

---

**To:** Council

**On:** 29<sup>th</sup> September 2016

---

**Report by:** Chief Executive

---

**Heading:** Consultation on Social Security in Scotland

---

**1. Summary**

- 1.1 Scottish Government has invited responses to a consultation on social security in Scotland.
- 1.2 Responses to the consultation are required to be submitted by 28<sup>th</sup> October 2016. Attached to this report is a proposed Council response which has been developed at the request of and in consultation with the Council's administration group.
- 

**2. Recommendations**

- 2.1 Members are asked to approve the content of the proposed response for submission to the Scottish Government
- 

**3. Background**

- 3.1 The consultation seeks views on the Scottish Government's proposals for social security in Scotland. The consultation is in three main parts; a principled approach, the devolved benefits and operational policy.
- 3.2 The first part of the consultation considers how the vision and principles can be reflected in legislation, and the ways that social security is delivered.
- Fixing the principles in legislation – This considers how principles

can be reflected as either (a) a Claimant Charter or (b) writing principles into legislation

- Outcomes and the user experience – This considers whether the short, medium and long term outcomes that have been identified are correct
- Delivering social security in Scotland – This consider questions about how the new Social Security Agency might deliver social security, such as who should deliver social security benefits
- Equality and low income – A partial Equality Impact Assessment is attached to the consultation, and these questions consider the equality and low income considerations
- Independent advice and scrutiny – This considers the need for an independent scrutiny body, and whether there is a need for an independent function to oversee standards

### 3.3

The second part of the consultation relates to the devolved benefits, and considers in more detail the individual benefits that are due to be devolved, including:

- Disability Benefits (Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Severe Disablement Allowance, and Industrial Injuries Disablement Benefit)
- Carer's Allowance – Scottish Government are proposing the increase Carer's Allowance so that it is paid at the same level as Jobseeker's Allowance.
- Winter Fuel & Cold Weather Payments
- Funeral Payments
- Sure Start Maternity Grant – Scottish Government are proposing to increase this payment to £600, and to make further payments for additional children and when children start nursery and school.
- Discretionary Housing Payments
- Some Universal Credit flexibilities, including direct payment options for private rented sector tenants, and variations of single household payments.
- Job Grant – Scottish Government are proposing to introduce a new Job Grant to help young people aged 16-24 who are returning to work after a period of 6 months unemployment, and would be payment of £100 or £250 for those who have children.

### 3.4

The third part of the consultation relates to operational policy

- Information, advice and representation – This considers the role that publicly funded advice should play in the development of a new Social Security System
- Complaints, reviews and appeals – This considers the best way to handle complaints and concerns, and the role of internal review and appeals processes.
- Residency and cross-border issues – This considers the eligibility criteria about residency status, and plans that a residence test will

- be based on 'habitual residence'
- Managing overpayments and debt – This considers view on current arrangements for overpayments and the way that overpayments are recovered
- Fraud – Scottish Government proposes that officials should investigate fraud in the same way as 'Authorised Officers' do for DWP. This considers these current arrangements and whether there are improvements that could be made.
- Protecting your information – Scottish Government are proposing a 'Privacy by Design' approach to information handling and the consultation asks for view on controlled sharing of information from other public sector organisations.
- Uprating - This considers whether there should be a general Scottish uprating policy for devolved benefits and payments

---

### **Implications of the Report**

1. **Financial** - None
  2. **HR & Organisational Development** – None
  3. **Community Planning** – None
  4. **Legal** - None
  5. **Property/Assets** - None
  6. **Information Technology** - None
  7. **Equality & Human Rights** - None
  8. **Health & Safety** – None
  9. **Procurement** – None
  10. **Risk** –. None
  11. **Privacy Impact** - None
-

## Appendix A

### Renfrewshire Council Response

#### Social Security Consultation

#### Response to Scottish Government

September 2015

---

Renfrewshire Council welcomes the opportunity to provide a response to the Scottish Government on Social Security in Scotland.

