to broadly welcome the proposed changes to BSG. A few respondents specifically welcomed the overall increase in amount, the reintroduction of grants for subsequent children, and additional stages of payments at school and nursery time.

“Lead Scotland welcomes the Scottish Government’s proposal of replacing the current Sure Start Maternity Grant with a Best Start Grant, thereby increasing the lump sum payments families receive on the birth of a child as well as at key transition points in a child’s life.”

Lead Scotland

- 10.16 A few local authority respondents, including COSLA, raised questions about how BSG fitted with wider policy approaches. They asked for clarity about the outcomes that the Scottish Government is seeking to achieve through the grant. They queried the evidence base for universal approaches, such as the baby box, advocating further targeting of resources.

## Proposals for identifying who is responsible for a child

10.17 The Scottish Government set out its proposals for identifying who is responsible for a child for the purposes of BSG in Part 2 of the [consultation document](#).

**Question – Should we continue to use the same system to determine who is responsible for a child for the purposes of the BSG application? Please explain why.**

**Table 10.1 Should we continue to use the same system to determine who is responsible for a child for the purposes of the BSG application?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	36	80%	9	20%	45
Organisations	40	83%	8	17%	48
<b>All respondents answering</b>	<b>76</b>	<b>82%</b>	<b>17</b>	<b>18%</b>	<b>93</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

10.18 A total of 93 respondents answered this question. Most respondents (82%) felt that the same system should be used for the purposes of the BSG application.

10.19 Further explanation was provided by 66 respondents (21 individuals and 45 organisations).

### Reasons for answering ‘yes’

10.20 Some of those who explained why they supported the current approach simply felt it was important that the grant went to the person responsible for the child, which would usually be someone that lived with the child or received Child Benefit on their behalf.

“Current rules pay the money to the person identified as the primary carer of the child, and this should continue.”

Glasgow City Council

“Current system seems to capture the right people.”

Individual

10.21 Some who supported the current approach explained that the current system worked reasonably well when compared with other benefits, was fair, or seemed simple.

“It is our experience that there are relatively few disputes over who is responsible for a child and that Child Benefit tends to be paid to those with the greatest link to providing care for the child.”

ENABLE Scotland

“I think that seems the fairest way to me.”

Individual

10.22 A few highlighted that building on the current approach meant that systems were already in place. They welcomed the consistency and continuity in adopting the existing approach to determine responsibility.

“It builds on the existing infrastructure.”

Aberdeenshire Council

“Continuing to use the same test for responsibility for a child currently used for the SSMG and applied to other benefits would offer a consistent, simple message to families and encourage maximum take-up of the Best Start Grant.”

Maternity Action

### Reasons for answering ‘no’

10.23 The main reasons for answering ‘no’ tended to relate to issues for specific groups. Often respondents identified issues for kinship carers, but other groups included refugee and migrant women, and Looked After Children.

### Issues for kinship carers and Looked After Children

10.24 A few respondents (both those answering ‘yes’ and ‘no’) highlighted that Looked After Children or those cared for by kinship carers could not be identified under this proposed approach. A few of these, supported the argument put forward by CPAG Scotland, including Children in Scotland.

“In respect to kinship carers, it will not be sufficient to use Child Benefit to determine responsibility for the child if the support is to be provided to carers of Looked After Children. Such carers are generally excluded from access to Child Benefit if another payment is made for the child’s maintenance or accommodation out of public funds (i.e. kinship care allowance).”

Children in Scotland

**Question – Do you agree that each of the three BSG payments should only be made once for each child? If no, what exceptions would you make to this rule?**

**Table 10.2 Do you agree that each of the three BSG payments should only be made once for each child?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	33	73%	12	27%	45
Organisations	34	68%	16	32%	50
<b>All respondents answering</b>	<b>67</b>	<b>71%</b>	<b>28</b>	<b>29%</b>	<b>95</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

- 10.25 A total of 95 respondents answered this question. Most respondents (71%) agreed that each of the three BSG payments should only be made once for each child. However, a substantial minority (29%) disagreed.
- 10.26 When asked about exceptions, 48 respondents (12 individuals and 36 organisations) provided comments, although not all were substantive. As the question specifically asked for further comments from those who answered 'no', those respondents who disagreed offered the most detailed comments. However, similar points were made by both those answering 'yes' and 'no'.

## Exceptions

- 10.27 Most of those who gave reasons for disagreeing explained there may be exceptional circumstances in which further payments should be made for an individual child.
- 10.28 Respondents (including those who agreed and disagreed) highlighted specific situations or circumstances where exceptions should be made. These often related to changes in living situations, or chaotic periods for families. More specifically, a few respondents suggested that additional payments should be made where custody or guardianship arrangements for a child change – either permanently or temporarily. For example, as a result of a Court Order, a breakdown in a marriage, changes to custody, adoption, kinship carer arrangements, fostering, long term hospitalisation, or as the result of death of a parent or carer.

“If a child has suffered life changing issues, and if the child ends up in the social services system then more than one payment should be considered.”

Individual

“We would support exceptions to the one payment rule. For example:

If a couple break up and one has already had the grant then that could be grounds for two grants; or if a single parent is fleeing domestic violence and the ex- partner had been given the grant as the main claimant of benefit as in Universal credits; [or] if someone is adopting a baby / child and the birth parent has already claimed. Also if Kinship carers take over the care of a baby should they then be able to claim the best start grants.”

Parenting across Scotland

- 10.29 Some respondents, including those who both agreed and disagreed with the proposal, simply took the opportunity to suggest that the Scottish Government should allow exceptions – perhaps based on the existing SureStart exceptions.

## Proposals on the maternity payment

10.30 The Scottish Government set out its proposals on the maternity payment in Part 2 of the [consultation document](#).

**Question – Should we continue to use the same method as the SSMG to determine whether a child is the first child in a household? Please explain why. If no, what alternative method should we use?**

Table 10.3 Should we continue to use the same method as the SSMG to determine whether a child is the first child in a household?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	33	70%	14	30%	47
Organisations	23	51%	22	49%	45
<b>All respondents answering</b>	<b>56</b>	<b>61%</b>	<b>36</b>	<b>39%</b>	<b>92</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

10.31 A total of 92 respondents answered the closed part of this question. The majority of respondents (61%) felt that the same method should be used. However, a substantial minority of respondents (39%) disagreed. Individuals were slightly more likely to agree than organisations.

10.32 When asked to explain why, or suggest alternative methods, 53 respondents (18 individuals and 35 organisations) provided comments. At times, the same points were made by those who agreed and disagreed.

### Main reason for supporting the current system

10.33 Most of those who offered support for the current system (and provided comments) suggested that it made sense to continue using it, as it was a simple or suitable approach.

“Yes, we should continue to use the same method as the SSMG to determine whether a child is the first in the household.”

Inverclyde Council / HSCP

“It is the best way to identify.”

Individual

### Issues for families with large age gaps between children

10.34 Some of those who disagreed with the current approach, and a few of those who broadly agreed, were concerned that the current system may be unfair to families with significant age gaps between their first and second child. They argued it was not practical or realistic to assume these families would keep equipment or clothing over a long period of time. A few also highlighted that, in some cases there might be safety concerns in encouraging them to do so. For example, keeping essential equipment for long periods of time might mean it no longer meets safety standards.

“ . . . it is becoming increasingly more common for families to be made up of one or more generation of children, this means the concept of deciding when it is appropriate to consider a first or second tier payment becomes more difficult to assess.”

Highland Council

“Where there is a sufficient age gap such that it would not be reasonable for someone to have kept items such as a cot or a pram etc. then the arrival of a new child could be considered as if it was a first child.”

Glasgow City Council

10.35 Some respondents (both those answering ‘yes’ and those answering ‘no’) were concerned that the current system does not take account of different family make-ups, or how these may change over time. A few also raised concerns that families who have moved to Scotland since the birth of their first child, may be unfairly disadvantaged.

“The current method is unfair to many families, including ‘blended’ families (excludes woman having first baby who has a partner with older children) and families from abroad (refugees unable to bring baby items with them).”

CPAG Scotland

“There may be an older step-child.”

Individual

### **Potential alternatives**

10.36 Alternatives were put forward by a few respondents (mostly those who answered ‘no’ to the closed part of the question):

- The Scottish Government could further reduce the age limit for the first child.
- In some situations, the second child should be treated as a first child. In particular, where there is a significant age gap, where there have been particular changes to the family composition or circumstances, or where a family has moved to Scotland since the birth of their first child.
- Instead of different levels of payments for first and second children, each child could receive the same award level. This was viewed as being simpler to administer, and would address concerns.
- The system might determine whether the claimant has previously received a BSG or SSMG for a child under 16 who still lives in their household, or if there is another child under 16 who has lived in the UK (or EEA), in the same household as the mother since birth.
- Child benefit records could be used.

“I think that the award should be the same for each child as many people cannot store the items that they have been given for the first child. . .”

Cassiltoun Housing Association

“There are circumstances . . . where a subsequent child should be treated as though they were the first. It may be a more sensible approach to reduce the age limit of the other child in the property.”

NHS Lanarkshire

“Child Benefit records should be considered as the primary identification tool, this would ensure continuity as relationships evolve / partners-family dynamics change.”

Angus Community Planning Partnership, in co-operation with the Angus Welfare Reform Group

**Question – Do you agree that we should retain the requirement to obtain advice from a medical professional before making a maternity payment? Please explain your answer.**

**Table 10.4 Do you agree that we should retain the requirement to obtain advice from a medical professional before making a maternity payment?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	41	91%	4	9%	45
Organisations	38	79%	10	21%	48
<b>All respondents answering</b>	<b>79</b>	<b>85%</b>	<b>14</b>	<b>15%</b>	<b>93</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

10.37 A total of 93 respondents answered the closed part of this question. Most respondents (85%) agreed that the same method should be used. Individuals were slightly more likely than organisations to agree.

10.38 When asked to explain their answer, 69 respondents (20 individuals and 49 organisations) provided further comments.

### Improved take up of medical advice

10.39 Many respondents who supported the proposal agreed that this would improve the take up of medical advice, with a view to improving health outcomes. Respondents highlighted the importance of prenatal care in determining health outcomes for disadvantaged families.

“We believe that combining medical support and financial support is an effective way of ensuring new families have what they need and that the relationship between claiming the grant and seeking medical support should be upheld.”

Cyrenians

10.40 Some respondents emphasised that this would be a practical way of confirming a pregnancy, in order to confirm eligibility and enable parents to access the grant.

### Improving awareness and access to wider support

10.41 Some respondents (both those who agreed and disagreed) emphasised the opportunities to improve access to wider services and support at this stage.

They advocated improved signposting and referrals to money advice and other support services.

“There may be an opportunity to ensure other assistance, that can increase pregnancy outcomes, which is available at a local level is also discussed with signposting to relevant agencies also taking place.”

NHS Lanarkshire

“Parents should also be referred to independent advice agencies for advice about income maximisation.”

Parkhead Citizens Advice Bureau

### **Criticism of financial incentives**

10.42 A few respondents disagreed with the approach in principle. They felt that it was unfair to use financial incentives to encourage people to access medical support. It was suggested that take-up should be improved in other ways, such as better promotion. These respondents felt that a confirmation of pregnancy should be sufficient to access the BSG.

“It was felt that most parents do engage with the relevant medical professional but compulsion could be a barrier for those women who are less likely to engage with services – for example young single mums.”

One Parent Families Scotland

“Engagement with health services should be as distinct as possible with the benefit system. Currently people expecting children are given an expected date of confinement and together with a copy of a birth certificate should be taken as sufficient evidence that health services are engaged.”

Rights Advice Scotland

## **Proposals on the nursery payment**

10.43 The Scottish Government set out its proposals on the nursery payment in Part 2 of the [consultation document](#).

### **Question – Are there other points during the first five years of a child’s life when families face greater pressure than at the start of nursery (other than birth and the start of school)?**

10.44 In total, 65 respondents (20 individuals and 45 organisations) answered this question.

### **Support for key points already identified**

10.45 Some respondents took the opportunity to broadly welcome the points already identified for BSG payments. There was recognition that every family situation is different, but that these stages were key pressure points for most families.

“It was generally agreed by participants at our events that these were the most pressurised points of the first five years of a child’s life.”

The Poverty Alliance

### **Other points of significant pressure**

10.46 Respondents identified other circumstances in which families might come under particular pressure. Often, these did not relate to a particular age, and would vary for different children and families. Some respondents emphasised that many pressure points are difficult to predict.

10.47 Some respondents emphasised the pressure on families with disabilities, additional support needs, or experiencing illness. They felt that these circumstances created additional financial pressures at particular stages – such as diagnosis. A few respondents highlighted the significant pressure of returning to work, or the end of maternity leave and pay.

“The point at which parents return to work can be a pressure point for many families; this may be considerably earlier than the point at which the child becomes entitled to a funded early learning and childcare place.”

Maternity Action

10.48 Other circumstances identified by a few respondents included situations where families are fleeing domestic violence; relationship breakdowns; refugees or asylum seekers; unemployment; and families with a parent who had become imprisoned.

“Not in all cases but there may be some families facing exceptional pressures due to relationship breakdown, fleeing domestic abuse, refugee and asylum seekers, bereavement, diagnosis of illness or disability etc. and in such circumstance parents could benefit from requesting further payments are made early, i.e. before the child starts nursery or school.”

Midlothian Community Planning Partnership / Midlothian Council

10.49 A few local authority respondents, called for greater clarity about the outcomes that the Scottish Government is seeking to achieve through BSG. They felt it was important to understand this in order to identify the most important pressure points.

“...It is not clear what the purpose of a Best Start Grant is. This clarity would then assist in determining when it should be paid.”

Argyll and Bute Council

### **Question – What are your views on defining ‘the start of nursery’ as the point of entitlement to a funded early learning and childcare place, for the purposes of making the second payment?**

10.50 In total, 74 respondents answered this question (26 individuals and 48 organisations). Respondents appeared to interpret the proposals and questions differently.

## Support for a payment at this stage

10.51 Many respondents expressed their broad support for providing a second payment around the time a child might start nursery, or the approach set out in the consultation document.

“This would seem like a sensible time to make the payment. It should also have the advantage of ensuring that families of vulnerable 2 year olds are supported at the earliest opportunity and act as an incentive to take up the place.”

Barnardo’s Scotland

## Concerns about fairness and consistency in access

10.52 Some respondents emphasised that families will have variable arrangements for childcare – including informal arrangements and private provision. A few others emphasised that the age children start nursery varies significantly across Scotland.

10.53 At times, respondents seemed unclear about whether being eligible for a free nursery place or the entitlement to free early years education alone would be used to identify those eligible for the payments, or whether take-up of the entitlement was required.

10.54 There was some concern that in situations where a parent chose not to take up their entitlement, or had problems accessing it, they may not be eligible for the second payment of the grant. This led to variable suggestions about providing funding based on age, registration with childcare providers, or other criteria.

“Should a parent not be able to access support through a funded childcare place due to either a lack of resources generally or issues relating to their child’s disability then it is important that they are not disadvantaged.”

ENABLE Scotland

## Other suggestions

10.55 A few local authority respondents highlighted the value in aligning grant entitlement with early learning entitlements, with a view to improving access to both.

“There may be an opportunity here to dovetail access to the BSG with increasing take up of the funded place – local authorities are already engaging with those entitled to the ELCP and joining up these two initiatives could maximise access to both locally.”

COSLA

10.56 A few respondents, including the Child Poverty Action Group, proposed that entitlement should be based on the same criteria as the maternity element of BSG. A further few respondents suggested that a specific age should be the trigger.

“CPAG believe you should be able to claim the Best Start Grant nursery payment if you are in receipt of a qualifying benefit (or have been in receipt of a qualifying benefit in the past six months) and your child is aged two to three.”

CPAG Scotland

### **Question – Are there any particular issues related to the nursery payment that you think we should consider?**

10.57 In total, 53 respondents (23 individuals and 30 organisations) answered this question. Of these, some said they hadn't any particular further issues to raise, or referred to their earlier answers.

10.58 Those who did respond tended to reinforce points made in response to earlier questions.

10.59 The key points raised by a few respondents included:

- questions about how BSG would relate to other financial support offered at this stage and why this stage was identified;
- the importance of ensuring families have access to funding at the right time, to be able to support appropriate purchases; and
- additional support and advice could be offered at this stage to families – such as money advice.

10.60 A few respondents made broader points about the importance of supporting families with childcare costs.

### **Proposals on the school payment**

10.61 The Scottish Government set out its proposals on the school payment in Part 2 of the [consultation document](#).

### **Question – Are there any particular issues related to the school payment that you think we should consider?**

10.62 In total, 48 respondents answered this question (19 individuals and 29 organisations). Of these, some remarked that they had no particular issues to raise.

### **Relationship to other financial support**

10.63 Some respondents (mainly local authority respondents) asked for consideration to be given to how this grant related to other financial support available to low income families with children starting school - such as grants for school clothing and footwear. A few suggested that the funding available for this grant could be used in a different way, to better complement existing support.

“Consideration has to be given as to what this school payment is covering. There is already a footwear and clothing grant available to all low income families. This may be an opportunity to consider this funding alongside this existing budget and allow families to access this money more than once a year – looking to put it in place for

the different school terms, recognising the wear and tear as well as the growth children will have throughout the year.”

North Ayrshire Council

### **Other issues**

10.64 It was highlighted that ages for starting school can vary significantly. A few respondents suggested that enrolling or accepting a place in school should be the trigger for entitlement. A few also emphasised the importance of ensuring grants are available well in advance of starting school, to enable families to use the grant to help meet costs such as for uniforms.

“These payments should be made before the child actually starts school in order to allow the parent to buy uniforms and school essentials before the term begins. This award should be triggered when the parent is notified of school acceptance.”

The Poverty Alliance

### **Question – Should the school payment be payable to all eligible children who begin primary school for the first time in Scotland, or should an upper age limit be included?**

10.65 In total, 90 respondents answered this question (42 individuals and 48 organisations).

### **Support for making the payment to all eligible children**

10.66 Most of those who responded to this question said that the school payment should be made to all eligible children who begin primary school for the first time in Scotland. A large number of respondents broadly supported this approach. The most common reason was that an age limit would be unfair to children starting school at a later age – because of their family circumstances, recent migration, or a disability or additional support need.

“Circumstances in which children would start school at a later point are likely to be linked with other financial pressures, such as a change in immigration status, moving house, or disability within the household. Support should therefore be extended to mothers of all eligible children starting primary school in Scotland for the first time.”

Engender

“There should be no upper age limit as children may move to Scotland from other countries and may need support to purchase essentials for school.”

Inverclyde Council / HSCP

“If an upper age limit is included this could potentially discriminate against children with exceptional needs who delay the start of their formal education.”

Bobath Scotland

### **Practicalities of enforcing an age limit**

10.67 A few respondents suggested that it would be administratively challenging to have an age limit. These were mostly local authority respondents and

included both those who supported the grant going to all eligible children, and those who said it was difficult to answer this question.

“In administrative terms the exclusion of an upper age limit would increase the administrative checking required as checks would need to be carried out to ensure the child had not received the payment elsewhere.”

COSLA

### **Wider issues**

10.68 A few, mostly local authority respondents, called for greater clarity about the outcomes the Scottish Government wishes to achieve through this grant. They suggested that without this, it was difficult to answer this question.

## **Proposals for the application process**

10.69 The Scottish Government set out its proposals on the application process in Part 2 of the [consultation document](#).

### **Question – What are your views on our proposals in relation to BSG application process?**

10.70 In total, 67 respondents answered this question (22 organisations and 45 individuals). Generally, respondents were supportive of the proposals set out.

10.71 The main themes discussed were:

- extending the application window;
- support for the three stages of assessment; and
- the role of local authorities.

### **Extending the application window**

10.72 The proposal which attracted the most support in the responses was the extension of the application window, with most of those commenting on this agreeing it should be six months. It was felt that this would be more manageable for parents at a difficult time and seemed more reasonable - given that some parents would not be able to apply until after birth - and would be fairer to people who may not be able to apply so quickly after birth.

“The extension to the time in which the grant can be claimed is very welcome - many families miss out because for various reasons their claim is too late - child tax credits being claimed post birth, lack of awareness, entry to the country after the time period.”

Cassiltoun Housing Association

“I like the fact it takes into account people's situation can change, I also like the proposal to extend the application window for the first payment.”

Individual

## Support for three stages of assessment

10.73 Some respondents expressed their support for assessing eligibility at each of the three stages. They suggested this was sensible, fair and easy to understand.

“Treating the three payments separately seems a sensible proposal.”

Parenting across Scotland

“We also agree that it makes sense to reassess eligibility for later payments at school and nursery age.”

Barnardo’s Scotland

## Potential role of local authorities

10.74 A few, mainly local authority respondents, proposed that local authorities should have responsibilities in relation to identifying eligible families, and for promotion or assessment for the nursery and school stages of the grant.

“Given the notes in the consultation, consideration should be given as to who would be best placed to have the discussion i.e. Maternity payment being discussed with a health professional during pregnancy, nursery and school payments via local authorities. This would enable a more effective way of delivering the grant as local authorities also have records of those in receipt of clothing grants, free school meals. There is an opportunity to link all of those together to provide a more holistic, joined up approach.”

West Lothian Council

## Other suggestions

10.75 A few (mainly local authority respondents) called for the process to be as simple as possible, given the complexity of issues that need to be taken into account. A few others called for eligible parents to be automatically entitled to or paid the benefit. There were various suggested triggers for this, including entitlement to Healthy Start. It was argued that this would be a simple, easy way to improve access to the new elements of the benefit, and that this might be especially beneficial to particularly disadvantaged groups. A few also highlighted the importance of promotion and communication.

“A simple, straight forward application process is essential.

East Ayrshire Council

“We think it would be important that the BSG is an automatic payment, as this is a new social security payment and there will be a lack of awareness about the system.”

One Parent Families Scotland

“If eligible for the healthy start vouchers, then eligibility for the BSG should be considered automatic, and vice versa. This would save paperwork and time. I would imagine some people would know about applying for one of these but not necessarily both, so would make applications quicker and easier.”

Individual

“The extension of the application window is welcome but there will need to be communication around this.”

Aberdeenshire Council

**Question – What are your views on establishing an integrated application process for the BSG and Healthy Start? What are the advantages and disadvantages of this approach?**

10.76 In total, 69 respondents commented on the first question (23 individuals and 46 organisations). 44 respondents commented on the second question (14 individuals and 30 organisations). Very similar key themes and points were made across both the questions on integrating the application process for BSG and Healthy Start.

**General support for integration**

10.77 There was widespread support for the integration of the BSG and Healthy Start application processes, with a large number of respondents broadly welcoming the proposal.

“An integrated application process for the Best Start Grant and Healthy Start vouchers would be preferred in order to maximise the number of eligible people receiving information and support.”

Youthlink Scotland

“Yes – as above if one application can cover both that would make the process easier.”

Rights Advice Scotland

**Potential advantages of integration**

10.78 The most common suggested advantages of an integrated approach related to simplicity – with respondents suggesting integration would reduce bureaucracy and improve efficiency. Respondents suggested that an integrated approach could also be easier to promote. This in turn could improve awareness. By having a single form, people could access both grants at once.

“Not only would the integration of application for BSG and Healthy Start make more administrative sense, it also has the potential to ensure that women receive all of the support they are entitled to. Separate applications for both can, at present, be confusing for women. As a result, many are put off from applying for one or both methods of support.”

Scottish Women’s Convention

**Potential disadvantages of integration**

10.79 Some (mainly local authority respondents) suggested that bringing the two together could potentially create confusion. In addition, they felt that stigma attached to either grant might put people off applying for the other. For example, if Healthy Start vouchers are associated with very low income families.

“Need to have a carefully considered approach. Healthy start vouchers are not well used. Care needs to be taken not to have a poor uptake because of the perceived stigma around the voucher system. There is potential for there to be confusion about recipients expecting a cash payment and then not understanding about the voucher element.”

West Lothian Council

10.80 A few respondents highlighted that the timing and eligibility criteria are currently different for the two grants. A few suggested that these might need to be aligned – otherwise the application processes might actually become more complicated, and the grants more difficult to promote and understand.

“The eligibility criteria would need to be aligned for the claim process to work effectively.”

Maternity Action

“May be difficult to market both things at once – some who are entitled to BSG and expect a cash payment may be unsure what the provision provides if vouchers are mentioned – potential stigma attached with healthy start vouchers may prevent applications coming forward.”

COSLA

## Proposals for alternative support

10.81 The Scottish Government set out its proposals for alternative support in Part 2 of the [consultation document](#).

**Question – Would the option to receive items rather than a cash payment as part of the BSG have benefits? Please explain why.**

**Table 10.5 Would the option to receive items rather than a cash payment as part of the BSG have benefits?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	32	78%	9	22%	41
Organisations	28	68%	13	32%	41
<b>All respondents answering</b>	<b>60</b>	<b>73%</b>	<b>22</b>	<b>27%</b>	<b>82</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

10.82 In total, 82 respondents answered the closed part of this question. Most respondents (73%) said there should be the option to receive items rather than a cash payment. Individuals were slightly more likely than organisations to support the approach.

10.83 81 respondents (31 individuals and 50 organisations) provided comments when asked to explain their answer.

10.84 The main themes emerging were:

- the importance of choice; and
- the potential stigmatisation.

### **The importance of choice**

10.85 Both those who agreed and disagreed reinforced the importance of choice. In fact, choice was the main theme emerging from the comments. Those who supported the proposal often reinforced that families should have a choice between cash or goods.

“Only if very optional and not pushed on applicants through personal judgements.”  
Scottish Out of School Care Network

10.86 The main explanation for not supporting this idea also related to choice, with some respondents feeling this proposal might undermine choice. It was suggested that the approach was not in keeping with the principles the Scottish Government wishes to promote through the new social security system, with a few feeling that it might undermine dignity and respect.

“We strongly believe that providing awards in kind undermines the principles of dignity and respect.”  
The Poverty Alliance

“Cash only - let people take responsibility for their own lives.”  
Individual

### **Other reasons for supporting the proposal**

10.87 Respondents who supported the proposal suggested that offering access to goods and services might be more appropriate for families who struggle to budget, or who they believed might spend money on inappropriate items. This as a key theme, particularly amongst individuals who responded.

10.88 Another key theme amongst respondents who agreed related to securing better value for families. Some respondents felt there was potential for the Scottish Government to secure significant savings, and suggested this could offer families access to good value items.

“The buying power of Government could be used to get best value for families and the system.”  
Ayr Housing Aid Centre

### **Potential stigmatisation**

10.89 A few respondents (including those who agreed and disagreed) suggested that offering a limited number of goods might lead to stigmatisation, and potentially put families off accessing the grant. This was raised mainly by those who disagreed with the approach.

“There is also the potential to stigmatise children and families, where only specific goods are given and are easily recognised, there has been a big shift away from this and we should continue down this line.”

NHS Lanarkshire

## Proposals for improving take up

10.90 The Scottish Government set out its proposals for improving take up in Part 2 of the [consultation document](#).

### **Question – Which services should promote awareness of the BSG to ensure that claimants know about it at the relevant time?**

10.91 In total, 84 respondents (31 individuals and 53 organisations) answered this question.

10.92 A large number of respondents emphasised the important role that NHS staff should play in promoting BSG, and supporting access to it. In particular respondents highlighted the role of midwives and Health Visitors, as well as GPs, pharmacists, health centres and hospitals.

10.93 Other specific key services or professionals identified by some respondents included:

- school or education staff – particularly to promote grant payments at nursery or school stages;
- social work services – particularly to promote the grant with more vulnerable families;
- childcare and early years services and staff;
- third sector and community organisations; and
- advice and information services.

10.94 Respondents highlighted the responsibility of statutory services to promote the grant, and also mentioned the valuable role of third and private sector organisations. A few respondents suggested there could be better promotion of the grants in public places that pregnant women might be visiting. A few others reinforced the opportunities to promote the grant through other schemes or opportunities – such as the baby box, at birth registration, or at regular medical appointments. A further few respondents felt there would be value in a strategic or nationwide element to promotion, possibly including a public awareness campaign.



## **11. Discretionary Housing Payments**

## Proposals for Discretionary Housing Payments

11.1 The Scottish Government set out its proposals for discretionary housing payments (DHPs) in Part 2 of the [consultation document](#).

### Question - Could the way that DHPs are currently used be improved? Please explain why?

**Table 11.1 Could the way that DHPs are currently used be improved?**

Respondent group	Number	Yes		No		Total
		Number	%	Number	%	
Individuals	38	67%	19	33%	57	
Organisations	66	93%	5	7%	71	
<b>All respondents answering</b>	<b>104</b>	<b>81%</b>	<b>24</b>	<b>19%</b>	<b>128</b>	

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

11.2 A total of 128 respondents answered the closed part of this question. Most respondents (81%) thought that the way that DHPs are currently used could be improved. Organisations were more likely than individuals to say 'yes'. There was overall support from across respondent groups answering this question.

11.3 Further comments were provided by 127 respondents (47 individuals and 80 organisations). Explanations for answers to the closed part generally related to reasons for answering 'yes', which are discussed in detail below.

11.4 The main themes discussed were:

- use of DHPs to mitigate the under occupancy penalty; and
- the time frame for payment of DHP.

### Use of DHPs to mitigate the under occupancy penalty

11.5 The main reason for suggesting that the way that DHPs are currently used needs to improve was that they currently focus too much on managing the impact of the under occupancy penalty (commonly known as the 'bedroom tax'). While there was support for continuing this role, respondents answering 'yes' called for wider use and potentially increased funding to accommodate this. These issues are discussed here in further detail.

11.6 Generally, respondents were in favour of the Scottish Government continuing to mitigate the under occupancy penalty ('bedroom tax').

"PCS support the Scottish Government's proposals for these areas which seek to continue offsetting the hated 'bedroom tax' at local authority level."

Public and Commercial Services (PCS) Union

11.7 However, there were concerns that this was becoming the only use of the DHP budget, to the detriment of claimants who might previously been able to

claim it for other reasons. Local authority respondents in particular were keen that DHPs are not seen as a long term solution to mitigating against reserved benefit changes.

“Consideration should be given to using DHP to focus equally on all the elements of housing need and welfare reforms.”

COSLA

“The current need to fully mitigate bedroom tax via DHP, disproportionately impacts on the ability to support other areas of pressure.”

East Ayrshire Council

“Discretionary Housing Payments were not intended to be used to mitigate against the bedroom tax. We hope that once the bedroom tax is abolished they can be used once again for their intended use.”

The Poverty Alliance

“Because of the historic and current focus on the bedroom tax, the original purpose of DHPs, to provide discretionary, temporary assistance with housing costs in exceptional circumstances, has been overlooked.”

Scottish Federation of Housing Associations

11.8 A few respondents were in favour of managing Universal Credit payments in such a way that DHPs do not need to be used to alleviate bedroom tax. However, they noted that this could take until 2022 (when all recipients will have moved to Universal Credit) and mitigation of the bedroom tax through DHPs will still need to be managed in the interim period. Generally, there were concerns that the DHP will not meet the rising demands due to continuing welfare reform and a challenging economic environment.

“At present majority of DHP pot is used to cover bedroom tax. This means there is very little in the pot to help those who are truly struggling financially and this is wrong. Those struggling financially should have priority access to the fund. Local authorities no longer have the budgets to help top these funds up. My fear is that those struggling financially get no additional assistance and are more at risk of losing their home for rent arrears. DHP funds should be on basis of need in order for it to be open and fair.”

Individual

11.9 Some respondents hoped that once the under occupancy penalty was fully eliminated, DHPs would be available for a wider range of temporary support (as originally intended) such as preventing homelessness and facilitating people into secure, sustainable, permanent housing. More generally, some respondents felt that there should more information and increased awareness amongst the public about DHPs, who is eligible and how to apply.

### **Payment of DHPs**

11.10 A few respondents mentioned the need for a more predictable system of payments, both for claimants and distributors of DHPs. They felt that people could not depend on DHPs to support them in a time of need due to the

discretionary nature of the payment, and the time taken to reach a decision. They also mentioned that it might be helpful if local authorities were provided with their DHP budget annually, rather than in instalments throughout the year. Respondents recognised that being distributed locally at the discretion of individual local authorities meant that the fund could support local needs. However, some felt that this led to considerable inconsistencies and would prefer for there to be national level guidelines implemented consistently at a local level.

“By definition this is discretionary, which leads to a post code lottery, with wide variations on payments between different local authorities. There is no consistency on who gets DHP from one local authority to the next.”

Scottish Socialist Party

“To allow for complete equality in the award of DHP it should not be left to local authority discretion over how they assess claims or how much is awarded. This could result in a 'post code lottery' with disparities in who is helped and by how much depending on where applicants live.”

Individual

11.11 A few respondents suggested that the Scottish Government could create a new benefit to support people with housing costs, leaving the DHP available for temporary support.

“The SFHA therefore suggests that the Scottish Government should use its powers to create a new and separate benefit that mitigates the shortcomings in the UK support for housing costs, including the bedroom tax, the removal of entitlement to Housing Benefit for young people under 21 and the restrictions in entitlement to those under 35 under the LHA cap proposals.”

Scottish Federation of Housing Associations

11.12 A few respondents from organisations representing young people suggested that DHPs might be used to help support people aged 18-21 receiving Universal Credit, as they will no longer be automatically entitled to receive the housing element.

11.13 A few respondents wanted DHPs to be more easily available for a wider range of uses (such as fuel costs and maintenance and servicing of home adaptations) and for a wider range of people such as:

- care leavers;
- young people and single people;
- vulnerable women moving out of refuge centres or unsafe environments;
- people spending time hospital;
- people receiving Housing Benefit and renting through the private sector; and
- people not receiving Housing Benefit, but who are in need of support to maintain a tenancy, such as students.

## Reasons for answering 'no'

11.14 A few respondents said that DHPs are working well and there was no need for change.

“Seems to work so why change it?”

Individual

## Question - Could the administration of DHP applications be improved? Please explain why.

**Table 11.2 Could the administration of DHP applications be improved?**

Respondent group	Number	Yes		No		Total
		%	Number	%	Number	
Individuals	35	74%	12	26%	47	
Organisations	61	95%	3	5%	64	
<b>All respondents answering</b>	<b>96</b>	<b>86%</b>	<b>15</b>	<b>14%</b>	<b>111</b>	

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

11.15 In total 111 respondents answered the closed part of this question. Most respondents (86%) felt that the administration of DHP applications could be improved. There was overall support from across respondent groups answering this question.

11.16 Further comments were provided by 100 respondents (36 individuals and 64 organisations).

11.17 Respondents reiterated similar points raised earlier in regard to DHPs. The main issues raised around the administration of DHPs were:

- the time taken to process applications;
- inconsistencies between, and sometimes within, local authorities; and
- the need for a simpler, more efficient process.

“There is general agreement that DHPs need to remain flexible in order to reflect local circumstances and priorities. However, there is also a need to ensure that decisions are fair and transparent. Clear, accessible information about what can be covered by DHPs could help people to understand what DHPs can be awarded for and help them to make an application.”

Chartered Institute of Housing Scotland

## The time taken to process applications

11.18 Respondents wanted administration to be quicker so that people receive the support they need when they need it. Ideally, payment should be made before people fall into debt or rent arrears, and quickly enough to allow people to place a deposit on a rental property before it leaves the market.

“It is essential for eligible tenants to be able to access funds for their landlords as quickly as possible when problems occur, for continuity of their tenancy.”

Individual

“You cannot apply for DHP for rent top up until you receive your award letter confirming you actually have a rent shortfall which puts clients into debt with their rent at the very start and the DHP processing time can be up to 4 weeks.”

CEMVO Scotland

11.19 Respondents also said that DHPs could be improved by reducing the need to reapply regularly, particularly when it is clear that a situation is not going to change, for example, the under occupancy penalty.

### Inconsistencies in administration

11.20 Respondents reiterated that there were variations in how DHPs were administered across Scotland. They noted that qualification for DHPs depends on the time of year that a person applies and how much money is remaining in the local authority budget.

11.21 In response to the variations and inconsistencies in DHP administration, a few respondents suggested that administration should be at a national level, or that there should be a national framework guiding local administration. Local authority respondents, however, felt that administration should remain local to account for specific local needs.

### Efficiency and simplicity

11.22 A few respondents discussed the potential for better data sharing to confirm eligibility for DHPs and potentially automate payments relating to the under occupancy charge, local housing allowance caps or benefit caps.

11.23 A few respondents discussed the possibility of combining or integrating DHPs into other social security benefits, using it to top up other benefit shortfalls, synchronising the timing of payments with Universal Credit and paying directly to the landlord.

11.24 A few respondents said that administration could be improved by more training for frontline staff so they are knowledgeable and informed about recent welfare reforms and are sensitive to equality and poverty issues.

### Question - Does the guidance for local authorities on DHPs need amending? Please explain why.

Table 11.3 Does the guidance for local authorities on DHPs need amending?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	18	45%	22	55%	40
Organisations	33	60%	22	40%	55
<b>All respondents answering</b>	<b>51</b>	<b>54%</b>	<b>44</b>	<b>46%</b>	<b>95</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

11.25 A total of 95 respondents answered the closed part of this question. Views were fairly mixed. Overall, just over half (54%) thought that the guidance for local authorities on DHPs needs to be amended, but a substantial minority (46%) disagreed. Organisations were slightly more likely than individuals to say 'yes'. Almost all of the disagreement came from local authority respondents, the majority of whom (72%) disagreed.

11.26 Further explanation was provided by 85 respondents (29 individuals and 56 organisations).

### **Reasons for answering 'yes'**

11.27 Respondents who said 'yes', felt that amending the guidance would help to:

- improve consistency in DHP delivery;
- improve awareness and understanding of DHPs and eligibility;
- increase the use of DHPs beyond mitigating the under occupancy penalty; and
- ensure that DHPs are used as broadly and as fairly as possible.

11.28 As before, a few respondents felt that guidance should be at national level and should provide a consistent approach for timescales and decision making procedures.

### **Reasons for answering 'no'**

11.29 Local authority respondents broadly (most of which answered no) felt that current guidance was adequate, as it gives them discretion to allocate DHPs according to local needs.

"DHP can be subject to criticism and can be accused of being a "postcode lottery" however the scheme is designed to assist individuals based on their individual circumstances and needs. Treating everyone the same across the country irrespective of the housing affordability and availability in their area may create a system that is more unequal. Treating people equally is often not achieved by treating people in the same way."

Perth and Kinross Council

"We agree that Discretionary Housing Payments should continue to be managed by local councils and on the same basis as now. We believe that the connection to local housing services and the responsiveness to local circumstances are an important feature of these payments. However, we also recognise the concerns expressed by some advice and third sector agencies about consistency in decision making both locally and nationally."

The Association of Local Authority Chief Housing Officers

### **Other points**

11.30 Some respondents discussed the need for monitoring and evaluation of DHPs and regular reviews of the guidance. In general, respondents hoped that in the future, local authorities could use DHPs more widely, and more in keeping with the original intention of short term support for extenuating circumstances.



## 12. Job Grant

## Proposals for Job Grant

12.1 The Scottish Government set out its proposals for the job grant in Part 2 of the [consultation document](#).

### Question - What should the Scottish Government consider in developing the Job Grant?

12.2 There were 131 responses to this question (51 individuals and 80 organisations).

### Support for the Job Grant

12.3 Although the question did not specifically ask about support for the proposals for the Job Grant, it was clear that almost all respondents supported the introduction of the Job Grant. Most made comments on the ways that the Job Grant might be developed or concerns about certain aspects of the proposal. A few respondents, who were all individual respondents, did not support the development of a Job Grant.

12.4 The main themes emerging from responses were:

- eligibility for the grant;
- delivery of the grant; and
- development of the grant.

### Eligibility for the grant

12.5 Many respondents suggested extending the groups that were eligible for the grant. Most commonly, respondents suggested that the grant be available to all ages. A few respondents suggested particular additional groups that should be covered, including disabled people, carers, volunteers, refugees, care leavers up to the age of 26 and lone parents.

12.6 Some respondents suggested ensuring that all young people were eligible. A few suggested that the Scottish Government consider ensuring that eligibility was not restricted to those in receipt of benefits. Other suggestions were, clarifying whether short term or zero hours' contracts would be eligible and considering a three month period out of work for eligibility, particularly for school leavers.

12.7 A few respondents said that the grant should be an entitlement, not discretionary.

### Delivery of the grant

12.8 Some respondents said that it was important to ensure that the scheme was simple – both for applicants and for administrators.

12.9 Some respondents highlighted the importance of ensuring that this approach was linked to existing employability support schemes from both local and central government. A few respondents recommended that the grant should be tax free and disregarded for means test purposes.

12.10 A few respondents recommended that the delivery of the scheme should be devolved to local authorities.

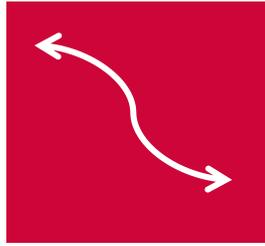
### **Development of the grant**

12.11 Some respondents suggested increasing the amount of the grant or lengthening the period for the bus pass.

12.12 Some respondents suggested that there should be alternatives to a bus pass. This was raised particularly in relation to rural areas. Suggestions included assistance towards the cost of driving lessons and alternatives for young disabled people.

“There is one feature of the proposed new system which will be of limited help in reducing inequalities in Orkney and might require local variation. This is the proposed 3-month bus pass as part of the job grant for young people starting work. This will be of no use to people living in parts of Orkney which do not have a regular bus service at the times they need. For example, on most routes buses do not run in the evenings, which rules out most hotel or catering work. Financial assistance towards the cost of driving lessons, or running a car, would be more helpful to young people locally.”

Orkney Islands Council



## **13. Universal Credit Flexibilities and Housing Element**

## Proposals for Universal Credit flexibilities

13.1 The Scottish Government set out its proposals for Universal Credit flexibilities in Part 2 of the [consultation document](#).

**Question - Should the choice of managed payments of rent be extended to private sector landlords in the future? Please explain why.**

**Table 13.1 Should the choice of managed payments of rent be extended to private sector landlords in the future?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	69	86%	11	14%	80
Organisations	87	97%	3	3%	90
<b>All respondents answering</b>	<b>156</b>	<b>92%</b>	<b>14</b>	<b>8%</b>	<b>170</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

13.2 A total of 170 respondents answered this question. Most (92%) respondents thought that the choice of managed payments of rent should be extended to private sector landlords in the future. Organisations were slightly more likely than individuals to agree. There was overall support from across respondent groups who answered this question.

13.3 Further comments were provided by 147 respondents (56 individuals and 91 organisations).

13.4 The main themes emerging were:

- mitigating risks of arrears and evictions;
- equal treatment of private and social housing tenants;
- the importance of choice;
- improving access to private housing for people receiving social security; and
- the need for safeguards.

### Mitigating risks of arrears and evictions

13.5 The most common reasons for supporting the extension of this choice to private sector landlords related to preventing people falling into rent arrears and the consequences of this. A large number of respondents discussed such reasons. Often respondents spoke of how some people may struggle to manage their spending, and housing related payments went towards rent.

“For some people budgeting and paying bills can be very difficult. For some this may mean they may find it difficult to ensure their rent is paid and potentially may face eviction. Having a home is a priority for all. If this can be made more secure for some by direct rent payments to all landlords then I see no reason why this cannot continue.”

Individual

“This will provide households with additional budgeting options to ensure that housing costs are prioritised over other expenditures.”

The Salvation Army

13.6 There was some concern that with the move from Housing Benefit to Universal Credit, more people would be at risk of falling into arrears. Respondents explained that this was likely to have impacts on individuals and families already facing significant challenges, as well as landlords and wider services.

“The rollout of Universal Credit (UC) in Scotland has caused a substantial number of CAB clients to fall into rent arrears and is one of the most common issues related to Universal Credit.”