The overview of the consultation makes reference to the constraints that are faced and the limitations to what Scottish Government can and can't do. It is correct that the primary focus should be the safe transition of benefits to the Scottish Social Security system, to make sure that citizens are not adversely affected by the transfer of powers. However, the new social security powers also offer a significant opportunity to improve and reshape the delivery of the devolved benefits.

At a local level, while there are no proposals at this stage around which agencies might be involved the delivery of social security, the balance need to be found between (a) using public sector organisations that already exist and might be well placed to deliver and (b) ensuring that organisations are sufficiently resourced to do so. The attached consultation response explores some examples of where connections to locally delivered services could add value to the social security system and improve user experience, but also examples where local authorities are already facing financial and administrative burdens within an already challenging financial context.

It is noted that Scottish Government has recently consulted on an ambition to eradicate child poverty, and a target to reduce relative child poverty to below 5%. As stated in Renfrewshire Council's response to the Child Poverty Bill consultation, it is recognised that Scottish Government has now gained significant taxation and social security powers, and it should look to use these to support more redistributive national policies in order to meet these targets. While a move to enshrine dignity and respect at the heart of the Scottish Social Security system is a critical one, there is a need to ensure sufficient resources are provided to match action with attitude. Proposals such as bolstering the Best Start Grant, and introducing a new Job Grant would be a support to low-income families, but it is suggested that they do not go far enough in order to meet the Scottish Government's proposed targets. For example, the consultation does not discuss Scottish Government's position on its ability to create new benefits, or to top-up reserved benefits. It is also unclear what Scottish Government's position is on the balance between universalism and targeting within the devolved benefits, and where each might be most appropriate to deliver on policy priorities.

## 1) Fixing the principles in legislation

2) Which way do you think principles should be embedded in the legislation?

- A. As a "Claimant Charter"?
- B. Placing principles in legislation?
- C. Some other way, please specify

### Option A) A Charter

Placing principles in legislation adds complexity and often wording can be open to interpretation. A charter would make things clearer with more detail. Legislation for the claiming, awarding and payment of new social security benefits can be made in line with the principles of the charter without having to place additional layers of complexity including the principles in the legislation.

If you think option A. "a Claimant Charter" is the best way to embed principles in the legislation:

3) What should be in the Charter?

4) Should the Charter be drafted by:

- An advisory group?
- A wider group of potential user and other groups or organisations?
- Both
- Some other way, please specify.

The charter should be drafted by an advisory group working with a wider group of potential users and front-line staff who work directly with users, and other groups/organisations who have expertise in the subject area such as partners and 'back office' staff.

5) 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?

The use of the word claimant could be seen as stigmatising. It might be better to have a charter which involves both rights and responsibilities of parties involved beyond the claimant and describes more clearly what its purpose is. Scottish Social Security Charter could be an option.

6) Do you have any further comments on the "Claimant Charter"?

If you think option B, placing the principles in legislation is the best way to embed principles in the legislation.

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

- The Scottish Government
- The Scottish Ministers

- The Chief Executive of the Social Security Agency
- Someone else, please specify

The ultimate responsibility should rest with Scottish Government, although there should be mechanisms to ensure responsibility is seen as collective.

8) Do you have any further comments on placing principles in legislation?

As the Scottish social security system is a new development, principles should be set in legislation. However, it should be noted that legislation can only play a limited role in embedding dignity and respect, ultimately this is a societal change that is required to change culture and attitudes. For example, while legislation like the Equality Act clearly puts accountability for principles in legislation, the lack of enforcement means that it can be interpreted as 'lip-service'. How can the legislation be made meaningfully enforceable and through which mechanisms, and what are the costs associated with doing this?

9) 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?

See above

## 2. Outcomes & the user experience

10) Are the outcomes (shown in the table on the previous page) the right high level outcomes to develop and measure social security in Scotland?

Overall, the outcomes seem reasonable.

It might be worth including others which reference value for money to the wider public (in terms of administration/fraud). The wider public's view of benefit recipients is often due to perceptions that some people receive benefits that shouldn't and some don't receive it who should. By embedding faith in the application, assessment, delivery and payment of awards then that in turn translates into positive views on the system and recipients.

- How will these outcomes be measured and tracked, and in particular how will we understand if achieving the outcomes can be related to social security? What will the costs and burden of measurement be?
- Some outcomes need clearer definition: what does 'public services experience less pressure' mean in practice? It can be unclear from whose perspective the outcomes are meant to be considered.
- The outcomes do not leave it clear what the Scottish Government is responsible for delivering and the distinction between these outcomes and the reserved system, and its relationship to passported benefits.

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

There are some issues which need to be addressed within the outcomes of the system:

- People need to have an awareness of the cost of social security benefits (hand in hand with other powers around tax, and a clearer conversation with citizens around what they want to pay for)
- Reflecting how the system supports people to become more independent and require social security less, where this is appropriate
- A position around universalism vs targeted support, the current outcomes seem focussed on giving out rather than prioritising. Is this a realistic position considering many benefits aren't means tested?
- Correlation to other savings – how does it align to other priorities for example, early years

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

Engage with current providers and user groups over current social security communications. Customers must be involved in this, and communications should be in Plain English. There needs to be transparency of decision making, with these decisions set in the context of wider decisions being made.

13) 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?

Customers and user representatives as well as advice groups, 3<sup>rd</sup> Sector and Voluntary groups, Local Authorities, DWP, Legal profession (for regs), Education Institutions (Plain English, context and interpretation for those who possibly have difficulty with communications (e.g. where English not first language/learning disabilities))

14) Are there any particular words or phrases that should not be used when delivering social security in Scotland?

Not claimant – customer would be better as it is less stigmatising

Any decision on this should be based on the context that many claimants will be claiming from the DWP and the Scottish Social Security System. Care should be given to ensure consistency with language as much as possible so not create confusion over terminology.

15) What else could be done to enhance the user experience?

- When people first get in touch
- When they are in the processes of applying for a benefit
- When a decision is made (for example, about whether they receive a benefit)
- When they are in receipt of a benefit
- Use of online and digital channels
- Regular contact and updates for the customer
- Effective signposting - esp between devolved and reserved benefits
- Very plain English definition of each benefit

- Clear information on awards, or no awards, with clear dispute rights. Clear information on what someone in receipt of benefit should expect and what their obligations are with regards changes in circumstance.
- Using information and data that already exists so there is less burden on both customers and administrators to process and evidence i.e. review Local Government Finance Act and use of Council Tax Reduction data in the context of Scottish Social Security

16)How should the Scottish social security system communicate with service users? (For example, text messaging or social media)?

All methods are appropriate however care should be made about easily outdated mobile numbers and email addresses for sending any personal information. When appropriate, formal written (post/email) communications are required. With regards to contacting claimants for further information, phone is generally the best method, however if carers/appointees/next of kin are involved that might not always be appropriate.

Any channels that are convenient, ensuring that the customer has both capability and availability to access those channels. Customer choice is important.

Aside from newer channels such as text and social media, there is a need to get the basic methods of communication right. For example, decision letter which are written in plain English, clear and easy to understand.

17)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?

Its accepted that co-production is an ideal method for service design particularly in order to ensure that the service has dignity and respect, but it should be noted that co-production is not always quick, nor does it necessarily yield the most cost effective option. If co-production is used then it needs to be true co-production at the right stage, rather than consultation or ideas gathering.

Scottish Government needs to be clear and transparent about the balance of costs where the preference is customer choice, and manage expectations on what can be delivered within resources.

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?

User Panels sounds quite formal, would a ‘group’ be more approachable, or something which focuses on wider customer voice?

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

18)Should the social security agency administer all social security benefits in Scotland?



There is an important role for social security to be delivered locally, and to allow the customer to interact locally with people who have the relevant local knowledge. Scottish Government do need to clearly consider the cost of the administration, especially where this involved adding an additional customer interface to an already complex system. Data sharing arrangements will be critical to managing the costs and efficiency of such a complex system.