Citizens Advice Scotland

### **Equal treatment of private and social housing tenants**

13.7 Many respondents said that people renting in the private sector should be offered the same choice as those renting from social landlords. Sometimes respondents emphasised the growing size of the private sector in Scotland, and the importance of ensuring that people renting in this sector had improved rights. A few suggested that certain groups of people are more likely to be using private rented accommodation, and they should not be disadvantaged.

“Landlords and tenants in the private rented sector should be given the same rights as those in the social rented sector. It is simply unfair that private rented tenants don't have the same rights as social rented tenants.”

Individual

“SAL supports this proposal under the new devolved powers as we consider that all tenants should have the same rights to managed payments regardless of whether they are renting in the private or social rented sectors.”

Scottish Association of Landlords

“Disabled people's housing choices are severely limited due to lack of accessible housing and may not have the option of renting from a social landlord.”

Glasgow Disability Alliance

### **The importance of choice**

13.8 Some respondents reinforced the importance of ensuring that this is a choice for tenants – not something that would be forced on them. However, a few also suggested that this might be an option for all privately rented tenants.

“Where the client wishes to do so. They should also be able to change this at any point should they wish to.”

Parenting across Scotland

13.9 A few respondents highlighted that there can be a stigma attached to receiving benefits, and this can make it difficult to secure a rental with some landlords. This is one reason that tenants may not wish to receive benefits in this way.

## **Improving access to private housing for people receiving social security**

13.10 Some respondents suggested that by more readily allowing payments to be made to landlords, this would encourage landlords to rent to people receiving social security. Respondents reported that because of current issues and concerns, private sector landlords are reluctant or refuse to rent to people receiving benefits.

“...Choice in the lower end of the private sector market needs to be increased and the certainty of rent payments might make this more attractive to landlords.”

East Ayrshire Council

“Some private sector landlords are wary of accepting homeless households as tenants and until now one of the inducements that we could offer was that we could arrange for the Housing Benefit element of the rent to be paid directly to the landlord. This inducement is threatened by the introduction of Universal Credit and the difficult and uncertainty over Alternative Payment Arrangements.”

Ypeople

## **The need for safeguards**

13.11 Some respondents highlighted the need to take account of the comparative lack of regulation within the private sector, and potential issues with more direct payments to landlords. They raised concerns about landlords perhaps putting people under pressure to ask for direct payments to them. And a few (including those who disagreed) made more general comments about unscrupulous practices. It was suggested that direct payments to landlords might only be made available where tenants were renting from registered landlords, or those that operate safe deposit schemes.

“Given that the private sector is less regulated than the social rented sector, however, safeguards must be put in place to ensure tenants are not pressured into direct payment by a landlord.”

Health and Social Care Alliance Scotland (The ALLIANCE)

“Would not support paying rent direct to private landlords without strict controls in place as there is potential for abuse.”

Scottish Disability Equality Forum

## **Wider priorities**

13.12 A few respondents (mainly local authority respondents) emphasised that the Scottish Government needs to focus on securing payments for social landlords – with a few suggesting this is a greater priority than the private sector. A few of these respondents felt that it wasn't clear what issue the Scottish Government was seeking to address through this measure, or called for clarity around the outcomes being sought.

“Fairness to all landlords would indicate that direct payments should be considered for all landlords. However, as priority the protection direct payments offers should be definitely introduced for Social Sector landlords.”

Fife Council

“But maximum focus should be on getting the UC Housing Cost element to the Registered Social Landlords.”

Grampian Housing Association

**Question - Should payments of Universal Credit be split between members of a household? Please explain why.**

**Table 13.2 Should payments of Universal Credit be split between members of a household?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	73	78%	21	22%	94
Organisations	93	99%	1	1%	94
<b>All respondents answering</b>	<b>166</b>	<b>88%</b>	<b>22</b>	<b>12%</b>	<b>188</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

13.13 A total of 188 respondents answered the closed part of this question. Most respondents (88%) felt that payments of Universal Credit should be split between members of a household. Organisations were more likely to agree than individuals, with almost all organisations agreeing payments should be split.

13.14 Further comments were provided by 166 respondents (73 individuals and 93 organisations).

**Reasons for answering ‘yes’**

13.15 Overwhelmingly, the main reason for supporting split payments was that this is required to prevent power imbalances within relationships. A large number of respondents made points related to this.

13.16 Often, respondents emphasised that money can be used as a tool in domestic abuse situations. Respondents often emphasised the impact that this has on women in particular. There was great concern that the approach to Universal Credit would effectively mean more men receive benefits on behalf of the household, and that this would exacerbate existing problems. The Engender response – which was referred to and supported by other respondents – expresses the view that the changes under Universal Credit represent a regressive step for women’s rights. For many, this was a point of principle. Respondents at times emphasised that people with other protected characteristics or experiencing disadvantage would be especially affected.

“The current UK policy, to pay joint awards to one individual in a couple, is discriminatory and regressive. Scotland has certain opportunities with new powers over social security to chart a different course from the UK’s damaging ‘welfare reform’ agenda. However, the Scottish Government’s pledge that “new powers will be founded on dignity and respect” will be undermined from the outset if social security cannot be accessed equally by women. . .” Engender

“This is a necessity. If a partner has an addiction (gambling, alcohol, drugs etc.) and is in sole control of UC payments, then the rest of the family may suffer from a lack of cash to buy essentials.”

Individual

13.17 Some individuals shared their own lived experience of abuse and could illustrate the impact the changes to Universal Credit may have, and to emphasise the importance of some form of split payments.

“When I was growing up we partly relied on my mum's partner's income for living. He was abusive and controlling, and as such we would go without electricity or gas for days, and sometimes we wouldn't be able to eat. I know that if he had been in control of my mum's benefits things would have been a lot worse.”

Individual

“As I can testify to, ethically held power should never be assumed. Even when couples present as equal and respectful there can be an undercurrent of coercive control that goes completely unnoticed.”

Individual

### Reasons for answering ‘no’

13.18 The main reason for not supporting the approach, identified by some respondents, was that this might make the approach more complex or costly to administer.

### Wider issues

13.19 Respondents often went on to discuss elements covered by the following questions on split payments. These have not been analysed in detail here but included concerns about how the system might work in practice, and at times strong views on approaches to splitting Universal Credit between members of a household.

**Question - If yes, please indicate if you think the default position should be automatic payments to individuals (with the option to choose a joint payment) or automatic household payments (with the option to choose individual payments).**

**Table 13.3 - If yes, please indicate if you think the default position should be automatic payments to individuals (with the option to choose a joint payment) or automatic household payments (with the option to choose individual payments).**

	Automatic a), with the option to choose a joint payment		Automatic household payments with the option to choose individual payments		Total
	Number	%	Number	%	
Individual responses	57	74%	20	26%	77
Organisational responses	63	74%	22	26%	85
<b>Total respondents answering</b>	<b>120</b>	<b>74%</b>	<b>42</b>	<b>26%</b>	<b>162</b>

Note: One respondent had selected both options, and we have therefore included them in both columns. Total number of respondents to the question is 161.

13.20 A total of 161 respondents answered this question. The majority of respondents (74%) agreed with option a – that the default position should be automatic payments to individuals, with the option to choose a joint payment. There was overall support for this option from most respondent groups answering the question. The most support for option b came from some local authority respondents and some housing and homelessness organisations

13.21 38 Degrees submitted a petition stating: "We are calling for the Scottish Government to guarantee individual payments by default under the new Scottish social security system. This means that crucial benefits, including Universal Credit, get paid to individuals rather than households." It included 3,052 signatures.

**Question – If yes, how do you think payments should be split? For example, 50/50 between members of a couple, or weighted towards the person who is the main carer if the claim includes dependent children?**

13.22 In total, 142 respondents answered this question (65 individuals and 77 organisations). Because almost all respondents to the earlier question on the principle of splitting had agreed with the approach, almost all the comments discussed here came from respondents who were supportive. Responses to this question varied in terms of their views and complexity. At times, respondents chose one simple option, but at other times respondents were less clear, or supported particular approaches in different circumstances. Others made more general comments about how this decision should be taken.

13.23 The main themes emerging were:

- more priority for carers;
- an approach based on individual need or circumstances;
- support for 50 / 50 split; and
- splitting based on individual entitlements.

**More priority for carers**

13.24 A large number of respondents mentioned the importance of giving some aspect of priority to carers where there are children. Where comments were more developed, respondents suggested that this might mainly be for benefits relating to children and their care.

"I think the main carer of dependent children should receive all the CHILD component automatically. I also think each adult should receive an element of Individual payment so that no one is completely financially dependent on another."  
Individual

". . . We would support the approach that payments should be made with a weight towards the main carer. It is likely that this individual would be the one that incurs the greater part of the everyday costs of raising children and as such this is where monies be primarily directed."  
Rights Advice Scotland

### **An approach based on individual need or circumstances**

13.25 Some respondents emphasised the importance of taking account of individual circumstances. It was suggested that decisions about how payments might be split could be based on choices made by individuals or families, perhaps through discussions with a member of social security staff or other professionals, or through an assessment of evidence on that family's situation.

"I think the family should be able to choose, with advice from a professional (social worker)."

Individual

"If both joint claimants agree to split payments then it should be discussed with a UC agent or work coach how the payment should be split (e.g. 50/50, 70/30)."

Angus Community Planning Partnership, in co-operation with the Angus Welfare Reform Group

### **Support for 50/50 split**

13.26 Some respondents proposed a 50 / 50 split, although most of these suggested this should primarily be in situations where there are no children or benefits relating to children.

### **Splitting based on individual entitlements**

13.27 More detailed responses highlighted that needs and entitlements are often complex. To take account of this, some respondents proposed that payments should be split based on each individual's entitlements or responsibilities. Suggestions included paying the tenant housing elements, paying child related benefits to the main carer, and splitting other payments between household members, as appropriate. Respondents viewed this as an approach that would reflect individual needs, and not unfairly disadvantage individuals, and primary carers in particular. A few argued this was a more modern, sophisticated and appropriate approach to benefit entitlement – which doesn't make assumptions about how a household might share its finances at a household level.

"If possible, one solution would be to sub-divide the UC payments in line with the different elements, including who has the main caring responsibility."

Scottish Council for Voluntary Organisations

"...Ideally payment would be split in accordance with the individual entitlement of adults in the household . . ."

CPAG Scotland

### **Question - Do you have any other comments about how the Scottish Government's powers over Universal Credit administrative flexibilities will be delivered?**

13.28 In total, 108 respondents answered this question (42 individuals and 66 organisations). Some explained they didn't have any further comments.

Often, respondents emphasised points made in relation to other questions, and these are not analysed in detail here.

13.29 Three key themes emerged:

- support for more frequent payments;
- concerns about the time taken to process Universal Credit – with respondents suggesting this can take around 6 weeks for new applications; and
- general support for proposals to make it possible to pay housing elements direct to landlords – including registered social landlords.

### **More frequent payments**

13.30 Many respondents voiced their support for more frequent payments. Often they supported the proposed option for two weekly payments, although weekly payments or offering a wider range of choices were also suggested.

“Having the benefit paid every 2 weeks instead of monthly would be helpful to those who find it difficult to manage their finances.”

Individual

“People who have learning disabilities frequently tell us that they would prefer to be paid their main living cost benefit on a fortnightly basis rather than monthly.”

ENABLE Scotland

### **Concerns about processing times**

13.31 Some respondents raised concerns about the time taken to process new applications or changes under the current Universal Credit system. Because Universal Credit is paid monthly and in arrears, they reported this can mean extreme hardship for families and individuals waiting for a payment. It was suggested that the Scottish Government should explore options for addressing this issue, possibly through an additional benefit.

“The current delays between making a claim and receiving the first payment of Universal Credit causes pronounced hardship for families, increases demand on the Scottish Welfare Fund, and is frankly unacceptable. . .The Scottish Government should investigate using the power to top up benefits or create new discretionary payments to plug this gap.”

Scottish Council for Voluntary Organisations

“The greater challenge relates to the long period which Universal Credit claimants wait before they get their first payment . . .This causes immense hardship to tenants and creates debt / arrears from the outset which can be difficult to escape from, and this obviously has implications for social landlords too.”

Glasgow and West of Scotland Forum of Housing Associations

### **Support for direct payments to landlords – including social landlords**

13.32 Some respondents took the opportunity to reinforce their support for proposals to allow direct payments of the housing element of Universal Credit to landlords, including registered social landlords and local authorities. It was felt

that this would help people manage their money more effectively, and prevent rent arrears and associated hardship.

“Local authorities and RSLs are concerned about the impacts of UC on rent collection and the potential for large build-up of rent arrears as numbers and complexity of need increases in UC rollout. The Scottish flexibilities to allow direct managed payments to social landlords have been viewed as important to mitigate these impacts and priority should be given to bringing these in as soon as possible.”

Fife Council

### **Other issues**

13.33 A wide range of specific points were made by a few respondents. These included calls for further guidance and clarity, general concerns about the complexity of administration, requests for adequate support and advice, and points about the negative impacts of Universal Credit on individuals, families and service providers.

## **Universal Credit housing element**

13.34 The Scottish Government set out its proposals for the housing element of Universal Credit in Part 2 of the [consultation document](#).

### **Question - Do you have any comments about the Scottish Government's powers over the housing element of Universal Credit?**

13.35 In total, 138 people answered this question (59 individuals and 79 organisations). Some respondents said they didn't have further comments to make.

13.36 The main areas discussed were:

- support for abolishing the bedroom tax;
- local Housing Allowance;
- 18-21 year olds; and
- mitigating the impact of welfare reform for particular groups.

### **Support for abolishing the bedroom tax**

13.37 The most common remarks expressed support for the abolition of the bedroom tax (although a few queried how this would be achieved), and the relationship with Discretionary Housing Payments.

“Scottish Governments proposals to “scrap the bedroom tax” was welcomed by the focus group. “The sooner the better” was a prevalent comment by tenants.”

Edinburgh Tenants Federation

“Cyrenians welcomes Scottish Government commitments to using new powers to ameliorate the bedroom tax imposed by Westminster and look forward to the technical consultation as to how this will operate.”

Cyrenians

“I applaud the Scottish Government's decision to ban the bedroom tax for those in receipt of UC.”

Individual

### **Local Housing Allowance**

13.38 There was particular concern about recent and planned changes to the Local Housing Allowance, and the impact this is likely to have on people receiving social security, and landlords. Some respondents called for the Scottish Government to look at this policy area, with a few stating that it is as significant – if not more so – than the bedroom tax. Respondents expressed specific concern about the shared accommodation rate for individuals under 35, and the overall cap being introduced.

“For private tenants the reduced level of the LHA is often the major barrier to housing affordability . . . while it is understandable that the SSSC will be the first priority for the Scottish Government, given the political importance this issue has taken on, as a next step it should turn its attention to the LHA.”

Individual

“The potential to mitigate some of the impact of the LHA cap in the social sector is one of those areas where some consideration should be given to how the Scottish social security system can work positively to prevent and reduce the risk of homelessness.”

The Association of Local Authority Chief Housing Officers

### **18-21 year olds**

13.39 There was also concern about the removal of automatic entitlement to the housing element of Universal Credit for young people (aged between 18 and 21), with a few respondents supporting Scottish Government commitments to deal with this.

### **Mitigating the impact of welfare reform for particular groups**

13.40 Some respondents suggested that the Scottish Government should use its flexibilities to support particular groups of people who are disadvantaged by changes to Universal Credit. In addition to comments relating to individuals under 35 and those aged 18-21, other groups included:

- disabled people – particularly in relation to adaptation costs;
- people with separated families – for example, situations where single fathers are unable to accommodate their children for overnight stays in their home;
- people living in temporary or supported accommodation – who are likely to be especially affected by changes;
- care leavers;
- carers;
- homeless people; and
- offenders.

“It is also important that the Scottish Government seek to address the inadequate support for some groups of private tenants, particularly younger single people and those with minority care of children.”

Scottish Council for Voluntary Organisations

“We would recommend giving particular consideration to care leavers living in supported accommodation.”

CELCIS

### **Wider issues**

13.41 A few respondents raised more general points about the approach to Universal Credit or the relationship with DWP. This included highlighting the need for further discussion and consultation - particularly on how systems might work in practice and implications for wider spending of a more generous approach to social security than that taken by the UK Government.

# Part 3: Operational Policy

## About this Part of the Consultation

Part 3 of the consultation explored views around:

- Advice, representation and advocacy;
- Complaints, reviews and appeals;
- Residency and cross-border issues;
- Managing overpayments and debt;
- Fraud;
- Protecting your information; and
- Uprating.

## Key Themes

Here we provide an overview of the main themes emerging from the consultation responses, for Part 3 of [the consultation](#).

### Advice and advocacy

Respondents were clear that both advice and advocacy should be an important part of the new social security system. Many felt that demand for advice and advocacy would increase in the short to medium term in the transition to the new system.

Respondents felt that this would involve:

- close working with advice and advocacy organisations in developing the new system;
- research and evidence gathering to understand current and future demand;
- promotion of joint working across sectors; resourcing of advice and advocacy services and on-going work to drive quality and standards within the sector.

Many also highlighted the importance of specialist advice for people with particular needs, and equality of access to advice. Some felt that a right to advocacy should be set out in legislation, to ensure that additional support was available and that people were empowered.

### Complaints, reviews and appeals

Respondents broadly supported the use of the Scottish Public Services Ombudsman's 'Statement of Complaints Handling Principles', believing these to be fair, simple and good practice. There was a clear desire to introduce a different review process from that used by DWP, with many particularly requesting that mandatory reconsideration should not be used and that clear timescales are set for reviews.

There was support for a tribunal system for dispute resolution, with respondents believing it to be proportionate and independent. Respondents emphasised the importance of embedding the principles and values of the new system throughout the complaint, review and appeals process, with a strong focus on a person-centred approach based on rights, equality and fairness. Clear and accessible

communication was seen as a key part of this approach, as well as staff training to ensure consistency.

### **Residency and cross-border issues**

Most respondents felt that Scottish benefits should only be payable to individuals resident in Scotland, but some felt that there needed to be flexibility – particularly for EU residents who are currently receiving DLA, PIP and Attendance Allowance. Some highlighted cross-border issues such as someone living in Scotland and caring for someone in England (or vice versa). While some respondents felt that the ‘habitual residence’ test used by DWP was fine, others had significant concerns that it was restrictive, complex and unfair, and hard to reconcile with the principles of the new social security system.

Respondents felt that there was a need to have clear links with the UK Government, and to share data to ensure that people don’t double claim or fall through the gaps. However, respondents were also keen to see a different system in Scotland, with different values at its core – including a presumption of honesty and trust. Respondents also felt that it was important that any disputes over residency didn’t result in disadvantage for individuals, and that payments continued on an interim basis.

### **Managing overpayments**

Most respondents felt that the current system for recovering overpayments could be improved by:

- considering the impact on individuals and families of the level of benefit deductions to recover overpayments;
- requiring all appeals processes to be exhausted before any repayment was required;
- considering whether some types of repayment should not be recovered; and
- offering financial advice.

### **Fraud**

Most respondents were content with the approach to fraud, supporting the distinction between errors and fraud. Some wanted to see the existing ‘zero tolerance’ approach softened, feeling it was unduly harsh and needed to be based on an understanding of how a range of equality issues affected fraud. Respondents thought that, while neither fraud nor errors could be completely designed out, these could be reduced through more verification of identity and circumstance and cross checking data – and by having a simpler system.

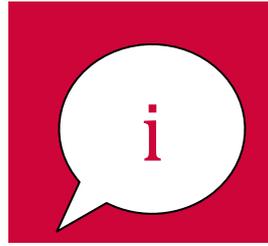
While most felt that the DWPs existing code of practice for investigators should be adopted, many did not – believing there should be a Scottish specific code focused on trust, dignity and respect. Some felt that the existing powers for investigators were too great, others felt that they required further development. While most respondents were content with retaining the current list of offences and penalties, many were not. There was some concern about the use of ‘administrative penalties’.

### **Safeguarding information**

Most respondents agreed with the Scottish Government's Identity Management and Privacy Principles, but a range of detailed suggestions were made to enhance these. Most supported strictly controlled sharing of information between public sector bodies, where legislation allowed, to make the process easier for claimants. Organisations were more supportive of this than individuals.

### **Uprating**

While there was clear agreement that devolved benefits needed to keep pace with the cost of living, there were varied views on how this should happen.



## **14. Advice, representation and advocacy**

## Impact of the devolved benefits

14.1 The Scottish Government set out its proposals for the impact of the devolved benefits in Part 3 of the [consultation document](#).

### **Question - What roles should publicly funded advice providers play in the development of a new Scottish social security system?**

14.2 In total, 152 respondents answered this question, of which 100 were organisations and 52 were individuals.

14.3 The main themes emerging were:

- that advice organisations were well placed to advise the Scottish Government on the development of a new system;
- that advice services played a key role in providing impartial advice to individuals;
- the need for support for individuals in negotiating complexities around devolved and reserved benefits;
- the need for resources for advice services; and
- the potential of introducing a statutory right to advice or advocacy.

### **Advising on a new system**

14.4 A large number of respondents indicated that advice organisations were well placed to advise the Scottish Government on the development of a new social security system. There were three main roles:

- identifying where current problems exist – through evidence, service user experiences, and systems such as Early Warning Systems which identify issues emerging from frontline advisors;
- advising on policy and practice development – co-producing the new system, being consulted at key stages, testing ideas and systems and gathering service user feedback; and
- identifying where new problems emerge – as the new system is implemented, relating service user experiences and difficulties, providing valuable insights into how the new systems work in practice, providing a ‘bridging role’ in providing intelligence about issues on the ground and driving continuous improvement.

14.5 Many indicated that advice agencies were experts and should be key partners in the design of a new Scottish social security system. Respondents pointed to key organisations, including Citizens Advice Scotland, Rights Advice Scotland and COSLA, which they felt should be involved.

“In the light of this we would recommend that the Scottish Government should carry out a separate consultation exercise on developing advice and advocacy services to support benefit claimants.”