The social security agency could administer all social security benefits in Scotland following the model where LAs are required to administer HB, blue badge schemes, EMAs, clothing grants and now SWF on behalf of other agencies such as DWP and Scottish Government. The social security agency could provide legislation, guidance, systems and manage the delivery with cost efficiencies being found at a national level, but with LAs providing local front facing delivery with joined up working with Benefits, Revenues, Social Work, Education, NHS Community Partnerships etc.

19) Should the social security agency in Scotland be responsible for providing benefits in cash only or offer a choice of goods and cash?

Cash is the preferred option, but ultimately there needs to be an element of flexibility and choice retained.

Consideration should be given as to how the devolved benefits will interact with the reserved benefits system. For instance, increasing Carers Allowance would be seen as a good idea; however for UC claimants any extra given from the Scottish social security agency would be lost within the UC assessment. Whilst a choice should be given, the SWF has shown savings have been made by collective resources using goods rather than cash only. Cash might not always be spent on the most efficient way to reduce costs/hardship for some customers; therefore consideration could be given whether some benefits would be better awarded in goods/discounts etc.

Consideration should also be given to whether a Scottish agency would have the capacity to deliver goods.

20) How best can we harness digital services for social security delivery in Scotland?

Scottish Government should consider a 'digital first' approach, while maintaining phone, face-to-face and other communication channels as an alternative.

Digital services have an important role in providing accessible applications and information, and can sometime break down barriers caused by face to face communication. However for certain people this is not ideal. Whether due to ill health, lacking in digital skills, have no access to digital hardware or the necessary connectivity there would seem to be an important need for face to face provision.

Consideration should also be given to the opportunities to use digital at the 'back end' of social security delivery, to automate processes or make them more convenient. It will be important to ensure that this can be effectively interfaced with DWP work in this area, and to understand some of the existing issues in this area, such as the current legislation and Memoranda of Understanding. For example, while the Welfare Reform Act has opened door to data sharing, this is then significantly limited by the MOU.

21) Should social security in Scotland make some provision for face to face contact?

Provision for face to face contact is important element. Face to face offers significant value in allowing interaction and communication between the two parties – there needs to be a variety of contact types so that they best suit the needs and requirements of individuals.

However, it is recognised that this is also the most expensive channel and need to be appropriate for the person and the circumstance (for example, alternatives may be more appropriate in more rural areas).

22) Who should deliver social security medical assessments for disability related benefits?

While dependent on the type of assessment, there needs to be consideration of how health service information can be used if it is available and already there. Medical assessments should be carried out by someone able to make a decision based on medical training and the impacts of conditions on day to day living/coping, rather than training in carrying out assessments.

23) Should we, as much as possible, aim to deliver social security through already available public sector services and organisations?

Yes, offers coherent approach with holistic targeting to assist claimants and target poverty/hardship. Should also reduce set up costs and administration as network already exists. Enhancement of existing network would be easier, reducing risk of disruption, for customers.

There is a danger if locally administered that it can create too many discrepancies and ‘post code lottery’ of entitlement. However, sometimes for equality, difference may be needed locally to reflect the area.

Using an existing network could help to mitigate the costs of set up and delivery, as where there is another level of complexity then there are likely to be higher costs. Where existing public sector services are used, it is important that they are appropriately compensated for the costs of delivering social security. For example, existing arrangements for the delivery of SWF and UC mean that local authorities are not appropriately compensated for the delivery of these benefits.

24) Should any aspect of social security be delivered by others such as the 3<sup>rd</sup> sector, not for profit organisations, social enterprises or the private sector?

It would depend whether any of the listed organisations can provide coherent cost effective national coverage consistently. Also would provision of benefits impact on their current advice role – conflict of interest?

Where considering the delivery of social security by another agency, the motivation and overriding business interest of the organisation needs to be considered to ensure it is compatible with the social security outcomes that have been identified.

One major problem with benefits is clients not claiming what they are entitled to. Jobcentre Plus offices as they stand at present have a focus on work and work related benefits. There’s no equivalent to the old Social Security offices that covered the full range of benefits. If there were frontline benefit staff trained to advise clients on every benefit they may be entitled to, that would be the ideal. If not, could an organisation be funded to offer that kind of advice?

#### 4. Equality and low income

25)How can the Scottish Government improve its partial EqIA so as to produce a full EqIA to support the Bill?

These prompts could be helpful in framing your answer:

- What does the Scottish Government need to do, as it develops a Scottish social security system, to ensure that equality implications are fully taken into account?
- What does the Scottish Government need to do, as it develops a Scottish social security system, to ensure that any implications for those on low incomes are fully taken into account?
- Are there equality considerations for individual benefits that you would like to draw to our attention?
- Are there considerations about individual benefits for those on low incomes that you would like to draw to our attention?
- What are your views on how we can best gather equality information for the new Scottish benefits?
- What does the Scottish Government need to do to ensure that its social security legislation (including secondary legislation and guidance) aligns its vision and principles with equality for all those who need assistance through Social Security support?
- What does the Scottish Government need to do to ensure that a Scottish social security system provides the right level of support for those who need it and what are the possible equality impacts of this?

#### 5. Independent advice and scrutiny

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

27)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?

Yes, without a second chamber in Scottish Parliament, and to avoid political blockage an independent body established via law, could scrutinise legislation and report back to the Social Security Committee (or any others where appropriate) in Parliament. The independent body could draw upon experts in the area (for fixed term appointments) but be publically accountable and transparent similar to the SSAC. It would make sense to use the SSAC or a similar model with responsibilities for scrutinising, which has an appropriate level of influence.

28)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)?

Look at what works in the current Social Security scrutiny board and what doesn't. It needs to be independent and have a wide cross section of members with the needs of Scottish people at the heart of it.

29)Should there be a statutory body to oversee Scottish social security decision making standards?

Yes, to assess decision making and ensure it is fair and just across the country. This would need to include analysis by appropriate independent qualified persons, eg. External evaluators.

It does not necessarily need a new body; possibly widen existing body to include this remit. Depends on what you mean separate from? Separate from those that make decisions yes, not necessarily separate from the Social Security Agency. What could the role be for Audit Scotland or the Accounts Commission?

Eg. With SWF, the Scottish Government concluded that SPSO was required for 2<sup>nd</sup> tier review – if this is similar then would need an independent body

30) If yes, should this be a separate body in its own right?

31) Do you have any other views about the independent scrutiny of social security arrangements in Scotland (e.g. alternative approaches)?

## **Part 2: The Devolved Benefits**

### **6. Disability Benefits**

Thinking of the current benefits, what are your views on what is right and what is wrong with them?

#### Disability Living Allowance

32) What is right with DLA?

DLA recognises that there are different levels of need, in particular the lowest rate care component recognised that some people have significant needs that need some help often from another person, PIP does not have an equivalent of this. The lower rate also had passported appropriate benefits such as no non dependant deduction in Housing Benefit that recognised that the disabled person may need some help from another person living in the household and they were not then penalised by needing the person to be there.

The qualifying conditions were quite open, no points system, so disabled persons did not need to fit into a particular category it was their overall care needs that were looked at and how often they needed care.

DLA covered safety issues better for disabled persons in terms of falls etc, PIP relates it to individual tasks more which can make it difficult for someone with genuine needs in this area to qualify.

33) What is wrong with DLA?

As above the qualifying conditions were not always clear.

The highest level of care component required both day and night time needs, so many severely disabled

people who had a lot of additional costs could still only qualify for the middle rate of care component.

The more open criteria, this could also make it difficult for a person to properly explain their needs and know what information DWP were looking for to qualify. If they struggled or avoided tasks as no one was there to help them then they did not know to mention this as it was the help that they needed not necessarily the help that they actually got that was also relevant.

There are very limited points for supervising a medical condition, the higher points are connected to therapy. Someone with epilepsy for example would need to make it clear in each task section why they need supervision.

### Personal Independence Payment

34)What is right with PIP?