The Association of Local Authority Chief Housing Officers

“Advice providers could also play a leading role in highlighting areas where improvements to social security may be necessary, either by reporting the impact that they have on the clients that they are supporting, or by means of the policy and research activities that many larger advice providers are routinely engaged in.”

Children in Scotland

“It is clear that advice providers must be involved in the development of the new Scottish social security system as they are informed by the direct experience of those they work with and support. As a key stakeholder, advice providers must be involved in a focused way in developing the structures of the new system especially in terms of the application process and the appeals process.”

ENABLE Scotland

### **Providing impartial advice**

14.6 A large number of respondents highlighted the importance of advice services in providing impartial advice, raising awareness of individual rights, and helping individuals to negotiate the changes coming about because of a new system. Many highlighted the vital role which advice plays, and the importance of this being independent and impartial. Many talked of the advice provided by Citizens Advice Bureaux and social landlords, and a few mentioned other advice providers, for example, those based in colleges and universities.

“It is important that advice is seen to be independent, even if it is publicly funded.”

Individual

“Given the central importance of citizen’s advice bureaux to the current social security system, it is essential that this role is built into the development of a new Scottish system.”

Citizens Advice Scotland

14.7 A few respondents pointed to the scope for advice agencies to have a more formal role in the new social security system, as an initial point of contact when people seek advice on their entitlement to benefits.

“Advice providers might, for instance, be given a more formal role as one of the first point of contact for people who need more information about the benefits they might be entitled to or who need help and support initiating a claim.”

CPAG Scotland

14.8 However, a few organisations felt that the need for advice agencies to be impartial meant that they needed to be careful about how involved they became in developing a new social security system.

“All agreed these agencies need to remain impartial and not play a significant role in the new system other than to assist with policy and review of policy and reflect trends and impacts of welfare.”

HIV-Aids Carers and Family Service Provider Scotland

- 14.9 Some highlighted the particular importance of independent advice given the complexities which could arise from having a Scottish social security system and a UK system, which dealt with reserved benefits. Some also talked about the positive messages that advice agencies could provide in terms of access to rights, and empowering individuals within the new system. A few highlighted the role that advice agencies could play in ensuring that individuals have up to date and accurate information about how the new system would operate.

“Investing in advice services will help to ensure that claimants are aware of their entitlements and what to expect from the system. Support and advocacy services can help people to access the support they need, preventing issues arising elsewhere and potentially helping to avoid costly interventions. Support with applications can also help to reduce administrative errors and delays.”

Chartered Institute of Housing Scotland

### **Resourcing advice services**

- 14.10 Many respondents talked about the resources that would be required to ensure that advice was central to a new Scottish social security system. Many expressed their concern that advice services were under pressure, and had been negatively impacted by public sector budget cuts. Many felt that demand for advice services was likely to increase in the transition to the new system, particularly with people having to navigate both a Scottish and UK social security system. Some indicated that making the provision of advice a key part of the new social security system was central to meeting the commitment of putting the user experience first, and making sure individuals are aware of their rights.

- 14.11 Many expressed a broad view that advice services needed to be well resourced. A small number talked about how advice should be provided. A few housing organisations highlighted the potential role of housing associations in advice provision, through using their facilities as a base for advice, or involving associations as advice providers.

“The RSL sector has increased its role substantially in the advice sector over recent years as can be seen from our growing membership of advice providers, and staff there are well placed in local communities to identify problems and be pro-active in assisting claimants with benefits. This is largely happening without any public finance being provided.”

Welfare Rights Officers Forum

- 14.12 A few individuals (and some others) highlighted the important role of Citizens Advice Bureaux. And a few other individuals felt that legal aid support was important in terms of accessing advice.

“Organisations such as Citizens Advice Bureau have important roles to play. They need to be better financed. It is particularly difficult to get impartial advice in remote rural areas and this needs to be addressed.”

Individual

14.13 A few respondents suggested the creation of a new advice service at either national or local level, as a 'one stop shop' for advice provision. However, others felt that the Scottish Government should work with advice providers to understand advice needs and resource requirements, and how this should be met.

14.14 Some respondents, and a few who responded to the summary version of the consultation, felt that there was a need for a statutory right to advice or advocacy embedded in legislation. These respondents largely felt that this would be in keeping with the principles of dignity and respect within the new social security system.

### **Wider issues**

14.15 Respondents also highlighted the importance of:

- **collaboration** - between advice agencies, at both local and national level;
- **standards and training** - for advice agencies to ensure quality of advice and consistency across the country; and
- **advice for vulnerable groups and ensuring equality** – highlighting the need for support for people who may face disadvantage or inequality, including young people in care or leaving care, people leaving prison, people for whom English is not their first language, disabled people and women (including those experiencing domestic abuse).

14.16 A few also felt that advice providers could play a key role in identifying inequalities in the new system and working to address these. One respondent highlighted the need for information and advice to be available in BSL, using Scottish signers.

“They should also provide advice if an individual feels they have experienced discrimination or racism from the system and offer opportunity to see redress. Advice providers should also seek to identify especially marginalised groups and ensure they are not further disadvantaged by the new system.”

Coalition for Racial Equality and Rights

“Independent advocacy plays a key role in ensuring children and young people have the opportunity to raise comments and complaints about matters which affect them, and access to this must be a feature of the new social security system.”

CELCIS

“A consistent feature of reports from General Practitioners at the Deep End is that referral services in deprived areas have to be prompt, reliable, flexible, local and, above all, trusted, if they are to work well for often vulnerable patients.”

General Practitioners at the Deep End

## **Question - What steps need to be taken to understand the likely impact of the transfer of the devolved benefits on publicly funded advice in Scotland?**

14.17 In total, 102 respondents provided comments on this question. This included 63 organisations and 39 individuals. However, a few simply stated that they did not know what steps needed to be taken, or they were not experts in the area. Therefore, there were 93 substantive comments on this question.

14.18 The main themes emerging were:

- the need to understand the current landscape;
- the need to involve advice providers in the process of developing a new Scottish social security system; and
- the need to recognise the likely increase in demands on advice services during the transition to the new system.

### **Understanding the current landscape**

14.19 Many respondents felt that there was a need to better understand the landscape in Scotland in terms of demand for and provision of advice services. Respondents suggested that this would explore:

- provision of advice – including in different locations (such as in urban and rural locations) and of different types of advice;
- demand for advice and profile of service users;
- funding patterns;
- what is and isn't working in existing advice provision – including exploring barriers, gaps and why people aren't using some services; and
- the wider context – what happens in other countries around advice provision.

“The opportunity should be taken to have a full review of what advice provision currently exists, how it is funded, and how this could be better organised to remove gaps and duplications.”

Argyll and Bute Council

“Vulnerable people often have many and complex needs that cannot easily be put in to a rigid system of assistance.”

The Salvation Army

14.20 Many were also keen that this review should be followed up with a projection of how advice requirements might change in light of a new Scottish social security system, including detailed information about who might be most affected by change and require advice, and predicted forecasts for demand. A few indicated that it was quite difficult to comment on this question in detail until they knew more about how the new social security system would develop. A few emphasised the importance of thinking carefully about any changes also happening at UK level, and the requirements placed on advice providers as a result of these changes, as well as those at Scottish level.

## Involving advice providers

14.21 Many respondents, across a wide range of respondent groupings, felt that there was a need for detailed discussions between advice providers and the Scottish Government or new social security agency about:

- the current context for advice provision;
- the likely demand for new services;
- training, funding and resources;
- the timing of changes – with notice so that providers could plan provision; and
- communication, information sharing and on-going relationships – including user groups, local advice forums, and other mechanisms for identifying feedback on the transition to the new system.

14.22 Many felt that there was a need to work closely with advice providers before, during and after the transition to the new system. Some, particularly individuals, highlighted the need to involve a wide range of service users in the process, through close working with advice providers.

“Ask recipients and advice providers as the experience unfolds.”

Aberdeen Action on Disability

“Talk to as many disabled people, parents, carers, siblings, support workers, disability orgs as possible.”

Individual

## Recognising increasing demands on advice services

14.23 Many respondents expressed a clear view that demand for advice services would increase during and shortly after the transition to the new system. A few felt that in the longer term, the need for advice could decrease if the new social security system placed the user experience at its centre.

“If the new powers are to be taken full advantage of, there is an opportunity to make the system work for the citizen - If the system works well in the long term, there should be less pressure on the advice sector.”

Advice Direct Scotland

14.24 Many felt that the transition to the new system would result in increased pressure on advice services, and suggested that there was a need for either maintained or increased funding and resources. While some local authority respondents felt that funding levels should be maintained and targeted based on need, others felt that the Scottish Government should consider committing more funding to advice if required. Many disability, poverty, advice and support organisations and individuals felt that there would be a clear increase in support required, which combined with additional complexity meant that more resources should be committed to advice over the long term. Some individuals mentioned a specific need to support Citizens Advice Bureaux.

14.25 A few respondents reiterated concerns about changes at UK level, and the complexity that this could create, as highlighted in the previous question.

## Wider issues

14.26 Respondents also highlighted the need for:

- training for advice providers;
- awareness raising and information provision activity – both for individuals and for advice providers; and
- continuous improvement – monitoring the impact of the new system on advice requirements in Scotland, and adjusting accordingly.

## Question - How could the transfer of the devolved benefits to Scotland be used to drive improvements in the provision of publicly funded advice?

14.27 In total, 96 respondents commented on this question (67 organisations and 29 individuals). However, a few simply indicated that they were unsure.

14.28 For those providing substantive comments, the main themes were:

- working together;
- funding;
- quality and standards; and
- equality of access.

## Working together

14.29 Some respondents emphasised the importance of joint working in driving improvements in publicly funded advice provision. A wide range of ideas were suggested around working together, including:

- strengthening connections between publicly funded advice agencies, independent advocacy services, community, equality and third sector organisations – including closer working with Disabled People’s Organisations, Registered Social Landlords, the NHS and health organisations, employability organisations and others;
- linking advice on benefits with a range of other issues, to provide a holistic, streamlined and person-centred advice service;
- a strategic long term plan which reduces competition and over provision of advice, while addressing gaps and providing greater efficiency;
- co-locating services at local level, to strengthen connections to local communities;
- improving joint working and communication between the social security agency and advice providers, to reduce errors and demand for advice;
- regular liaison between advice providers and the Scottish Government to drive continuous improvement;
- joint working between local government and Scottish Government; and
- joint working with service users.

“As the consultation paper suggests, advice and help on devolved benefits could be linked to advice and help on other issues.”

Individual

“If the devolved benefits were administered as a collective package with clear connections between them rather than individually administered, this would encourage the advice sector to look at an individual’s needs more holistically and therefore drive a change in methodology.”

Glasgow City Council

“DWP research has shown clearly the value of co-location of advice services in providing better take up of advice and benefits. We consider that the provision of employability and advice hubs should be encouraged.”

Argyll and Bute Council

## **Funding**

14.30 Some respondents expressed the need for advice services to be adequately resourced and funded. Some felt that advice provision needed to be properly resourced in order to improve, and that improvement could not occur within an environment of spending cuts.

14.31 A few reiterated the need for a long term plan for advice provision, with funding allocated based on this. A few indicated that they would welcome a more strategic and less competitive funding environment. A few highlighted that it was important to fund small, local organisations who were able to offer a personal service, and a few volunteer and carers organisations specifically felt that there was a need for more funding for Citizens Advice Bureaux.

## **Quality and standards**

14.32 Some respondents talked about the need to drive improvements around the standard and quality of advice provision. Most indicated that they believed that the Scottish National Standards for Information and Advice Providers were positive, and were already driving improvement through peer review, audit and continuous improvement. Most felt that, in the future, advice providers should be required to meet these Scottish National Standards, perhaps with a short lead in time. A few respondents who provided summary responses to the consultation talked of the good work of the Scottish Legal Aid Board in supporting advice sector projects to ensure high quality advice provision, and called for continued funding to enable this to continue.

“...the National Standards should be a stipulation of any organisation applying for funding, to ensure the funder that quality services are being provided.”

NHS Lanarkshire

## **Equality of access**

14.33 Some respondents emphasised the importance of equality of access to advice services. These respondents highlighted that some individuals may have particular needs, or experience particular situations which require specialist support. Respondents mentioned the needs of disabled people, people with mental health issues, people with learning difficulties, people with poor health, older people, single parents, women experiencing domestic abuse and people living in rural areas.

14.34 A few highlighted the particular barriers faced by multiple disadvantage, for example, disabled people living in a rural area, in terms of accessing advice. A few indicated the particular barriers that disabled people may experience in terms of physical access to advice services, isolation and communication barriers.

14.35 Some felt that there was a need for specialist training and special advisors on equality and the experiences of key groups of individuals, while others felt that there was a need for separate, tailored specialist advice services for people with particular experiences or characteristics.

“Separate advice services will be needed for particular groups who have very particular needs because of their situation such as single parents, people with learning disabilities, mental health issues etc. - with specialist advisers trained in the issues faced by those particular groups that require understanding of how to support claimants effectively.”

One Parent Families Scotland

“A central aim of the new Scottish social security system must be to ensure that those who require to do so are able to access advice and assistance. This is very much in line with the pledge in the ministerial foreword that no one should fall through the gaps.”

Money Advice Scotland

14.36 The Joseph Rowntree Foundation highlighted the benefits of both bringing together and co-locating a range of services related to income and work, and embedding advice and support into services that people in poverty already use – such as GP surgeries, social housing providers, community organisations and Jobcentres.

### **Wider issues**

14.37 Respondents also mentioned:

- the need for training;
- a desire to see a right to advice embedded in legislation;
- the need to raise awareness of the new system; and
- the need to advise on both Scottish and UK benefits.

## Advocacy

14.38 The Scottish Government set out its proposals for advocacy in Part 3 of the [consultation document](#).

**Question - Do you think that Independent Advocacy services should be available to help people successfully claim appropriate benefits? Please explain why.**

**Table 14.1 Do you think that Independent Advocacy services should be available to help people successfully claim appropriate benefits?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	62	94%	4	6%	66
Organisations	106	98%	2	2%	108
<b>All respondents answering</b>	<b>168</b>	<b>97%</b>	<b>6</b>	<b>3%</b>	<b>174</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

14.39 A total of 174 respondents answered the closed part of the question. The majority of respondents (97%) said that independent advocacy services should be available to help people successfully claim appropriate benefits. There was overall support from across respondent groups.

14.40 Further explanation was provided by 153 respondents (111 organisations and 42 individuals). Almost all of those who commented had said ‘yes’, that independent advocacy services should be available to help people claim benefits.

14.41 The main themes emerging were:

- that additional support should be available for those who need it;
- the independent advocacy would help ensure impartiality;
- that advocacy and advice services needed to work jointly; and
- that independent advocacy could result in resource savings.

### **Additional support for those who need it**

14.42 A large number of those supporting independent advocacy felt that it was required in order to provide additional support through the social security system, for those who need it most. Many felt that this would help to address inequalities and barriers experienced by service users, particularly the most vulnerable in society. Respondents specifically mentioned the needs of disabled people, people with learning or mental health difficulties, people with terminal illnesses, minority ethnic communities and women who experience domestic abuse.

“Very complicated system so many people can’t do it alone.”

Individual

14.43 Respondents felt that advocacy helped to:

- give people a voice, empower them and build control over their lives;
- support people who may not be able to do things themselves;
- enable people to make informed decisions;
- encourage people to apply for social security benefits; and
- act as a barrier to inappropriate conduct and record any failings or inaccuracies in the process.

14.44 A few respondents expressed support for, or expressed ideas very similar to, the response from the Health and Social Care Alliance Scotland (The ALLIANCE) to this question.

“We believe that independent advocacy:

- Provides an enhanced level of support for people during assessment processes.
- Goes some way to empowering people in an inherently unequal situation.
- Acts as a barrier to inappropriate conduct by assessors.
- Enables a witness to inaccurate recording of findings in such processes.”

Health and Social Care Alliance Scotland (The ALLIANCE)

14.45 A few felt that independent advocacy would fit well with Principle 4 of the proposed new social security system, of ‘putting the user experience first’. Some indicated that without independent advocacy, some individuals faced poorer service provision and outcomes, which could exacerbate disadvantage in relation to poverty and inequality.

14.46 Some indicated that independent advocacy should be a right, set out within legislation.

### **Ensuring impartiality**

14.47 Some felt that independent advocacy was important because it ensured independence and impartiality. For example, respondents felt that independent support through advocacy could:

- help people know the right questions to ask;
- make people aware of their rights;
- help people believe that the process is fair;
- provide objective advice which is clearly separate from the decision makers, and is not emotionally involved;
- reduce anxiety and apprehension;
- provide reassurance, trust and support; and
- help people manage conflicting priorities.

“Disabled people tell us that they need and want independent support, not linked to their housing, social work or health related services. They need someone who is on their side, with no ‘hidden agenda’.”

Glasgow Disability Alliance

### **Working jointly**

14.48 Some talked about the importance of connections, links and joint working between advocacy and advice organisations. Some respondents felt that

while advocacy was different from advice, it was connected and complemented advice services. These respondents highlighted the need for joint working between advice and advocacy organisations, with good referral pathways. A few highlighted the need for wider policy and practice connections, for example, with the Adult Carer Support Plan, with GP practices and with community hubs.

“The Scottish Government should therefore look at the opportunities for partnership between advice and advocacy, rather than looking at advocacy services as a completely separate service.”

Citizens Advice Scotland

“Advocacy services aid and complement Advice Services, and we support the continued funding of Advocacy Services. We particularly welcome the Scottish Government’s view that they are different but supportive of one another.”

Rights Advice Scotland

### **Preventative spend**

14.49 A few highlighted the role that independent advocacy could have in saving resources through early intervention. These respondents highlighted that advocacy could avoid problems within the system, reduce the need for appeals and tribunals, ease the workload of social security staff, and result in reduced reliance on emergency or crisis support such as foodbanks.

“Getting good early advice may therefore solve or even prevent multiple problems, and generate economic value to individuals, their creditors, local and national government, and the wider economy.”

One Parent Families Scotland

### **Reasons for answering ‘no’**

14.50 The few respondents who said ‘no’ and provided comments were mainly individuals, and gave various reasons:

- the new social security system should already be operating on a basis of entitlement;
- it could encourage people to become benefit dependent; and
- local Welfare Rights Officers in health and social care settings should perform this role.

### **Question - What next steps would you recommend that would help the Scottish Government better understand the likely impact of the transfer of the devolved benefits on Independent Advocacy services?**

14.51 In total, 99 respondents answered this question (68 organisations and 31 individuals). Respondents largely reiterated points they had raised within the earlier, more general, question about impact on publicly funded advice.

14.52 The main themes emerging were:

- many talked about ensuring dialogue and on-going discussion with independent advocacy services and service users about the changes;

- many talked about the need to have a wider contextual understanding of independent advocacy services in Scotland, their services, demand and capacity;
- some talked about the importance of funding for independent advocacy services;
- some talked about other actions such as providing training, involving smaller organisations as well as large providers, specialist advocacy support for ethnic minorities, connecting advocacy with JobCentres, introducing change gradually and monitoring impact regularly; and
- some gave responses which did not relate directly to the question or were not substantive.



## **15. Complaints, reviews and appeals**

## Current arrangements

15.1 The Scottish Government set out its proposals for current arrangements in Part 3 of the [consultation document](#).

**Question - Do you agree that we should base our CHP (Complaints Handling Procedure) on the Scottish Public Services Ombudsman’s ‘Statement of Complaints Handling Principles’? Please explain why.**

**Table 15.1 Do you agree that we should base our CHP (Complaints Handling Procedure) on the Scottish Public Services Ombudsman’s ‘Statement of Complaints Handling Principles’?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	50	89%	6	11%	56
Organisations	68	97%	2	3%	70
<b>All respondents answering</b>	<b>118</b>	<b>94%</b>	<b>8</b>	<b>6%</b>	<b>126</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

15.2 In total, 126 respondents answered the closed part of this question. The majority (94%) agreed with the proposal. There was overall support from across respondent groups.

15.3 A total of 79 respondents provided further comment on their answer (55 organisations and 24 individuals). Comments largely came from those who agreed, and believed it was a sensible approach.

### Sensible and consistent approach

15.4 A large number of respondents agreed with the approach because they felt it was sensible, appropriate and built consistency with the approaches used by other public sector organisations. These respondents highlighted that the principles had the interests of individuals at their centre; that they were fair and equitable; easy to understand; flexible enough to adapt; and have worked well in the past. A few highlighted that the work of the SPSO’s Complaints Standards Authority had made it a centre of excellence. One respondent highlighted that it was likely that the new social security agency would be a listed authority under the SPSO, and would need to conform to these principles if that occurred.

15.5 A few highlighted their support for the Citizens Advice Scotland response on this matter.

“CAS generally agrees that the Complaints Handling Procedure (CHP) on the Scottish Public Services Ombudsman’s (SPSO) ‘Statement of Complaints Handling Principles’ should be adopted by the Scottish social security agency. It will be positive to have the Agency adopt a CHP in-line with other public bodies in Scotland and to build on the work already done to improve CHPs in this area.”

Citizens Advice Scotland

15.6 A few suggested the addition of further principles relating to early resolution of complaints, and driving improvement, emphasising that complaints should be timely and quick.

“We are particularly pleased to note that the SPSO's 'Statement of Complaints Handling Principles' includes a commitment to making the complaints process 'simple and timely', including it having 'as few steps as necessary within an agreed and transparent time frame'.”

CPAG Scotland

15.7 One respondent suggested that there should be a separate complaints team that service users could raise concerns with. One organisational respondent suggested that mediation should be an important part of the process, while another individual respondent felt that it was important that mediation was not used – to ensure a focus on individual rights without compromise.

### **Wider suggestions**

15.8 A few respondents who supported the approach made wider suggestions. A few suggested there was a need to monitor the approach and a few felt that there was a need to raise awareness of the approach. A few local government and health respondents were concerned that people would become confused about the role of the SPSO if it was to be the centre for complaints, and perform an element of second tier review for the Scottish Welfare Fund.

### **Reasons for not supporting the proposal**

15.9 Just a few of those who commented said ‘no’ to the closed part of the question. Most of these respondents were individuals. These respondents had different concerns, largely that the Ombudsman was far removed from the process, was not locally based, did not have a clear role, and was too slow in dealing with complaints. These comments appeared to be based on a misunderstanding of the question.

### **Internal reviews**

15.10 The Scottish Government set out its proposals for internal reviews in Part 3 of the [consultation document](#).

### **Question - How should a Scottish internal review process work?**

15.11 In total, 95 respondents answered this question (62 organisations and 33 individuals).

15.12 The main themes emerging were:

- the need for clear, published procedures and timescales; and
- the need for a different system to the mandatory reconsideration process used by DWP.

## Clear procedures and timescales

15.13 Many respondents felt that it was very important to have a clear, consistent and impartial internal review process, with clear timescales. A few felt that it was important to have a provision for urgent reviews and appeals to be fast tracked. While many indicated that the system should aim to get the decision right first time, there was support for an internal review process which:

- made clear to service users what their rights were;
- provided clear links with advice providers;
- gave people more time to provide supporting information (some suggested three months);
- was prompt, courteous and efficient;
- was led by someone who had no previous involvement in the case;
- followed clear processes, so that service users could understand what would happen;
- allowed for a fair appraisal of all the evidence; and
- offered redress if the individual was a victim of discrimination or prejudice.

15.14 Some felt that the key priority was that the process was simple, seamless and easy for service users to navigate.

“When designing the review and appeal procedures for the Scottish social security system, we would draw the Scottish Government’s attention to the requirements of Article 6 of the European Convention on Human Rights (“ECHR”), which governs the right to a fair trial. Article 6 states: “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...” The European Court of Human Rights has held that Article 6 (1) does apply in the field of social security. Therefore, at a minimum, the appeals procedure must be Article 6 compliant.”

Equality and Human Rights Commission

## Mandatory reconsideration

15.15 There were varied views on the status of an independent review, and whether it should be separate from an appeals process or integrated within it, and whether it should be optional or mandatory.

15.16 Some felt that it was important that a mandatory internal reconsideration was not required before progressing to appeal stage. Respondents highlighted their concerns about the DWP mandatory reconsideration process, including:

- the lack of a time limit for the reconsideration;
- the long delays experienced;
- the lack of clarity about the process;
- the belief that it is not always based on a fair appraisal of all evidence;
- the belief that it hinders the process of challenging decisions, as very few reconsiderations result in changes to decisions;
- concern that individuals don’t retain their entitlement as they await the outcome of the reconsideration; and
- the hardship, uncertainty and poverty caused as a result of lengthy reconsiderations processes.

“The existing mandatory reconsideration and appeals systems were found to be confusing, difficult to navigate and contradictory.”

Welfare Conditionality: Sanctions Support and Behaviour Change Research Project

“The Mandatory Reconsideration procedure for internal reviews should be scrapped when benefits are devolved... Whilst applicants and claimants should be able to request a review of Scottish benefits decisions, this should not be mandatory in order to take their appeal to tribunal.”

Scottish Green Party MSPs

15.17 A few individuals and one local authority were supportive of a mandatory reconsideration process. A few indicated more broadly that internal review should be optional, rather than mandatory. However, a few felt that an interim review should be the first stage, with the case then referred automatically for an appeal if the decision did not change (without the client needing to take action).

“CAS is of the view that, even if an internal review process does exist, it must be perceived as part of one seamless process from the perspective of the claimant. In our view, the best way to do this is to have the review decision passed directly from the Agency to HM Courts and Tribunals Service, rather than the claimant having to lodge an appeal themselves.”

Citizens Advice Scotland

### **Other models**

15.18 Some pointed to other models which the internal review process could follow. The most commonly mentioned was the current Housing Benefit model. Respondents talking about this model suggested that any appeal should be sent to the new social security agency, and the agency could choose to do an internal review if they wish. Then, if the review is not carried out, or a review is carried out but the outcome is unchanged, the agency would forward the case on to the independent Tribunals Service (within a clear time limit). Other models highlighted were the Scottish Welfare Fund first tier reviews, and the process of an industrial tribunal.

“Instead, the Scottish Government should introduce a process more akin to the Housing Benefit appeal process, whereby the appellant submits an appeal to the decision maker (in that case, the local authority benefits team). The decision maker then has an opportunity to reconsider the decision internally without it going to full appeal. However if the decision maker does not revise the decision internally, it is automatically passed externally to the Courts and Tribunals Service for an appeal hearing. This process allows for decisions to be reviewed internally before proceeding to a full appeal hearing, while reducing complexity, and easing the burden on claimants.”

CPAG Scotland

### **Wider issues**

15.19 A few respondents indicated that it was important that benefits were paid on an interim basis, while the internal review process was underway. Others highlighted that threats of benefit removal should not be made. A few simply

indicated that the review process should work as outlined in the consultation document. A few respondents, mainly individuals, indicated that they did not feel there should be any internal review process as they did not feel it would be independent.

**Question - What would be a reasonable timescale for the review to be carried out?**

- 15.20 In total, 86 respondents gave comments on a reasonable timescale for review (48 organisations and 38 individuals). Not all of these respondents provided a specific timescale.
- 15.21 Overall the largest proportion of respondents said up to one month. Opinions differed between organisations and individuals. Most organisations providing a view thought that up to one month was reasonable. Just a few organisations felt that up to two weeks was reasonable. Individuals generally felt that between 2 weeks and a month was reasonable.
- 15.22 A small number of individuals and one organisation suggested two or three months as a maximum. One organisation suggested 6 to 12 months, one individual suggested 4 to 5 years and one suggested unlimited time provided Scottish Ministers were made aware.
- 15.23 Most respondents simply provided a timeframe. However, some of those who commented indicated that the timescale should run from the time that the request and all required information is received. Others felt that their suggested timescale included time to gather additional information from service users, and many did not indicate whether it did or not.
- 15.24 A few respondents also gave views on reasonable timescales for service users requesting a review, with suggestions ranging from 6 weeks to 3 months. A few suggested that timescales should be discussed with those with experience of both undertaking reviews and claiming benefits.

## Appeals

15.25 The Scottish Government set out its proposals for appeals in Part 3 of the [consultation document](#).

**Question - Should a tribunal be used as the forum for dispute resolution for the Scottish social security system? Please explain why.**

**Table 15.2 Should a tribunal be used as the forum for dispute resolution for the Scottish social security system?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	47	92%	4	8%	51
Organisations	55	96%	2	4%	57
<b>All respondents answering</b>	<b>102</b>	<b>94%</b>	<b>6</b>	<b>6%</b>	<b>108</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

15.26 In total, 108 respondents answered the closed part of this question. The majority of those responding (94%) thought that a tribunal should be used as the forum for dispute resolution for the Scottish social security system. There was overall support from across respondent groups.

15.27 Further comments were provided by 88 respondents (53 organisations and 35 individuals). Comments came largely from those who answered 'yes'.

15.28 The main reasons that respondents supported the use of a tribunal were because:

- **It is proportionate** – Some respondents felt that a tribunal was the most appropriate approach because the decision being considered could relate to long term entitlement to benefits, and could have long term, significant impact. Respondents felt that it was fair that individuals had the chance to have their case considered by a panel of experts, and present their evidence in a face to face forum, in depth, with all parties present. A few expressed serious concerns about appeals being considered purely based on written material, or by a Chair sitting alone and indicated a strong preference for the tribunal system.

“We do not feel it is necessary or cost effective to set up an alternative parallel structure to the existing tribunal service. The current Scottish Tribunal service works fairly well and would be the most appropriate mechanism for social security dispute resolution.”

Glasgow Disability Alliance

“Tribunals were originally introduced to provide a proportionate, accessible and easy to use service mostly for citizens appealing decisions made by state agencies. Though over time the law has become more complex, tribunals continue to represent a more user friendly and cheaper form of dispute resolution than the courts.”

Upper Tribunal (Administrative Appeals Chamber)

- **It fits with the current system** – Some respondents highlighted that the tribunal approach works well, and should be continued. Some also commented that it could provide consistency between devolved and reserved benefits – provided that these links were made.

“Currently, nearly all social security appeals are heard by the same tribunal. Once the currently reserved tribunals are transferred into the Scottish Courts and Tribunal Service, it would make sense for that tribunal also to hear appeals relating to reserved benefits. This would make effective use of the existing expertise of judges and members and also make things simpler for claimants challenging decisions.”

Individual

“If it works well do not change it, less confusion for the user.”

Individual

“It is worth noting, however, that there is currently no social security expertise within the Scottish Courts and Tribunals Service, as social security appeals have never fallen within the remit of its current nine tribunals.”

Child Poverty Action Group

- **It is independent** – Some emphasised the importance of having an independent route for appeals, and indicated that the tribunal process worked well in terms of providing a rigorous, visibly independent and generally accepted route.
- **It is accessible** – Some felt tribunals were, or had good potential to be, accessible. Respondents highlighted the importance of processes being as clear and informal as possible (reducing the need for legal representation and advice), the need for individuals to have advice and support as required, the potential for tribunals to take place in community and local venues which are accessible and convenient for the individual, and the speed with which decisions can be made. A few indicated that tribunals were more efficient and cheaper than using the court system.

“The inquisitorial system where the Tribunal asks what it needs to know means tribunals are far more focused and less time is required for cases than in the courts. It sits in informal local venues such as church halls or meeting rooms, meaning it is accessible for appellants.”

Individual

- **It is enforceable** – A few felt that a tribunals system, underpinned by legislation, meant that decisions made by the tribunal could be binding and not just seen as recommendations.

15.29 However, a few respondents indicated that the process was too formal. A few also suggested that tribunals should involve panel members with the relevant knowledge and experience of specific conditions, as required.

**Question - If no, are there any alternative methods of dispute resolution that you think would be preferable to a tribunal?**

15.30 There were 26 responses to this question (7 organisations and 19 individuals). Those who disagreed generally felt that a tribunal was too formal, may not be able to deal with a wide range of cases as each is different, and may not work well if individuals were appealing both a devolved and reserved benefit. A few indicated that the alternatives should be explored as the new social security system is developed, and more information becomes available about how it will work.

“The word tribunal can be somewhat daunting and attendance at such can also be daunting as the panel members are all QC’s, senior doctors etc. Not people that you normally deal with.”

Scottish Disability Equality Forum

15.31 A few respondents, mainly individuals, identified alternatives, including:

- arbitration or mediation;
- telephone or face to face meetings with the agency;
- referring cases to the ombudsman;
- a panel of lay people similar to the Children’s Panel; or
- court or sheriffs.

**Question - How can we ensure that our values underpin the appeals process for a Scottish social security agency?**

15.32 In total, 95 respondents commented on this (62 organisations and 33 individuals). Some referred to their previous answers earlier in the consultation about how to take a principled approach.

15.33 A large number indicated that the values could be embedded through ensuring that the principles, Charter and values of the social security system were taken into account in every aspect of developing the appeals system. This would include:

- staff development, training and awareness raising;
- culture and attitude – making clear that the principles apply to the tribunal in the same way they apply to the social security agency;
- ensuring that principles are adhered to at every stage, and shape the design of practice and the decision making process at all times; and
- remaining compassionate, humane and reasonable, and aware of the impact of sanctions – ideally not removing benefits while appeals were underway.

“The values framework should underpin the Scottish social security agency’s culture, helping the agency make correct decisions and ensures everyone is pulling in the same direction to ensure the highest quality of customer care is provided to service users.”

Highland Council

15.34 Many emphasised the importance of the user experience in ensuring the values underpin the appeals process. Overall, respondents wanted to see an approach which was inquisitive, exploratory, dignified and minimised the burden on the user. Some cautioned that the approach should not be interrogative, adversarial or threatening.

“The tribunal process is daunting, nerve racking, stressful. There is the fear of the unknown. It is upsetting. People are afraid to say the wrong thing. There is the fear of going in front of someone you don’t know. You don’t know what information your doctor has submitted. It feels humiliating...a form of mental torture.”

Scottish Commission for Learning Disability (SCLD)

15.35 Suggestions for ensuring a positive user experience included:

- being clear about individual rights;
- being sensitive to individual needs and concerns;
- being compassionate and understanding the barriers individuals face in their lives;
- understanding the nature of fluctuating conditions; providing support as required;
- being clear in correspondence and using inclusive communication practices; and
- making it as easy as possible for individuals to attend tribunals.

15.36 A few respondents suggested that it was important to minimize individual costs and travel time, and that travel costs should be met in advance to ensure people could afford to attend.

15.37 Some talked about the importance of continuous improvement, including:

- regular reporting on appeals outcomes;
- user involvement in quality improvement;
- user involvement on the tribunal;
- training of relevant staff – including on equality and disability issues;
- regular review of processes;
- learning from experience through a link between the tribunal and social security agency procedures and guidance;
- an independent way to provide feedback and user experience of the appeals process; and
- public scrutiny.

“Training in equality issues, particularly in disability equality and independent living, given the higher percentage of disabled people accessing the benefits system. This training should be designed and led by DPOs.”

Glasgow Disability Alliance

15.38 A few reiterated the importance of having clear timescales for the appeals process. A few reiterated earlier points about the importance of a seamless transition from internal review (if there is one) to appeal. A few emphasised the importance of the tribunal involving a diverse panel, including legal,

medical and disability experts. A few also stressed the need to make sure that individuals weren't asked to repeatedly provide the same information.

**Question - Are there any other values that you feel should be reflected in the design of the appeals process?**

15.39 A total of 56 respondents commented on this question (33 organisations and 23 individuals). Some responded simply to say that they didn't think there were any other values that should be reflected.

15.40 Some reiterated the importance of values that they had previously said were important throughout the social security system. The main themes emerging were:

- **The need for a person-centred system based on rights, dignity, equality and fairness** – Respondents suggested taking a human rights approach, and including values such as equitable, impartial, humane, rights based and fair. A few highlighted the legal requirements to take account of equality, including Article 6 of the European Convention on Human Rights, which guarantees the right to an independent and impartial tribunal in the determination of criminal charges and "civil rights and obligations".
- **The need to reduce barriers** – Some respondents pointed to barriers such as IT literacy and access, physical access, communication styles, challenges accessing advice and representation and travel costs, which needed to be addressed within the appeals system.
- **The importance of a face to face tribunal** – A few respondents were concerned that there were discussions at UK level about some appeals moving towards a paper based or digital system. These respondents felt that a face to face tribunal was very important in giving individuals the chance to speak with decision makers, explain their situation, and be treated as an individual.

"I think the social security system in Scotland should have face to face appeals by default, and alternative ways for those who prefer these. I appreciate that face to face appeals are probably more costly, but I think they are far more likely to promote a humanising and fair system, as opposed to a dehumanising, impersonal and less fair one."

Individual

"Gender equality should also be specifically mainstreamed throughout the process, to address the gendered stereotyping and assumptions that women currently experience when accessing social security."

Engender

15.41 A few felt that it was important that the appeals process started with the assumption that individuals had genuine reasons for requiring social security payments, and that benefits should continue to be paid on an interim basis while appeals are on-going.

## Timescales

15.42 The Scottish Government set out its proposals for timescales in Part 3 of the [consultation document](#).

### **Question - What do you consider would be reasonable timescales to hear an appeal in relation to a decision on devolved benefit?**

15.43 In total, 88 respondents answered this question (49 organisations and 39 individuals).

15.44 A few said it should be heard within a week or less. This included two organisations and one individual. A few individuals said an appeal should be heard within two or three weeks. Some respondents said one month; a few said between one and two months; and some said between two and three months – with a broadly equal balance between organisations and individuals. A few said between three and six months.

15.45 Some did not give specific time frames but made a range of related points:

- cases may be prioritised based on need and vulnerability;
- timescales may vary dependent on complexity;
- the resources available within the appeals system may impact on timescales;
- there is a need to consult with experts and individuals to co-produce agreed timescales and processes; and
- more focus on mandatory reconsideration could reduce the need for appeals.

### **Question - In order to ensure a transparent appeals process, what steps could be taken to ensure that those appealing fully understand and are kept informed at each stage of the appeals process?**

15.46 In total, 88 respondents answered this question (54 organisations and 34 individuals). The main theme emerging related to accessible communication.

15.47 Many talked about accessible communications. These respondents felt that information should be provided in a way that best suits the individual, and that individuals should be asked about their preferred method of communication at the outset. This would include a range of methods, including letter, phone, email, texts and online information. A few indicated that authorised representatives should be copied into correspondence, and a few emphasised that it was important communication included all relevant information. A few respondents indicated that it was very important to consider both format used and language used, taking into account that individuals will have a range of needs (for example, people with sensory impairments or learning difficulties and people with literacy or numeracy issues). A few suggested that it would be useful to co-produce materials, working with all relevant stakeholders.

- 15.48 Some felt that it was important that individuals received regular information about progress with their case, and likely timescales for each stage. This would include the detail of the new information considered. These respondents felt that this regular communication would greatly relieve anxiety. A few felt that it would be useful to have an online tracker or electronic case management, so that individuals could easily view progress with their case.
- 15.49 Some felt that individuals should receive guides and clear information about what to expect. Respondents felt that this could cover:
- a step by step guide to appealing / an overview of the process;
  - information about how to start the appeals process; and
  - how to access the decision making guides used in the appeals process.
- 15.50 Respondents were clear that this information should be available in different forms, including using videos, online links and social media, and should be in plain language.
- 15.51 Some felt that there should be a key worker, case officer or link person within the new social security agency, for each case. Some reiterated the importance of independent advice and advocacy, and individuals being made aware of their rights.
- 15.52 A few individuals stated that the current system worked fine and gave no further comment.

### **Question - How could the existing appeals process be improved?**

- 15.53 There were 79 responses to this question (50 organisations and 29 individuals).
- 15.54 Many respondents reiterated issues they had raised previously, including:
- making the process quicker, and with clear timescales;
  - improving communication;
  - ensuring access to advice and advocacy services;
  - making the process more customer friendly; and
  - ensuring links with reserved benefit appeals.
- 15.55 New issues emerging included:
- A few respondents talked about the composition of the panel and the witnesses called to the tribunal. A few advice and support organisations and individuals wanted individuals to be told in advance who the tribunal members will be, and a few said the panel should involve more lay people with an interest in disability or people with mental health experience. A few individuals talked about witnesses, saying that individuals should have the right to have an input into who is asked to give evidence, to compel witnesses to attend, and to cross examine them.
  - A few respondents talked about the need for care to be taken before striking out appeals as a result of interim instructions.

“Currently as a management function tribunal judges are frequently issuing interlocutory instructions threatening strike out of appeals if not complied within very short time periods. Before appeals are struck out for failure to respond to an interlocutory instruction it is recommended that an appeal pre-hearing should be heard.”

Rights Advice Scotland

- A few respondents discussed the importance of independence, consistency and treating all parties in the same way. One respondent highlighted the need for continuous improvement to ensure that decisions at first tier tribunals could be learned from. This respondent was concerned that while upper tribunal decisions were binding on future decisions of the DWP and first tier tribunals, this same process did not take place – even in an informal way - for decisions made at first tier tribunals.
- A few felt that there was a need for more training for panel members.
- A few reiterated that mandatory reconsiderations should be removed from the process.
- A few respondents felt that written decisions should be issued automatically and quickly, without individuals being required to request a decision in writing.
- A few respondents felt that appeals should not be influenced by letters from GPs or health professionals, as this information should have already been gathered through a good initial assessment, and was creating pressure on GPs.
- A few felt that there should be a process for ensuring equality for those who were unable to travel to a venue.
- A few felt that it was important that applicants were asked for feedback on their experiences.
- A few, including Rights Advice Scotland, felt that it was important that individuals had a private space to talk about their case with an advisor, to protect the dignity of the client.

“There needs to be equality between the parties to the appeal. Providing a room for presenting officers with access to tea and coffee while merely a waiting room for appellants appears unfair.”

Angus Community Planning Partnership, in cooperation with the Angus Welfare Reform Group

“...we would also advocate clarity for clients and our members on the role of the GP in supporting appeals. We have some concern about the potential conflict for GP patient relationships in providing support with the current lack of clarity.”

Royal College of General Practitioners Scotland



## **16. Residency and cross-border issues**

## Proposals for residency and ‘habitual residence’

16.1 The Scottish Government set out its proposals for residency and ‘habitual residence’ in Part 3 of the [consultation document](#).

**Question - Should Scottish benefits only be payable to individuals who are resident in Scotland? Please explain why.**

Table 16.1 Should Scottish benefits only be payable to individuals who are resident in Scotland?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	61	97%	2	3%	63
Organisations	41	79%	11	21%	52
<b>All respondents answering</b>	<b>102</b>	<b>89%</b>	<b>13</b>	<b>11%</b>	<b>115</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

16.2 A total of 115 respondents answered the closed part of this question. Of those responding, the majority (89%) thought that Scottish benefits should only be payable to individuals resident in Scotland. Individuals were slightly more likely than organisations to answer ‘yes’. Although a substantial proportion of organisations (21%) actually disagreed, there was overall support from most respondent groups.

16.3 There were 90 respondents who explained their answer (50 organisations and 40 individuals).

### Reasons for answering ‘yes’

16.4 The main reasons people gave for only paying benefits to individuals resident in Scotland were:

- **Best value** – Some respondents felt that this was the fairest way to allocate benefits with a limited budget, minimizing the risk of fraud and abuse within the system.
- **Reducing complexity** – Some respondents felt that this would keep the system as simple as possible which would make it easier to administer.

“If, as suspected, the Scottish benefit system becomes fairer than the UK version, it will be a popular place to claim benefits from. There will have to be checks on where a person ‘usually resides’ in order to be fair on the people who do actually live here.”

Individual

16.5 A few respondents, largely local authority respondents, felt that residency had a clear relationship with the tax base for Scotland, and access to benefits.

“Individuals who are residing in Scotland should be able to access Scottish benefits – those living out with Scotland are not part of the tax base.”