There is a better recognition of mental health conditions, particularly relating to mobility and the enhanced rate.

There is more of a breakdown of tasks that may prompt a disabled person to remember their needs in those areas. Also they can see what was accepted and what was not by decision makers and can then obtain evidence of that need.

35)What is wrong with PIP?

- The mobility rate with regards to distance is too low at 20m. This disqualifies a lot of disabled persons who genuinely need financial support for their mobility difficulties.
- The descriptors do not make it clear regarding whether tasks can be done in a reasonable time, repeatedly or the effects of pain and fatigue. Although these are meant to run throughout the descriptors, decision makers, disabled people, their carers and the Tribunals all too often fail to take this adequately into account resulting in the disabled person losing out on vital assistance. Disabled persons with conditions like kidney failure, cancer etc who struggle with fatigue and similar issues often don't qualify because this has not been identified.
- If you receive kidney dialysis in hospital you do not qualify for PIP, again these disabled persons have to try to explain about fatigue etc around each descriptor instead of qualifying automatically
- The descriptors are often too restrictive, disabled people's needs are extensive and varied and don't always fall neatly in to tick boxes in terms of times and numbers.
- PIP are making very short awards, this means that the review form is sent at the end of the first year very shortly after the award has been made for a 2 year award. Disabled people then feel that they are on a continual treadmill to prove their needs. Whilst this may be appropriate for some conditions, in a lot of cases it is unnecessary and causes additional stress and worry.

### Attendance Allowance

36)What is right with AA?

See DLA comments above apart from the lowest care component which is not part of Attendance Allowance. Good for capturing wide variety of needs and around supervision etc.

37)What is wrong with AA?

No lowest rate in the care component allowing for lower level of needs that still require financial support, particularly as this might allow a person to stay at home longer and avoid them going into care. They often need additional adaptations or support that Social Work or Health cannot supply and they need to be able to pay for this.

No mobility component that again might assist a person to remain at home rather than going into care and keep them independent and engaged in society and help prevent isolation.

38)Is there any particular change that could be made to these disability benefits that would significantly improve equality?

We need to improve how we describe what certain disability benefits are and what they are for – they have a very specific purpose. As above, the current assessment processes are often not suitable for claimants with some mental health conditions.

39)How should the new Scottish social security system operate in terms of:

- A person applying for a disability related benefit
- The eligibility criteria set for disability related benefits
- The assessment/consideration of the application and the person's disability and/or health condition
- The provision of entitlements and awards (at present cash payments and the option of the Motability Scheme)
- The review and appeal process where a person isn't content with the outcome

We 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.

40) With this in mind, do you think that timescales should be set for assessments and decision making?

Targets and timescales are needed as often the delay in financial support can result in a condition becoming worse and then there is hospitalisation or a move into care that results in a far greater expenditure to the public purse. Expectations are also then clearer and there should be better information to claimants around current processing times. Prioritising certain types of claims in addition to DS1500 (terminal illness/end of life) cases could be considered after careful info gathering from Health and Social services on this. For example to help someone leave hospital earlier making beds available and costing less. This would need to be balanced with the needs of other claimants and the effect on their timescales though.

Timescales can also affect things like whether someone can get help with a new boiler, or a different type of housing. In some cases, the AA/DLA is the passporting benefit to these, so a delay not only affects the clients day to day expenditure, it can have a real effect on quality of life.

41)What evidence and information, if any, should be required to support an application for a Scottish benefit?

Relevant and up to date information should always be required to support any application. The decision makers should be responsible for requesting this information from the applicant, and where appropriate a 3<sup>rd</sup> party (assuming application declaration makes reference to allowing contact) should be asked to provide information. Whether there is a requirement for legislation to be drafted to oblige provision of information is also to be considered. The applicant should have responsibilities if appropriate, however medical evidence for instance would be more efficiently obtained from medical practitioners.

The Scottish Social Security agency should be able to request information on their behalf, but whether there are necessary regulations in place would need to be investigated, especially if requests are being made with organisations based outside Scotland.

42)Who should be responsible for requesting this information?