COSLA

- 16.6 Some who said ‘yes’ also suggested some exceptions or time limits. A few suggested residency time limits (from 12 months to 5 years). Others suggested exceptions for:
- certain types of benefit (disability benefits);
  - some people (asylum seekers, refugees, migrant workers, people working offshore or overseas, and carers or cared for moving across borders); and
  - some situations (temporary absence).
- 16.7 A few suggested that there was a need to think carefully about how this would apply for certain groups such as:
- students (both from the UK and further afield);
  - people living in Scotland but working elsewhere in the UK;
  - people with two homes;
  - people spending time abroad for medical reasons;
  - travellers;
  - service personnel;
  - merchant sea people;
  - people in tied accommodation (home provided with their employment); and
  - people living and working overseas.

“If the carer lives in Scotland and/or undertakes their caring role in Scotland, they should be entitled to social security in Scotland. However, there will be individual situations that are more complex than this, and a new social security system should be able to exercise discretion if required.”

Carers Trust Scotland

“The definition of a ‘Scottish Claimant’ will be of particular relevance in Scottish Borders where people often move back and forward across the border to live and work.”

Scottish Borders Council

### Reasons for answering ‘no’

- 16.8 Some who said that benefits should not only be payable to individuals who are resident in Scotland provided comments. This included organisations across a range of respondent groups, and individual respondents. These respondents felt that a more considered and robust approach was required, particularly in relation to two areas.
- 16.9 Firstly, a few respondents highlighted that parts of DLA, PIP and Attendance Allowance could currently continue to be paid to EU residents, and that removing this would penalize people as a result of the benefit becoming devolved. One respondent suggested considering whether more components of disability allowance should be paid to non-residents, for example, the mobility components of DLA and PIP.

16.10 Secondly, a few respondents highlighted that the main issue was likely to be people living in other parts of the UK. A few commented on cross border issues, such as a carer living in Scotland but caring for someone in England, which would require strong and clear joint working arrangements.

16.11 A small number of individual respondents simply stated that if people had contributed to the Scottish economy, they should be eligible for benefits regardless of where they lived.

### **Question - What are your views on the 'habitual' residence test currently used in the UK by DWP?**

16.12 In total, 85 respondents commented on this (51 organisations and 34 individuals). Many felt that the 'habitual' residence test currently used by DWP was reasonable. However, some had concerns about the current test. The main concerns were that it was:

- **too restrictive** – with some feeling it had been tightened to reduce eligibility in recent years;
- **complex and confusing** – with some finding it unclear, not transparent and subjective;
- **flawed in application** – with some feeling it to be poorly understood and administered; and
- **not customer focused** – with some finding it unfair, racist, judgemental and based on trying to exclude people.

“Although isolated cases, people do return from other countries to provide care and the social security system should be flexible enough to recognise such instances to ensure that these carers are not left without support.”

Carers Scotland

“It must be recognised that BME women in particular often leave the country for more than four weeks at a time in order to visit friends and family. They should not be penalised and have to reapply for benefits if they have informed the social security system that they will be out of the country for a specific length of time and for a specific reason.”

Scottish Women's Convention

16.13 Whether people liked the current system or not, some indicated that it would be difficult to have a different test used in Scotland, as this might result in inconsistencies and people falling through the gaps. Some indicated that consistency would be particularly important where people are applying for both devolved and reserved benefits, and where there were cross border claims.

“The current 'habitual' residence test is consistent and long established – to apply a different test for those benefits devolved to Scotland would surely cause confusion and some unhelpful results e.g. DWP rule customer not habitually resident for Universal Credit and Scottish social security agency rule habitually resident for Disability Benefits?”

COSLA

16.14 However, a few suggested different tests could be used, such as:

- payment of council tax;
- the residence test previously applied to disability benefits and carers allowance, which was seen as less detrimental to people from abroad; or
- introducing more flexibility into the habitual residence test, for example, to allow for transitions across the border between Scotland and England.

“We strongly recommend that the Scottish Government use the ‘ordinary residence’ test for social security entitlements to ensure equality of access for all New Scots on the basis of non-discrimination. The courts have found that the application of residence criteria to social security entitlements does not have a strong legal or social benefit or justification.”

Scottish Refugee Council

### **Question - Are there other issues that the Scottish Government should take into account when it comes to residency rules?**

16.15 There were 69 responses to this question (34 organisations and 35 individuals).

16.16 Some commented on cross border issues within the UK, and how to ensure that individuals were claiming only in Scotland or other parts of the UK. Some talked about what would happen if people owned property in both Scotland and other countries, and whether people may want to say their main residency was in Scotland if the benefits system was more generous in Scotland than other parts of the UK. A few highlighted that there could be disputes about residency in the transition to the new system, and that this was most likely to affect disabled people and carers. These respondents felt that these individuals should receive interim payments while disputes about residency are resolved so that they are not disadvantaged. A few individuals suggested that anyone receiving benefits in Scotland should have tax residency in Scotland.

16.17 A few highlighted issues around the distinction between habitual and ordinary residence, with a few suggesting that it may be more appropriate to base benefit payments on ordinary residence which could be simpler.

16.18 A few local authority respondents and poverty, disability and advice organisations felt that the ‘past presence’ test should be removed. One suggested that the past present residence test for refugees and their families had been found to amount to unlawful indirect discrimination (contrary to the provisions of Article 28 of EU Directive 2004/83/EC and Article 14 of the ECHR). A few also said more broadly that the position of refugees, asylum seekers and people fleeing violence needed to be considered, with a few saying they believe support should be extended to these groups.

“The current ‘past presence’ test for UK disability benefits, which requires presence in the UK for 104 out of the last 156 weeks) is too restrictive and should be reconsidered.”

The Poverty Alliance

## Cross-border issues

16.19 The Scottish Government set out its proposals for cross-border issues in Part 3 of the [consultation document](#).

### **Question - What factors should Scottish Government consider in seeking to coordinate its social security system with other social security systems in the UK?**

16.20 There were 79 responses to this question (47 organisations and 32 individuals).

16.21 Many felt that it was important that there were clear links between the Scottish Government and UK Government in relation to devolved and reserved benefits. Many felt that, in theory, it would be simplest to use the same systems and rules. However, noted that in the current political landscape this may leave the Scottish Government open to applying principles at odds with its own. Some said that it was important not to prioritise co-ordination over best serving Scotland's citizens. Respondents reiterated their desire to have an inclusive, respectful and holistic system in Scotland, and cautioned that while co-ordination was needed, it was important not to copy a situation that exists already if it may not work for Scotland. Some felt that there was a need for a high level of inter-governmental exchange, to make sure that there is clarity about which government is responsible for each case; that the Scottish system doesn't lead to financial detriment in relation to reserved benefits; and that there is a transition period or tapering of benefits in moving from one system to another in the UK.

16.22 Some talked about the need for effective data sharing, using appropriate IT systems. These respondents felt that it was important to have joint systems and close communication between Scotland and the rest of the UK. Some talked about cross border issues, particularly where a carer and the person they care for live on either side of the Scottish border with England, or where an individual works on one side and lives on the other side of the border. These respondents felt that there needed to be clarity, but also that it was important to recognize that communities existed across national boundaries and that individual needs are paramount in each case.

16.23 A few respondents emphasised the need for interim payments while residency disputes are resolved.

16.24 A few mentioned the likely increase in complexity as the UK withdraws from the EU, and the need to review plans based on the way in which this happens – with particular impact expected around EU co-ordination rules for social security, and reciprocal agreements for freedom of movement. A few mentioned that it might be useful to explicitly mention considering immigration status, as a way of future proofing the approach.

## **Question – How can the Scottish Government ensure that no-one either falls through the cracks or is able to make a ‘double-claim’?**

16.25 In total, 80 respondents answered this question (40 organisations and 40 individuals).

16.26 A large number of respondents emphasised the importance of data sharing and joint working between the Scottish Government, the new social security agency, the UK Government and the DWP. A range of suggestions were provided including:

- requiring proof of residence information like utility bills, bank account details and photo ID;
- using people’s NI number as a consistent check;
- cross checking information with other databases such as electoral roles;
- introducing a unique UK claimant reference, which would then have a Scottish level code within this – to clearly link UK and Scottish benefits;
- applying for Scottish benefits through the UK government site;
- using some other form of cross reference – some suggested biometric checks;
- having triggers for checks – for example, when someone changes address; and
- using weekly checks to make sure people don’t appear in two systems, to avoid any problems running for longer than necessary.

16.27 Overall, there was a strong feeling that it was government’s responsibility to identify double claims, and there should be a presumption of honesty and entitlement to help reduce negative stereotypes. Some felt it was more of a concern if people fell through the cracks than if there was a small amount of overlap. A few suggested that the Scottish Government should undertake risk assessments identifying who could fall through the gaps, and work with the UK government and other stakeholders to identify joint solutions. A few emphasised the importance of advice and information in helping people to understand their rights and entitlements.

16.28 A few pointed out that there were EU co-ordination rules in place to prevent overlapping between benefits paid by different states (but that these were undeniably complex). A few felt that it wasn’t possible to make sure no-one fell through the gaps or made a double-claim, and that no system was completely fail safe.

“This is complex and will rely on sound relationships between agencies as well as reciprocal agreements.”

Scottish Borders Council



## **17. Managing overpayments and debts**

## Current arrangements

17.1 The Scottish Government set out its proposals for current arrangements in Part 3 of the [consultation document](#).

**Question - Could the existing arrangements for recovering social security overpayments be improved in the new Scottish social security system? If yes, please explain your answer.**

**Table 17.1 Could the existing arrangements for recovering social security overpayments be improved in the new Scottish social security system?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	40	71%	16	29%	56
Organisations	63	93%	5	7%	68
<b>All respondents answering</b>	<b>103</b>	<b>83%</b>	<b>21</b>	<b>17%</b>	<b>124</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

17.2 In total, 124 respondents answered the closed part of this question. Most respondents (83%) felt that the existing arrangements for recovering social security overpayments could be improved in the new Scottish social security system. Organisations were more likely than individuals to say 'yes', and there was overall support from across respondent groups. However, a substantial minority of individuals (29%) said 'no'.

17.3 Further comments were provided by 118 respondents (78 organisations and 40 individuals). As the question clearly asked only those answering 'yes' to provide an explanation, most of the comments came from those calling for improvements.

17.4 The main themes were:

- the importance of considering the rate level of deductions; and
- that some overpayments should not be required to be repaid.

### Level of deductions

17.5 The main theme emerging was that it was very important to consider the rate at which overpayments were repaid, in line with individual circumstances. A large number of respondents felt that the way in which overpayments were recovered needed to be improved. The main problems people had with the existing levels of deductions were:

- **there was too little flexibility** – with respondents suggesting that in future, decisions should consider individual circumstances;
- **there was too little consideration of impact** - decisions didn't recognize why people needed benefits and could push them further into severe hardship, destitution and homelessness;
- **several overpayment deductions could occur at once** – and this could be hard to understand;

- **deductions represented a large proportion of the benefit received** – deductions of 20 to 25% could be taken, which people felt was too high (and that 5 to 10% would be fairer);
- **repayments could happen immediately** – with respondents suggesting a month's notice in all cases;
- **repayments could happen with appeals on-going** – with respondents suggesting appeals processes are exhausted before any repayment was required; and
- **people may not understand the impact of the deduction** – people may not have all the information about their future entitlements when they hear about repayments, so may not be able to judge the impact on their finances.

“Currently it seems like there is no requirement for DWP to actually evidence when it says an overpayment has been made. Just 'we say so you do.' This is wrong! People are left in awful hardship when repayments they dispute are recovered...sometimes years after alleged overpayment. Repayment must always be based on ability to pay based on income.”

Individual

“Ensuring entitlement and overpayment decisions are made at the same time allowing the relevant entitlement as well as overpayment decision to be challenged. At present an applicant may not realise the consequences of an entitlement decision until they receive demand for payment – at which point they are often too late to be able to challenge a decision.”

East Ayrshire Council

17.6 Respondents were very concerned about the impact that the level of repayments could have on people's lives, such as stress, poverty and financial hardship, lack of access to food and warmth and resulting in people accessing food banks and / or high rate borrowing.

“In addition to the stress this could cause, care leavers may be managing on very strict budgets and even a small change to their income could have a huge impact on their ability to meet their basic needs for food and warmth.”

CELCIS

“Let the person pay it back at a low rate - mistakes are mistakes. I've seen people have to pay loans back of hundreds within a month or two which leaves them with nothing.”

Individual

“Overpayment and debt should not be used as a means to punish and impoverish the poor. Repayment levels should be agreed at a face to face meeting between the claimant, their advocate and the agency seeking repayment, and not simply be subject of administrative decision making processes.”

Scottish Socialist Party

## Requirement to repay overpayments

17.7 Many respondents gave their views on which types of overpayments should be recovered, with many feeling that certain types of overpayment should not be recovered from individuals.

“Where an overpayment has occurred, discretion should be applied to ensure it is appropriate to recover the overpayment.”

The Poverty Alliance

“I can see that recovering an accidental overpayment could cause difficulties for the individual whose circumstances mean it has already been received with joy and spent on, say, new shoes for the children.”

Individual

“We agree that official error which has caused overpayment to a claimant should not be recoverable. This will encourage a culture in the new agency of getting decisions right the first time. It may require checks and balances at the processing stage but will encourage good practice.”

Ayr Housing Aid Centre

17.8 A few, mainly local authority respondents, felt that it was important to recover all overpayments to ensure fairness to all contributors.

17.9 The Scottish Association of Landlords raised a particular issue that it believed to be unfair that landlords were requested to repay monies paid in relation to the housing element of Universal Credit, and that it would be more appropriate to claim this from the claimant, as well as offering financial advice.

## Wider issues

17.10 A range of other issues were raised, including:

- some felt the process needed to be simpler, to help people to be able to submit accurate applications, understand their benefit awards and know when to provide updates, and who to;
- some felt that it was important for the agency to admit when a mistake had been made, and try to reduce the errors it makes;
- some felt that it was important to share information between agencies, and to act quickly when changes of circumstances were reported to reduce overpayments;
- a few reiterated that there was a need for more advice and support for individuals; and
- a few felt that many could have a fear of engaging with social security agencies, out of worry that they will be perceived negatively or have benefits removed.

## Financial advice

17.11 The Scottish Government set out its proposals for financial advice in Part 3 of the [consultation document](#).

### **Question - What are your views on the role that financial advice can play in the recovery of overpayments?**

17.12 There were 98 responses to this question (56 organisations and 42 individuals).

17.13 A large number of respondents felt that financial advice could help, with some describing it as 'vital' or 'crucial'. Some felt that financial advice should be offered regardless of whether there was an overpayment, with a few feeling there should be a focus on prevention and early intervention. Some felt that where overpayments were being recovered, financial advice would be helpful in:

- supporting individuals to reconsider their income, expenditure and debt;
- offering options, advice and support;
- increasing financial literacy; and
- ensuring overpayments are correct and the arrangement is sustainable.

17.14 A few emphasised the importance of financial advice being separate from any recovery process.

“Financial advice, such as a local authority money advice provider, can assist the individual with budgeting, and present a realistic picture of the person’s income, and outgoings. The aim would be that the individual’s budget is not impacted to such a level that it could have an adverse effect on health and wellbeing. Local Welfare Rights Service should also be available to challenge any recoverability decision.”  
East Renfrewshire Council

17.15 However, some felt that it was important to recognize that financial advice would not be able to solve fundamental financial hardship occurring as a result of recovering overpayments.

“Financial advice can help. Money helps more.”  
Individual

“Some claimants will welcome advice, but it should be recognised that the essential cause of poverty is lack of income. When people are in hardship and falling in to debt because their income, either from paid work or benefits, is too little, financial advice will make limited impact.”  
Midlothian Community Planning Partnership/ Midlothian Council

“If the Government recognises that recovering overpayments will cause financial hardship, then a different approach to debt collection is required. As the biggest provider of independent benefits advice and the network which provided the Money Advice Service for many years, we have substantial evidence which shows that no amount of budgeting advice will fix the fact that people do not have enough to live on if you start recovering benefits from them at an aggressive rate.”

Citizens Advice Scotland

17.16 A few respondents questioned what was meant by financial advice, and whether this specifically meant advice provided by an Independent Financial Advisor.



## **18. Fraud**

## Scottish Government counter-fraud strategy

18.1 The Scottish Government set out its proposals for the counter-fraud strategy in Part 3 of the [consultation document](#).

**Question - Should the existing Scottish Government approach to fraud be adopted for use in our social security system? If no, what else should be used instead?**

**Table 18.1 Should the existing Scottish Government approach to fraud be adopted for use in our social security system?**

Respondent group	Number	Yes		No		Total
		Number	%	Number	%	
Individuals	53	53	91%	5	9%	58
Organisations	33	19	63%	19	37%	52
<b>All respondents answering</b>	<b>86</b>	<b>24</b>	<b>78%</b>	<b>24</b>	<b>22%</b>	<b>110</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

18.2 A total of 110 respondents answered the closed part of the question. Most respondents (78%) agreed that the existing Scottish Government approach to fraud should be adopted for use in the Scottish social security system. However, a substantial minority (22%) disagreed. Individuals were more likely to support the use of the existing approach than organisations. There was overall support from the main respondent groups to the question. Disagreement came mainly from a few local authority respondents and a few advice and support organisations.

18.3 When asked what else should be used instead 50 respondents provided further comments (36 organisations and 14 individuals). As the question clearly asked only those answering 'no' for suggestions, most of the comments came from those who wanted a different approach, although there were also comments from respondents who answered 'yes'.

### **Suggestions from those answering 'no'**

18.4 The reasons for saying that the approach should not be adopted for use in the social security system were very varied. Respondents made various suggestions for improved approaches.

- A few respondents felt that there should be specific legislation, a dedicated social security fraud service, and a specific code of practice, to tailor the fraud approach to social security.
- A few respondents felt that there should be a stronger focus on early intervention, to prevent fraud and ensure it was less possible in the new system.
- Some respondents felt that social security fraud was misrepresented, and that it was important to focus on entitlement, presume innocence and embed the principles of dignity and respect.

- A few, particularly local authority respondents, emphasised the importance of more consideration around joining up local, national and UK level activity around fraud, and learning from one another.
- A few individuals felt that the approach needed to be harsher or stricter.

“Avoiding fraud should not be at the expense of ensuring a fair and accessible system.”

Parenting across Scotland

## Other comments

18.5 A number of respondents who said ‘yes’ or didn’t provide a closed answer provided further comments. These respondents largely welcomed the distinction between overpayments and fraud, and emphasised that it was important that there was no assumption of guilt, recognition that people could be confused, proportionate responses to fraud, and recognition that even if people commit fraud it is important to be empathetic and understand the reasons for this.

**Question - If yes, should our existing counter-fraud strategy be adapted in any way? Please explain your answer.**

**Table 18.2 If yes, should our existing counter-fraud strategy be adapted in any way?**

Respondent group	Number	Yes		No		Total
		Number	%	Number	%	
Individuals	25	60%	17	40%	42	
Organisations	17	53%	15	47%	32	
<b>All respondents answering</b>	<b>42</b>	<b>57%</b>	<b>32</b>	<b>43%</b>	<b>74</b>	

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

18.6 In total, 74 respondents answered the closed part of this question. Views on the issue were fairly mixed. Over half (57%) felt that the existing strategy should be adapted. A substantial minority (43%) disagreed. Disagreement came mainly from a few local authority respondents (who were split on the issue, overall) and a few housing and homelessness organisations.

18.7 Further explanation was provided by 56 respondents (26 organisations and 30 individuals), most of whom agreed that the existing counter-fraud strategy should be adapted.

## Reasons for answering ‘yes’

18.8 The main reason for suggesting an adaptation to the existing counter-fraud strategy was to soften the ‘zero tolerance’ approach, which these respondents felt was unduly harsh, created a hostile environment and fostered suspicion.

18.9 Instead, these respondents felt there was a need for a proportionate response, which focused on an ethos of entitlement, and understanding and raising awareness of the low levels of benefit fraud. A few organisations highlighted

the importance of understanding how a range of equality issues may affect benefit fraud, including:

- gender may be an important aspect of some benefit fraud, due to aspects of coercive control and domestic abuse;
- impairments could lead to difficulties communicating and understanding the system; and
- racial prejudice may affect accusations of benefit fraud.

18.10 Overall, these respondents were keen that the tone and emphasis of the strategy be adapted to ensure that there was an ethos of compassion, dignity and respect. In particular, Citizens Advice Scotland recommended that cases of fraud and errors were reported on separately, to provide a more accurate picture and help with tracking and understanding fraud.

### **Reasons for answering ‘no’**

18.11 The small number of respondents who answered ‘no’ to the closed part of this question, but offered comments, generally felt that the strategy works fine as it is.

18.12 A few local authority respondents felt that a zero tolerance approach was very important.

“In the interests of protecting the public purse there should be zero tolerance towards fraud. There is an opportunity to embed an anti-fraud culture in the design of the devolved benefits.”

Glasgow City Council

18.13 While one respondent wanted to see reports by the public made easier, two cautioned against using public reports – for reasons of equality and transparency. A few felt that the system should be as simple as possible.

### **Question - How could the new Scottish social security system ‘design out’ errors and reduce the potential for fraud at the application stage?**

18.14 In total, 89 respondents answered this question (51 organisations and 38 individuals).

18.15 A large number of respondents said that errors could be ‘designed out’ and the potential for fraud could be reduced through more verification of identities and circumstances, and more cross checking of data at the point of application.

18.16 The main suggestions were:

- ensuring information is correct at the outset and reviewing this regularly;
- asking for accompanying evidence like birth certificates;
- working with local staff to gather local knowledge;
- connecting relevant databases – including the new social security agency, DWP, local authorities, HMRC and NHS – ideally in real time;

- introducing a single claim reference number so that all information can be seen at once;
- using related questions in the application stage so that responses can be checked for logic and accuracy; and
- training for staff on gathering and using this information.

18.17 Some felt that designing a simple system, accompanied by advice and information, would reduce the potential for errors. These respondents felt that the system needed to be clear, understandable and consistent – reducing the current complexity – with simple and easy to complete forms. Respondents also highlighted the importance of advice and support, and information about on-going responsibilities and duties (in friendly terms).