The request and costs if evidence is deemed required should come from the office assessing benefit. Evidence can be difficult and expensive to source from many places particularly medical and should be avoided if not needed and sufficient and probable evidence is coming directly from the claimant.

43)Who should be responsible for providing it?

This would depend on the nature of the disability and most appropriate source related to that

44)Should the individual be asked to give their consent (Note: consent must be freely given, specific and informed) 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?

- Being able to use existing information held – need to create legislative route to allow the data sharing
- A number of professions, family members etc can all be involved assisting someone who has a disability and they can provide vital info and confirmation of their needs. Indeed often the disabled person themselves underplay their needs and the family are the ones struggling to help and facing the reality of caring.
- The GP often does not know about home life and other professionals can be visiting the home and have a better understanding, e.g. For mental health issues the Community Psychiatric Nurse or psychologist can be more appropriate.
- Family members often know the needs and issues the best, but this evidence is all too often dismissed. It should be assessed appropriately and in a measured way relating to the disability. i.e. is it probably and likely then should be accepted.

45) If the individual has given their permission, should a Scottish social security agency be able to request information on their behalf?

Yes

46) Do you agree that the impact of a person's impairment or disability is the best way to determine entitlement to the benefits?

Yes

47) If yes, which aspects of an individual's life should the criteria cover and why?

All aspects, currently it is only self care relating to bodily functions and mobility, but there should be more flexibility for other needs particularly relating to remaining in your own home. Some of this is covered by other assessments e.g. home care needs by social services, but they are limited in what they cover and less choice even with self directed payments. A benefit award would allow much more choice and flexibility.

Scottish Government could explore a single assessment model to see if this is feasible. It could cover a number of different assessment elements from different perspectives, for example, existing joint assessments between social work and health that already include financial assessment questions. This should be approached with caution as it would require significant changes around data sharing and may require a significant level of upskilling (for example, around having conversations about household finances) but a more holistic view from the individual, medical professionals, family and carers could offer a truer assessment.

48) If no, how do you suggest entitlement is determined?

49) Currently there are only special rules for the terminally ill but should there be others?

As mentioned previously there is scope for a number of conditions including long term severe mental health conditions, genetic conditions that could be exempt from re-assessment or at the very least have longer awards made.

50) How could this be determined?

51) What do you think are the advantages and disadvantages of automatic entitlement?

Advantages are faster more stream lined process for very vulnerable clients. Should speed up assessment and reduce appeals thus improving decision making.

Disadvantages could be whether certain conditions should have automatic entitlement over others.

52) 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?



Most claimants support this as it makes it easier for them and because medical professionals do not have the time to supply this most of the time or it can depend where you live or your specific needs

53) Do you agree that the current UK-wide PIP and AA process for supporting people with terminal illnesses is responsive and appropriate?

Yes and No

54) If yes, should this approach be applied to all disability-related benefits for people with a terminal illness?

Yes, the principle is correct and PIP special rules is a great and very positive development - allowing advisers to make the claim remotely and quickly and without the initial phone call and first form sent out delaying the process.

55) If no, how could the approach could be improved?

Occasionally DS1500s are rejected by decision makers. Macmillan met with Atos last year and said that DS1500s should be accepted, end of, since then this appears to have improved.

Attendance Allowance - It would be great if the same telephone application process could be in place for this benefit and others, they do send the forms out quite quickly but why can't we make a remote claim the same as PIP. This would be another great and positive development and should be included in any Scottish specific system.

56) Should there be additional flexibility, for example, an up-front lump sum?

Yes, this would be helpful even with faster process. This should be considered as even with fast track it can be 2 weeks or more before a first payment.

57) 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?

Yes

58) What would the advantages and disadvantages of a single, whole-of-life benefit be?

A consistent approach with fewer applications for customers to make would be easier to administer and easier for customers to understand. By having one benefit, it would be easier to prevent confusion and possible gaps in eligibility based on age. Eligibility criteria could be made flexible enough to cover all age ranges within the one benefit. This could also be beneficial for people with multiple conditions, or those whose conditions are deteriorating.