“Claimants also need to be provided with clear, accessible information about the conditions of benefit entitlement and their on-going responsibility to notify the social security agency of changes in their impairment or condition. These responsibilities should be explained to them in an open, non-threatening way both when they apply and after they are awarded benefits.”

Inclusion Scotland

18.18 Some highlighted that it was important to better understand the reasons for both fraud and errors, and to tackle these issues separately. A few were concerned that this question brought together fraud and errors, and felt that it was very important that these topics were considered separately.

“The system should begin from the premise that most people are not fraudsters. The costs of social security fraud are insignificant compared to that associated with tax management which is considered legal and admirable.”

Individual

“Any action should be proportionate, evidence-based and reflect the spirit of the legislation. The approach used should not risk unintended consequences for citizens’ health – undermining any fresh start taken in the rest of the system.”

Directors of Public Health NHS Boards Scotland

“CRER stresses that all fraud investigations must be based on solid evidence, not assumptions, prejudice, and discriminatory attitudes. Claimants should be treated as innocent until proven guilty and must be given a fair opportunity to explain any discrepancies or changes.”

Coalition for Racial Equality and Rights

## Investigations

18.19 The Scottish Government set out its proposals for investigations in Part 3 of the [consultation document](#).

**Question - Should the Scottish social security system adopt DWP's existing code of practice for investigators? Please explain your answer.**

Table 18.3 Should the Scottish social security system adopt DWP's existing code of practice for investigators?					
Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	35	66%	18	34%	53
Organisations	28	65%	15	35%	43
<b>All respondents answering</b>	<b>63</b>	<b>66%</b>	<b>33</b>	<b>34%</b>	<b>96</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

18.20 In total, 96 respondents answered the closed part of this question. Two-thirds (66%) of those responding felt that the Scottish social security system should adopt DWP's existing code of practice for investigators. Just over a third (34%) disagreed.

18.21 Further explanation was provided by 65 respondents (36 organisations and 29 individuals).

### Reasons for answering 'yes'

18.22 Some felt that the DWP's code should be adopted because it existed, was understood and worked. A few felt that it was important that the approaches were the same or similar as there may be cross border issues. A few organisations felt that the DWP's code was more appropriate than the approach used in Scotland currently, as it provided greater protection to all parties and clearly defined the powers available to investigators. A few highlighted that the code may need slight modification to fit the Scottish context.

"The Scottish social security system should adopt the DWP's current code of practice. The DWP's code or practice, is based on PACE (the Police and Criminal Evidence Act 1984), which provides greater protection to claimants and investigators and clearly defines the range of powers available to investigators."

Inclusion Scotland

### Reasons for answering 'no'

18.23 However, some indicated that there should be a Scottish specific code – without giving further details. Some provided suggestions including:

- ensuring the system is based on trust, dignity and respect – and designing a code and using powers with these principles in mind;
- providing training for investigators – in investigation, data protection, human rights, interview skills, and sharing these skills across the country;

- limiting the power of investigators – for example, limiting their power to obtain information from third parties or to enter premises without permission from the occupier;
- limiting situations where individuals are interviewed under caution – and where this is used ensuring that people are encouraged to have a representative present;
- removing anonymous reporting; and
- not basing investigations on ‘showing sign of pain’ as disability and pain can be invisible.

“I don't wear my pain all over my face, I just have it inside my body, hurting. I don't want someone to be able to take a photo of me doing an activity and claim I did it without pain just because they cannot see pain.”

Individual

“Because you are made to feel like a criminal and this can be very stressful the claimant should be able to have someone with them.”

Individual

### **Wider issue**

18.24 One respondent, the Public and Commercial Services Union, made a particular point that it was important for the Scottish Government to think carefully about the grade of investigators, working jointly with the PCSU, in order to establish a well-motivated and high performing team of fraud staff. It also suggested removing targets for prosecution and monetary recovery levels.

“PCS believe that the Scottish Government should be mindful of the grading concerns raised by our union as a result of merging local government and DWP fraud teams into the ‘single fraud investigation service’ SFIS. The union believes the staff are currently assigned to a lower graded role for the complexity of the investigatory role they have and taking into account the additional powers they have in comparison to staff of the same grade in other areas of DWP.”

Public and Commercial Services (PCS) Union

### **Question - What are your views on the existing range of powers granted to investigators?**

18.25 In total, 67 respondents answered this question (33 organisations and 34 individuals). Some thought that the existing range of powers were fine, some felt they required further development and some felt they were too wide.

### **Powers require further development**

18.26 Those who felt the powers required further development were largely local authority respondents, and a few individuals. The main reasons were:

- the need to align powers with section 112 of the Social Security Administration Act 1992;

- the need for enhanced powers for some officers (in senior positions) to require financial institutions (and others) to provide financial and utility information (subject to robust controls);
- the need for further powers to identify council tax reduction and single person fraud; and
- the need for information sharing and co-ordination around investigations with DWP.

### **Powers too wide**

18.27 Those who felt the powers were too great were mainly individuals. There was particular concern from a few respondents about the power to enter and the power of surveillance. A few indicated that these powers should be used only as a last resort. A few individuals felt the powers were frightening, unfair, draconian, stressful and open to abuse.

18.28 Some respondents emphasised that it was important to carefully consider how the powers were used – in a way which respected individuals’ right to privacy, sat within a human rights framework and protected respect and dignity. A few re-emphasised the need to assume innocence, and felt that the powers must be used correctly and not in a heavy-handed manner.

“If used correctly, and not heavy handedly, they would work reasonably well. The key is the heavy handedness.”

Individual

### **Question - What are your views on conducting interviews under caution?**

18.29 In total, 74 respondents answered this question (37 organisations and 37 individuals).

### **Importance of interviews under caution**

18.30 Many felt that interviews under caution were important and should continue to be used. These respondents felt that interviews under caution:

- ensured that all parties were clear about the purpose of the conversation;
- ensured individuals were aware of their legal rights – and not to do so may breach the human right to a fair trial;
- provided essential protection to individuals through consolidating the process and defining limits;
- were vital to investigate fraud and seek prosecution of offenders; and
- sent a clear message about the severity of the situation.

18.31 However, many of these respondents also recognised that interviews under caution could be stressful and that measures to reduce the stress caused by the situation should be put in place – including consultation on how to design a good process, and training for those undertaking interviews.

## **Conducting interviews under caution**

- 18.32 Many respondents emphasised the importance of the presence of third parties. This included legal representation, an independent advocate, a support worker, an independent observer or another appropriate adult. Many talked about the importance of free legal support. A few felt that a police officer should be present or should lead the interview. Some talked specifically about the need for support for vulnerable people or people with additional support needs, including people with learning disabilities, mental health needs or experiencing domestic abuse (which may not be immediately apparent to the interviewers).
- 18.33 Some felt that it was important that individuals were fully informed about the issues being explored and the seriousness of the situation. This would include informing individuals about their legal rights, the purpose of the interview, the seriousness of the situation and the fact it could be used as evidence in a criminal action. A few emphasised the importance of vulnerable people receiving support to understand the situation, if required. A few also felt that it was important to offer plenty advance notice so that people could prepare for the interview.
- 18.34 Some emphasised the importance of retaining the dignity of individuals, and using interviews under caution in a proportionate, flexible and sensitive manner – safeguarding the rights of vulnerable people.
- 18.35 A few offered views on recording interviews, suggesting that the recordings needed to be good quality, and should be both video and audio recorded. A few also felt that the individual should be provided with a copy of the tape.
- 18.36 A few felt that interviews under caution should not be used.

## **Question - What improvements could be made around conducting interviews under caution?**

- 18.37 There were 59 responses to this question (33 organisations and 26 individuals). Respondents largely reiterated their response to the previous question, or referred to their previous answer.
- 18.38 The main themes emerging were:
- the need to respect the dignity of the individual, with a culture of trust and respect and presumption of innocence;
  - the need to make people aware of their right to a third party being present, including legal representation, advice or another appropriate adult;
  - the need to support vulnerable individuals to understand the process;
  - the need to provide clear information and help people understand the nature of the offence;
  - the need for training for interviewers;
  - the need for better quality recording or transcripts (avoiding slang and hesitations which can be out of context) and providing these to individuals; and

- the need for interviews to be held in a neutral venue.

## Penalties

18.39 The Scottish Government set out its proposals for penalties in Part 3 of the [consultation document](#).

**Question - Should the Scottish Government retain the same list of offences which people can be found guilty of in terms of social security fraud? Please explain your answer.**

**Table 18.4 Should the Scottish Government retain the same list of offences which people can be found guilty of in terms of social security fraud?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	40	77%	12	23%	52
Organisations	26	70%	11	30%	37
<b>All respondents answering</b>	<b>66</b>	<b>74%</b>	<b>23</b>	<b>26%</b>	<b>89</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

18.40 In total, 89 respondents answered the closed part of this question. Most (74%) respondents felt that the Scottish Government should retain the same list of offences which people can be found guilty of in terms of social security fraud. A substantial minority (26%) of respondents disagreed.

18.41 Further explanation was provided by 62 respondents (32 organisations and 30 individuals). Some explained that they felt the list should be retained, as it appeared clear and comprehensive. A few emphasised the need to keep the list under review. Often, the same points were made by both those who agreed and disagreed.

### Clearer definition of the offences

18.42 Some (both those who answered ‘yes’ and ‘no’) felt that some of the offences needed to be more clearly worded to ensure that ambiguity is reduced – and deliberate fraud could be more easily identified. This was a particular issue around the offence of failure to notify a change in a person’s circumstance. Respondents pointed to the need for a high level of proof for ‘intent’ in this instance, and a clear differentiation between fraud and error. Some felt it was important to recognise emotionally charged situations and other mitigating circumstances, and be clear that offences only exist where there is a clear intent to gain benefit to which individuals would not otherwise be entitled to.

“We would advocate for a much more holistic approach to fraud offences, many attempts to de-fraud the system are likely to be a result of need and potential desperation as oppose to conscious defrauding. In a climate where poverty exists to such a degree we believe that attempts to understand the circumstances of the individual are made.”

Glasgow Council for the Voluntary Sector

## Concerns about the offences

18.43 A few respondents, who answered both ‘yes’ and ‘no’, expressed particular concern about the offence relating to failure to notify a change in a person’s circumstances when the person is aware that the change affects another person’s entitlement.

“The offence of “Failing to notify a change in a person’s circumstances, when the person is aware that the change affects another person’s entitlement” is particularly problematic and causes particular concern for advisers and representatives. While case law is clear that an adviser will not commit such an offence as long as they have made a claimant fully aware of their duties and do not contribute to any failure, it remains an area of concern and worry for advisors.”

CPAG Scotland

## Adding new offences

18.44 A few, mainly of those who felt the list should be retained, felt that new offences should be added:

- the offence of a third party being complicit in fraud;
- fraud against the Scottish Welfare Fund, school meals, clothing grants and payments made to carers;
- deliberate falsification of evidence; and
- omission of declaration to obtain benefit.

## Penalties and punishments for offences

18.45 A few of those who felt the list should not be retained discussed the penalties and punishments for offences. There were varying views. A few felt that it was not appropriate to use prison as a punishment for financial crimes – and that paying the money back was a more appropriate penalty. However, a few were concerned that this would put people further into poverty, and felt that community service would be more appropriate. A few felt that penalties should only be used where it was clear that the individual had deliberately committed fraud. One respondent emphasised that it was important to consider the desperate circumstances that pushed people to commit fraud, and to consider support and intervention in these cases.

“CAS recommends that civil penalties should be used only where it is unambiguous that the individual deliberately provided incorrect information to the agency or deliberately withheld information.”

Citizens Advice Scotland

18.46 A few felt that the focus should not be on identifying and penalising benefit fraud, highlighting that other fraud was more prevalent, and that it was unfair to penalise people when they were trying hard to find work.

**Question - Should the Scottish Government impose the same level of penalties for social security fraud as are currently imposed? Please explain your answer.**

**Table 18.5 Should the Scottish Government impose the same level of penalties for social security fraud as are currently imposed?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	28	58%	20	42%	48
Organisations	21	62%	13	38%	34
<b>All respondents answering</b>	<b>49</b>	<b>60%</b>	<b>33</b>	<b>40%</b>	<b>82</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

18.47 In total, 82 respondents answered this question. Most respondents (60%) felt that the Scottish Government should impose the same level of penalties for social security fraud as are currently imposed. However, a substantial minority (40%) disagreed.

18.48 Further comments were provided by 61 respondents (30 organisations and 31 individuals). Often, the same points were made by both those who agreed and disagreed.

**Reasons for supporting the same level of penalties**

18.49 The largest proportion of those who provided an explanation felt that the current penalties were appropriate, and meant that there would be consistency between Scotland and the UK. These respondents felt that consistency across the UK was important, particularly if there were multiple offences; that there was no clear reason to change the penalties in Scotland; and that having lower penalties in Scotland may send the wrong message. However, Child Poverty Action Group felt that fraud in the Scottish benefit system should not result in sanctions on UK benefits, to reduce complexity.

“We recommend that in the interests of reducing complexity that benefit sanctions do not apply to Scottish benefits and that the Scottish Government does not seek to have sanctions imposed on UK benefits following a benefit offence relating to a Scottish benefit.”

CPAG Scotland

**Areas of concern for those agreeing and disagreeing**

18.50 Some respondents (including those who answered ‘yes’ and ‘no’) expressed concern about very high penalties applied through the use of ‘administrative penalties’. Some recommended that these were either reduced or removed. Some respondents felt that re-payment should be adequate, and that fines were not appropriate as they could be disproportionate to the offence and could push people further into poverty.

“DWP introduced a scheme called Administrative Penalties. This did and does not work. Trying to take extra money from people who already have an overpayment only adds to their debt and decreases the likelihood of being fully recovered.”

Individual

“...we would ask the Scottish Government to consider whether administrative penalties should be retained under a new system based on principles of dignity, respect and fairness. We would rather see the Scottish Government concentrating its efforts and resources on prosecuting cases which can be proven in court instead.”

Inclusion Scotland

“There should be a proportionate response to overpayments. Where these are minor and the administrative cost of recovery is significantly greater than the sum to be recovered, the overpayment should be written off. Where the overpayment is more substantial, in accordance with the principle that people should be treated with dignity and respect, a repayment should be negotiated according to the claimant’s individual circumstances.”

Homeless Action Scotland

18.51 There was also some concern, from those answering both ‘yes’ and ‘no’, that administrative penalties and / or civil penalties were used without fraud being proven, and that these penalties may not be in line with human rights obligations.

18.52 A few respondents emphasised the need to be proportionate in the use of penalties. These respondents favoured repayment without further penalty unless fraud was large scale and had clear evidence of intent. Respondents highlighted that the penalty should fit individual circumstances, based on a full understanding of the case, and that the use of penalties should be monitored to explore impact in terms of equality. A few suggested that a broader range of remedies should be available, on both a voluntary or compulsory basis. A few felt that prison was not appropriate for these offences, and was a costly way of dealing with fraud.

### **Other reasons for disagreeing**

18.53 A few individuals, disability organisations and local authority respondents who mostly disagreed, felt that penalties should be harsher.

“While the current level of penalties that can be imposed for social security fraud include removing an individual’s liberty and provide a degree of deterrent, the scale of abuse in the current social security system is significant. This demonstrates that, for a small minority, the current level of penalties is not a deterrent and therefore needs to be strengthened for the most serious cases of intentional and organised crime.”

Highland Council



## **19. Protecting your information**

## Identifying Management and Privacy Principles

19.1 The Scottish Government set out its proposals on identifying management and privacy principle in Part 3 of the [consultation document](#).

**Question - Should the existing Scottish Government approach to Identity Management and Privacy Principles be adopted for use in our social security system? Please explain your answer.**

**Table 19.1 Should the existing Scottish Government approach to Identity Management and Privacy Principles be adopted for use in our social security system?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	46	87%	7	13%	53
Organisations	46	96%	2	4%	48
<b>All respondents answering</b>	<b>92</b>	<b>91%</b>	<b>9</b>	<b>9%</b>	<b>101</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

19.2 In total, 101 respondents answered the question. The majority (91%) agreed that the Scottish Government's existing approach to Identity Management and Privacy Principles should be adopted. There was overall support from across respondent groups.

19.3 There were 65 respondents who provided an explanation for their answer (38 organisations and 27 individuals). Comments were mostly made by those who answered 'yes'.

### Reasons for supporting the existing approach

19.4 Some said that the approach should be used because it was appropriate, sensible, proportionate, consistent, efficient, robust, balanced, low risk and good practice. Some felt it was cost effective, represented best use of resources and minimised duplication.

19.5 Some were happy the approach was used, but gave further advice including:

- recognition that it is impossible to fully guarantee security of data held;
- continuing to hold data in different systems, to provide a degree of privacy;
- providing reassurances about how data will be used by different agencies;
- building confidence in procedures for sharing data, for example, working with GPs around informed consent for data sharing; and
- allowing people to see the data held about them.

### Reasons for not supporting the existing approach

19.6 Some felt that the current approach should not be used. The reasons were varied, including:

- the approach is not stringent enough;
- the approach needs to balance data protection with delivery of service, and some people don't receive a good quality service because they need to complete additional forms due to lack of data sharing; and

- the need to recognise that it is hard for non-government agencies to meet the standards needed to communicate securely, as this was expensive.

19.7 Mydex Data Services Community Interest Company provided a very detailed response, suggesting that:

- the approach needs to be extended to comply with GDPR;
- the approach should fit with the Scottish Government’s Data Vision for 2020;
- new digital and technical solutions need to be explored, such as personal data stores;
- there is a person-centred approach with personal control over personal data; and
- there is a focus on rebuilding trust around use of personal data, including a transparent debate involving a range of expertise.

**Question - If yes, should our existing Identity Management and Privacy Principles be adapted in any way? Please explain how.**

Table 19.2 If yes, should our existing Identity Management and Privacy Principles be adapted in any way?					
		Yes		No	
Respondent group	Number	%	Number	%	Total
Individuals	17	47%	19	53%	36
Organisations	23	77%	7	23%	30
<b>All respondents answering</b>	<b>40</b>	<b>61%</b>	<b>26</b>	<b>39%</b>	<b>66</b>

Note: A full breakdown of responses by respondent group is included in Annex 2.

19.8 In total, 66 respondents answered this question. Most (61%) of those responding thought that the existing Identity Management and Privacy Principles should be adapted. Organisations were more likely to support adaptations than individuals.

19.9 There were 44 respondents who commented on their answer (27 organisations and 17 individuals).

19.10 A few simply explained that they did not feel there was any need to adapt the principles. Those who did feel the Identity Management and Privacy Principles should be adapted gave wide ranging suggestions, including:

- improving information sharing (or considering a central database) to enhance service provision and reduce potential for errors;
- sharing information between Scottish and UK systems, particularly around devolved and reserved benefits;
- balancing controls on access with flow of data;
- putting procedures in place to ensure that carers and advisors can speak on a disabled person’s behalf (where this is the wish of the disabled person);
- always offering alternatives to online submission of information, which a few individuals felt presented security issues;

- providing public reassurances regarding information sharing;
- ensuring only senior staff have access to sensitive information;
- prohibiting access to data by any not for profit organisation;
- including a principle of ‘personal control over personal data’;
- ensuring that informed consent is received before data sharing;
- ensuring that infrastructure supports effective data sharing;
- taking account of other approaches such as Privacy by Design, EU requirements, Digital First, the ICO Privacy Notice, the General Data Protection Regulator, the European Data Protection Supervisor and the MyAccount identity check; and
- recognising the need to eradicate racism and considering equality issues in relation to information sharing.

“The technical architecture of LA’s systems and networks may not support the principles and difficulties may arise which could negatively impact on public perception leading to a lack of trust or confidence.”

North Ayrshire Council

“CAS supports controlled sharing of information, such as a ‘Tell Us Once’ system to avoid delays and people being required to give the same information multiple times to the same Agency, or other public sector organisations.”

Citizens Advice Scotland

19.11 While some sought to reduce barriers to people speaking on behalf of a disabled person (where desired) the Information Commissioner’s Office provided detailed advice on the importance of taking reasonable steps to ensure that any mandate or authority for another specific person or organisation to discuss a particular matter on an individual’s behalf is valid, clearly described what can be discussed and there are checks to ensure that the individuals are who they say they are.

“The Scottish Public Service Ombudsman’s Office have procedures in place which enable carers, advice and advocacy workers to speak on the disabled person’s behalf. The Scottish Government should adopt similar procedures to remove unnecessary barriers being placed on those attempting to advocate on disabled people’s behalf.”

Inclusion Scotland

“Failure to do so presents a risk of unlawful disclosure of personal information, which would be a breach of the seventh data protection principle.”

Information Commissioner’s Office

### **Question - Who do you consider should be consulted in regard to the Privacy Impact Assessment and what form should this take?**

19.12 There were 59 responses to this question (33 organisations and 26 individuals). Most respondents gave ideas about who should be consulted including:

- **public sector bodies** – including local authorities, NHS, community planning partners, health and social care organisations, housing organisations, JobCentres, the DWP, Scottish Government, Child Poverty Action Group and others who may be involved in data sharing;
- **members of the public** – including claimants, patient groups, equalities groups, Disabled People’s Organisations, religious and community groups, carers organisations and citizens more generally, with a few respondents emphasising the need to proactively engage with those who may be disadvantaged or excluded;
- **advice and advocacy organisations** – including Citizens Advice Bureaux, advocacy organisations and human rights charities;
- **legal and data experts** – including lawyers, the Information Commissioner, the European Data Protection Supervisor, IT providers and other experts in privacy or data security; and
- others including the media and academics.

“It is important that the Scottish Government particularly consult those most likely to experience prejudice and discrimination in information sharing, including minority ethnic groups.”

Coalition for Racial Equality and Rights

19.13 A few respondents indicated that they would welcome a public consultation on the Privacy Impact Assessment.

### **Question - What are your views on privacy issues that may affect the new agency?**

19.14 There were 54 responses to this question (29 organisations and 25 individuals). The views emerging were varied, and included:

- **safeguarding personal details** – including meeting Data Protection requirements, secure; systematic and robust data sharing; taking a ‘Privacy by Design’ approach; using data independence and data portability approaches; and making no attempt to create a single database;
- **access on a ‘need to know’ basis** – balancing data protection and principle of dignity and respect; gathering minimum data necessary; procedures built in to limit the effects of racism or prejudice; clear guidelines on information sharing between DWP and SSSA; and adopting best practice and learning from others;
- **customer service** – ensuring that data is available to meet needs and to improve delivery of services;
- **accountability and skills** – tracking who has access to data; and providing training in principles and boundaries of information sharing; and
- **personal control over personal data** – ability to see own personal data and challenge what is held; ensuring informed consent procedures are clear; and building public support and trust.

“A person's privacy should be sacrosanct and protected at all times. Staff must be trained to understand this and to conduct themselves in such a way as to respect the individual at all stages of the process.”

Individual

“Confidentiality - information should only be seen by people who are authorised to access it.

Integrity – information should only be modified by people who are authorised to do so. Availability - information should be available when needed (problems or attacks shouldn't stop information being retrieved from the system).

Non-repudiation - nothing should happen in a system that can't be traced back to a responsible person.”

Midlothian Community Planning Partnership/ Midlothian Council

19.15 A few respondents highlighted the potential impact of EU regulations.

“The General Data Protection Regulation (Regulation EU 2016/679) which aims to strengthen and unify data protection for individuals within the EU may have an impact depending on the terms under which the UK leaves the EU.”

Aberdeenshire Council

19.16 A few highlighted the importance of effective data sharing, to ensure a smooth transition to the new social security system and minimise delays and hardship experienced by individuals. A few individuals expressed particular concern about the potential for online theft of personal details, or the selling of personal data to private companies.

### **Questions - Do you perceive any risks to the individual? What solutions might be considered to mitigate against these?**

19.17 There were 60 responses to this question (34 organisations and 26 individuals). The main concern was about the risk of data being lost, illegally accessed or accidentally shared and being used for the purposes of fraud, scams or theft. A few individuals were very worried about the potential for identity fraud, other theft, vendettas or harassment as a result of personal data not being secure. A few respondents highlighted particular concern about potential experiences of bigotry, racial discrimination and personal vendettas. There was also some concern that agencies could use data beyond the purposes it was intended for.

19.18 A few respondents felt that with data being shared across agencies there was the potential for it to be wrong, out of date or for mistakes to be made.

19.19 The main solutions suggested to mitigate against these were:

- limiting access to data through security privileges and network controls;
- clear data sharing guidance, systems and checks;
- taking a Privacy by Design approach;
- informed consent, with individuals fully aware of the implications of sharing data and not being required to do so if they do not wish to;
- only keeping data as long as it is needed;

- giving people access to the data held about them;
- de-identification of data where possible; and
- accredited data safe havens.

## Better information sharing

19.20 The Scottish Government set out its proposals on better information sharing in Part 3 of the [consultation document](#).

**Question - Would you support strictly controlled sharing of information between public sector bodies and the agency, where legislation allowed, to make the application process easier for claimants? Please explain your answer.**

**Table 19.3 Would you support strictly controlled sharing of information between public sector bodies and the agency, where legislation allowed, to make the application process easier for claimants?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	42	82%	9	18%	51
Organisations	55	96%	2	4%	57
<b>All respondents answering</b>	<b>97</b>	<b>90%</b>	<b>11</b>	<b>10%</b>	<b>108</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

19.21 In total, 108 respondents answered this question. Most respondents (90%) said they would support strictly controlled sharing of information between public sector bodies, where legislation allowed, to make the process easier for claimants. Organisations were slightly more supportive of this than individuals. There was overall support from across respondent groups.

19.22 Further explanation for their answer was provided by 84 respondents (51 organisations and 33 individuals).

19.23 Many felt that data sharing would make the process easier through:

- **making the application process simpler** – reducing the number of forms to complete, encouraging more comprehensive responses through a single form and through this maximising access to benefits;
- **enhancing the user experience** – reducing stress and frustration, reducing the need for people to repeat their circumstances which can be difficult and may result in errors or inconsistencies as people forget; and
- **making the process faster** and **saving time and money**.

“Applicants have highlighted the need to make the Scottish social security system easier to access and use – sharing data across public sector bodies is one way in which this can be realised.”

COSLA

“Anything that could take the application process down from tortuous to manageable would be worthwhile.”

Individual

19.24 Many respondents also highlighted the importance of informed consent, and being able to choose whether data is shared about you or if you take control over sharing your own information. A few respondents felt that it was vital that sensitive data could be protected and not shared – for example, about domestic abuse or HIV status.

“Sharing medical records means that very sensitive personal information, including experience of rape and sexual assault, female genital mutilation, domestic abuse, child sexual abuse, and that of terminating one or more pregnancies will be accessed by more people. This has the potential to function as a significant breach of privacy, dignity, and wellbeing of survivors. Organisations such as Rape Crisis Scotland and Scottish Women's Aid should be consulted during the design of information sharing systems.”

Engender

**Question - Would you support strictly controlled sharing of information between a Scottish social security agency and other public sector organisations (for example local authorities) to support service improvements and deliver value for money? Please explain your answer.**

**Table 19.4 Would you support strictly controlled sharing of information between a Scottish social security agency and other public sector organisations (for example local authorities) to support service improvements and deliver value for money?**

Respondent group	Yes		No		Total
	Number	%	Number	%	
Individuals	34	69%	15	31%	49
Organisations	49	91%	5	9%	54
<b>All respondents answering</b>	<b>83</b>	<b>81%</b>	<b>20</b>	<b>19%</b>	<b>103</b>

Note: A full breakdown of responses by respondent group is included in Annex 2 (available to download separately as part of this publication).

19.25 In total, 103 respondents answered this question. The majority of respondents (81%) said they would support strictly controlled sharing of information between a Scottish social security agency and other public sector organisations to support service improvements and deliver value for money. Organisations were more supportive of this than individuals. There was broad support from across respondent groups.

19.26 Further explanation was provided by 83 respondents (51 organisations and 32 individuals).

19.27 Respondents largely reiterated their responses to the previous question, emphasising that sharing of information had the potential to enhance the user experience, provided it is undertaken with clear consent and strong safeguards.

“Yes – data sharing will become increasingly important as we move towards not only the Scottish social security system but across public sector organisations more generally as Public Service Reform continues in years to come.”

COSLA

“Only in certain circumstances and always with the full consent of the claimant.”

Individual

19.28 Some new issues arose, particularly in relation to information sharing with local authorities. A few individuals had particular concern about privacy if their information was shared with their local authority, with some concerns about trust and competence. A few respondents suggested sharing information with a small number of trusted individuals.

“A suggestion would be to expand the “Apollo list” whereby an agreed list of advisors can access information. The Apollo list has to be updated and accurate to allow this to happen.”

NHS Lanarkshire

“Whilst we recognise the value of sharing information that has already been collected and recorded, there are serious issues around confidentiality and consent that must be taken into account. Patients must feel able to speak to their doctor or any other health professional without concern that this information will be shared without their consent.”

British Medical Association Scotland

## Digital First

19.29 The Scottish Government set out its proposals on Digital First in Part 3 of the [consultation document](#).

### **Question - What are your views on having the option to complete social security application forms online? Can you foresee any disadvantages?**

19.30 In total, 109 respondents gave their views (67 organisations and 42 individuals).

19.31 A large number of respondents were supportive of the option to complete social security application forms online, provided this was an option and not a requirement. Some emphasised that online application should be one of a range of options – and that it should not be the main or default option. However, a few felt that it could be the main option, with support for those who experienced barriers or challenges to online application.

“I would be happy to do this at present but feel options should be available for those who either cannot physically do this or merely dislike this process.”

Individual

“The Scottish Government should make any changes it can to the Universal Credit process and not choose the "digital by default" option for the new Scottish social security system.”

Disability Agenda Scotland (DAS)

19.32 The main disadvantage that respondents identified related to access to the internet. There were concerns about:

- access requirements and costs for disabled people;
- digital access in rural areas;
- publicly accessible internet having time limits in place;
- online security for women experiencing domestic abuse;
- IT skills and anxiety when using IT; and
- exacerbating a divide, with those less likely to have the access, skills and support for using online systems then less likely to access benefits.

19.33 A few respondents felt that there would need to be investment in internet access and support in order to support this approach.

“Having the ability to complete application online is critical if social security in Scotland is to keep pace with other parts of both public/private service provision. However, resources will need to be made available to local authorities and advocacy groups to support vulnerable people and the digitally excluded to access online services.”

East Lothian Council

19.34 Some respondents had concerns about technical and security issues, including:

- practical issues like being able to save the document, print it, re-access a copy of it online, and provide supporting documentation;
- people being subject to fraud and theft;
- personal information being disclosed by accident or security breach; and
- the social security system being more subject to fraud – with less checking of information in person.

“Any such solution would have to be fully secure and we would expect the Scottish Public Sector Information Security Group to have been consulted in the process to provide us with the required assurances.”

North Ayrshire Council

**Question - What are your views on the new agency providing a secure email account or other electronic access to check and correct information for the purposes of assessing applications (noting that any such provision would need to be audited and regulated so that the security and accuracy of the information would not be compromised)?**

19.35 There were 85 responses to this question (50 organisations and 35 individuals).

19.36 Many respondents felt that this approach would be effective, and could speed up decision making, reduce paperwork and enable a quick check of information to ensure it was accurate. These respondents supported a secure email account (or similar) provided it was secure and was provided as an option rather than a requirement.

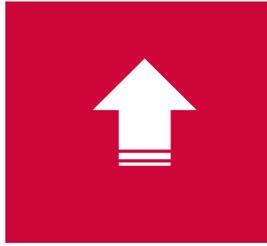
19.37 Many respondents had concerns about this approach, and reiterated concerns about digital access and support requirements for many. There were also concerns about security and fraud; lack of personal contact; a high potential for error; difficulties remembering passwords; nervousness about a 'state email'; and examples of previous negative experiences of similar situations.

"You need to use secure email alongside other non-digital material. Learn from the errors made in Universal Credit and how uncomfortable many clients feel with the over reliance on IT - do not make these same mistakes, otherwise you will lose the trust of the Scottish people."

Individual

19.38 Some respondents, mainly local authority respondents and COSLA, pointed to the range of approaches being piloted by local authorities which could be learned from. Others pointed to existing approaches like MyAccount, the Universal Credit email system, the Gov.uk verification system and local CRM accounts which they felt could be used or linked. A few cautioned that it was important that individuals were not required to maintain multiple secure email accounts and passwords, for example, to access devolved and reserved benefits.

19.39 Some respondents said that they were not clear what was meant and that they would need more information to be able to comment.



## 20. Uprating

## Proposals for uprating

20.1 The Scottish Government set out its proposals for uprating in Part 3 of the [consultation document](#).

### **Question - What are your views on the best way to ensure that devolved benefits keep pace with the cost of living?**

20.2 There were 126 responses to this question (78 organisations and 48 individuals).

#### **RPI or CPI**

20.3 There were varying views. Many respondents supported the use of the Retail Price Index (RPI) as opposed to the Consumer Price Index (CPI). The RPI was felt by many to provide a more accurate measure of the real cost of living, due to including housing costs. Some respondents indicated that the use of the CPI across the UK would result in disadvantage and inequality.

“Parkinson’s UK is disappointed that the Scottish Government plans to use the Consumer Price Index (CPI) as the basis for uprating benefits, as this measure consistently underestimates the true costs of inflation. The latest figures from ONS show that in the last year, CPI rose by 1%, compared with 2% for the Retail Price Index (RPI), the measure by which benefits were calculated until 2010. This makes a significant difference to the value of benefits for people who are living on very low incomes.”

Parkinson’s UK in Scotland

“The ALLIANCE recommends that newly devolved payments should be uprated in line with the Retail Price Index (the inflationary measure which constitutes the most accurate measure of the real cost of living).”

Health and Social Care Alliance Scotland (The ALLIANCE)

20.4 However, some local authority organisations and COSLA were content with the use of the Consumer Price Index and cautioned that decisions needed to be made in line with available funding.

“If the general acceptance is that CPI is the “cost of living” inflation measure, then this is an option on its own... This is in line with the UK approach and would ensure a fiscal link with the uprating of the funding due to come to the SG from the UK Government. If Scotland adopted a more generous uprating, then this would have to be funded at the expense of something else.”

COSLA

“We must also be wary of agreeing a blanket approach to uprating when the public finances will inevitably require savings to be made across the public sector. An automatic uprating to a benefit could realistically result in a cut to e.g. NHS or Council settlements. This would present a “perverse” outcome of being unable to support the very people we recognise as being in most need.”

East Ayrshire Council

## Targeted and flexible approaches

20.5 Some respondents talked of more flexible approaches, with uprating of different benefits being done differently – and with targeted approaches to reduce poverty, child poverty, inequality for disabled people and other inequalities. Some were keen to see specific targeted increases aimed at closing the poverty gap. While some felt that meaningful regular reviews should be put in place to allow targeted increases, others felt that the level of benefit should be reviewed at the outset to ensure it was adequate – for example, for funeral payments or carers. A few mentioned particular costs which had risen above inflation – such as the cost of energy, funerals and rural living – which may require specific consideration.

“Whilst we appreciate that there are limited funds and therefore limitations on to what extent payments can be increased we would advocate a creative and flexible approach which, whilst targeting specific groups, does not leave others behind.”

Glasgow Council for the Voluntary Sector

## Other options

20.6 Some respondents highlighted other potential options for uprating, including:

- a double or triple lock – similar to the uprating on pensions (at the highest of the growth in average earning/ CPI or RPI/ or 2.5%);
- uprating at the same rate as the Living Wage increases;
- a defined minimum percentage increase, with discretionary increases above this (perhaps applied to certain benefits); or
- uprating in line with the Minimum Income Standard (MIS) developed by the Joseph Rowntree Foundation and determined annually.

20.7 Many respondents felt that whichever option was adopted, benefits should not be either frozen or reduced. A few also highlighted the need to take care that uprating of devolved benefits did not result in individuals receiving a lower level of reserved benefits as a result.

“Our recipients stated the need for yearly increases in benefits awards. There was no consensus between recipients on a link with the consumer price index for benefits. However, everyone agreed the process to settle rises should involve the views of disabled people.”

ILF Scotland “It is essential that benefits are adequately uprated to reflect increases in costs such as inflation. Benefits should also be reviewed as required to ensure that they remain relevant to actual living costs and support a suitable standard of living for claimants in line with the Scottish Government’s vision and principles.”

Chartered Institute of Housing Scotland

**Question - Are there any devolved benefits in particular where uprating based on a measure of inflation would not be effective? If so, please explain which benefits and why.**

20.8 There were 61 responses to this question (37 organisations and 24 individuals).

20.9 The most commonly cited exceptions were:

- Funeral payments – with many respondents believing that funeral costs had increased substantially in recent years, and that the payment should be more in line with actual costs; and
- Cold Weather / Winter Fuel Payments – which many felt should be related to the cost of energy (which some indicated could be volatile).

20.10 A few respondents mentioned that there may also need to be different approaches for:

- Discretionary Housing Payment – which may need to be more closely linked to housing inflation;
- IIDB – which may need to be more closely linked to wages;
- PIP core component – which may need to be more closely linked to the cost of care; and
- Best Start and Job Grant – which may not need reviewed so regularly.

“There should be additional flexibility to uprate specific benefits for carers, disabled and older people on areas where they have additional usage or costs above that of the rest of the population. This might, for example, include energy and fuel costs. In these circumstances, it may be appropriate to uprate above RPI.”

The National Carer Organisations

20.11 However, a few respondents felt that any differences in how devolved benefits were uprated would be unfair, and a few had concern that benefits reflecting costs may result in some costs being artificially increased.

# Appendix 1: List of suggestions for an alternative name for 'Claimant Charter'

**Question: Can you think of another name for a 'Claimant Charter' that would suit this proposal better?**

- [Scottish] Social Security Charter (most often suggested);
- Scottish Social Security Rights Charter;
- Scottish Social Security Citizens Charter;
- Scottish Charter of Rights to Social Security;
- The Scottish Social Security Customer Charter;
- Social Security Charter: Rights and Responsibilities;
- Scotland's Social Security Charter of Rights and Responsibilities;
- Charter of Income Rights and Responsibility;
- Customers Rights and Responsibilities;
- Citizens' Rights in Social Security;
- Scottish Social Security Service User's Charter of Rights;
- Charter of Rights for Accessing Social Security Entitlements;
- Charter of Rights to Social Security;
- Charter for Equal Treatment and Dignity;
- A Human Rights Charter for Social Security;
- Support for Citizens Promise;
- Customer Promises;
- Claimant's Rights Charter;
- Charter of Claimant's Rights;
- The Scottish Individual's Claimant Charter;
- Claimant Aid: Scottish Social Standards;
- Social Partnership Charter;
- The Social Security Accord;
- A Safeguard for Scots;
- A guide for users and administrators with Justice and Dignity;
- Citizens Charter (suggested by a few);
- Customer Charter;
- Recipient Charter;
- Support Charter;
- Social Security Users' Charter;
- People's Charter/Person's Charter;
- Social Support Charter;
- Scottish Social Services Charter;
- Social Benefit Charter;
- Scotland's Charter;
- Entitlement Charter;
- Dignity and Freedom Charter;
- Income Recompense Charter;
- People Benefit Claimant Charter;
- Health Related Income Charter;
- Your Right to Social Payment;
- Your Right to Social Security Explained;
- Your Welfare Rights Charter;
- Your Social Security Rights;
- Social contract;
- Money Matters;
- Living Income;
- Pounds and Pence; and
- Scots with Additional Needs.

## Appendix 2: List of suggestions for an alternative name for 'User Panels'

**Question: We are considering whether or not to adopt the name 'User Panels'. Can you think of another name that would better suit the groups of existing social security claimants which we will set up?**

- Advisory Panel;
- Advisory Group;
- Advisory Boards;
- Advisory Steering Committee;
- Activists Panel;
- Area User Groups;
- Benefits Recipients;
- Benefits Recipients User Group;
- Better Life Panel;
- Caring for You User Panel;
- Claimant Group;
- Claimant Panels;
- Claimant Consulting Groups;
- Claimant Consulting Panel;
- Claimant Forum;
- Client Panel;
- Client user Panel;
- Client Participation Panels;
- Client info;
- Customer Advisory Panels;
- Customer Panel;
- Customer Forum;
- Customer Group/Board;
- Citizen Advisers for New Person-centred System;
- Citizen Panel;
- Citizen Advisory Panel;
- Citizens' Commissions;
- Community Benefit and Aid Panels;
- Consultation Group or Panel;
- Consultant Panel;
- Consultative Panel;
- Consumer Panel;
- Co-production Panel;
- Development Group;
- Design Panel;
- Enablement Panels;
- End User Panel;
- Entitlements Panel;
- Experience Groups;
- Expert advisory Panel;
- Expert Panels;
- Expert Group;
- Experience Panels;
- Experience Groups;
- Experts by Experience Panel;
- Feedback Groups;
- Feedback Panel;
- Focus Group;
- Health Related Income Panel;
- Helping Us Groups;
- Income Rights Panel;
- Involvement Groups;
- Improvement Panel;
- Lay representatives;
- Opinion Group or Panel;
- Onwards Scotland Panel;
- Participant Panel;
- Peer Group;
- Peer Network;
- Peer Panel;
- People Panel;
- People Experience Panels;
- People Engagement Panels;
- People Journey Panels;
- People Supported;
- People with Experience [of the social welfare system];
- Representative Panel;
- Reference Group;
- Ready Steady Go Security;
- Recipient Panel;
- Scrutiny Panel;
- Scottish Social Security Citizens Panels;
- Social Security Advisory and Design Panel;

- Scottish Security User Panel;
- Scottish Social Security Citizen Investment Panels;
- Social Security Advisory Panels;
- Social Security Expert Panel;
- Social Security Group;
- Social security Board
- Social Security Champions;
- Stakeholder Groups;
- Stakeholder Panel;
- Support Panels;
- Service User Panel;
- Service Engagement Panel;
- Secure Income Panel;
- Security Scotland;
- Steering Committee;
- User Group;
- User Team;
- Valuing Your Experience Groups;
- Voice of Social Security Citizens;
- Forum;
- Network;
- 'Here is to life!'; and
- Upwards and Onwards!

# Appendix 3: List of suggestions on which services should promote awareness of the Funeral Payment

**Services which should promote awareness of the Funeral Payment to ensure that claimants know about it at the relevant time?**

Suggestions supported by a large number of respondents:

- funeral directors / homes; and
- registrars.

Suggestions supported by many respondents:

- NHS / health professionals;
- local authority;
- Scottish Government / DWP / Scottish social security agency; and
- advice services / third sector / community groups.

Suggestions supported by some respondents:

- hospital / health centre;
- GPs;
- social care / social work services;
- hospice / palliative care services; and
- bereavement support services.

Suggestions supported by a few respondents:

- faith groups;
- police;
- housing association / social landlord;
- lawyers;
- Tell us Once;
- bank;
- credit union;
- job centres;
- library;
- carer's services;
- older people's services;
- life insurance provider / funeral planning firm;
- florist;
- emergency services;
- education services;
- employers' HR departments;
- Facebook;
- newspapers; and
- post office.



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This document is also available from our website at [www.gov.scot](http://www.gov.scot).

ISBN: 978-1-78652-791-2

ISBN: 978-1-78652-795-0 epub

ISBN: 978-1-78652-796-7 mobi

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

Produced for  
the Scottish Government  
by APS Group Scotland  
PPDAS261964 (02/17)  
Published by  
the Scottish Government,  
February 2017



Social Research series  
ISSN 2045 6964  
ISBN 978-1-78652-791-2  
ISBN 978-1-78652-795-0 epub  
ISBN 978-1-78652-796-7 mobi

Web and Print Publication  
[www.gov.scot/socialresearch](http://www.gov.scot/socialresearch)

PPDAS261964 (02/17)