This should be particularly explored for any conditions where needs will not change over time especially if the award is at the highest level. Re-introduction of appropriate indefinite / life awards could be considered creating longer award periods before being looked at/re-visited for certain conditions. As above, the decision maker would be best placed as someone with medical training.

59) Could the current assessment processes for disability benefits be improved?

Yes

60) For those people that may require a face-to-face assessment, who do you think should deliver the assessments and how? For example, private organisation, not-for-profit organisation, public sector body or professional from health or social care.

The face to face assessments for PIP have proved extremely poor in quality and expensive to deliver. Appeals have had a high success rate and have demonstrated that many cases where zero points were awarded, the person then passed at appeal. In particular exemptions have not been used enough for disabled persons with serious conditions where other evidence could have been used to avoid the time and expense of a medical. The medical assessments have proved very poor for mental health conditions in particular, with many claimants unable to attend a medical due to the severity of their condition and were then refused or removed from benefit.

People carrying out assessments should be suitably qualified to make decision not just trained to perform an assessment, and assessments should be carried out by an organisation that does not have any self-interest in the process.

61) What are the advantages and disadvantages of different types of assessments? e.g. paper based, face-to-face, telephone

Paper based can be good, as it allows time for a claimant to put down their info and also to obtain help from others to complete the info. The DLA form used to ask for info from (someone who knows you) and this could be used for relatives and support workers as well as for medical info. It did ask for those involved in treatment and for consent to allow the DWP to contact them, but did not make it very clear that they would only contact sometimes. Claimants would think that their health professionals would always be contacted as they had filled this in. If paper based then it should be clear what is likely to happen and when additional info would be helpful and what info.

Face to face can be good, depending on who is delivering this and the purpose. Too often the medical assessments although face to face have not allowed the client time to discuss their needs properly or allowed others with them to speak. They have been very procedural based and set questions with the medical assessor rushing through the questions and making assumptions. This is why many appeals are successful as the person is allowed to explain their needs fully.

Some claimants can explain their needs better face to face then on paper, but it very much depends on the context of these assessments and the individuals carrying these out and the claimants attending. They can be extremely stressful for claimants particularly those with mental health conditions who often then don't turn up to the appointment and are refused benefit.

Some claimants prefer the use of phone especially if they are unable to travel, however, we have also found that they do not explain their difficulties on the phone as well and are more likely to be rushed.

62) How could the existing assessment process be improved?

63) Could technology support the assessment process to promote accessibility, communication and convenience?

Yes. There is the possibility to link with telehealth initiatives going on in more remote areas, where the discussions around medical info and data security on Skype etc have already been thought through.

64) If yes, please explain what technology would be helpful e.g. Skype, video conferencing.

There is a lot of potential of using facilities like Skype, however, this needs to be balanced with access to these facilities and so that we ensure individuals are not disadvantaged because they cannot use technology. However, potential advantages could be claimants not having to travel to assessment centres or also could medical staff or other relatives and support workers give evidence this way for a claim?

65) If the individual's condition or circumstances are unlikely to change, should they have to be re-assessed?

No

66) What evidence do you think would be required to determine that a person should / or should not be reassessed?

As mentioned previously there is scope for a number of conditions including long term severe mental health conditions, genetic conditions that could be exempt from re-assessment or at the very least have longer awards made.

67) Who should provide that evidence?

Any available sources including G.P and other health services, or potentially school if a young person

68) Do you think people should be offered the choice of some of their benefit being given to provide alternative support, such as reduced energy tariffs or adaptations to their homes?

Yes

69) What alternative support do you think we should be considering?

This could be a possibility, if for example Fuel companies could be persuaded to contribute to this. However, there has been a long enduring principle of individual choice regarding disability benefit payments and this could be very difficult to decide on in a fair and just way. It could be more attractive if the value of the fuel assistance was higher than the benefit payment.

It should be noted that offering choice adds complexity and cost to the system, and if a fuel tariff was offered, it would need to be cheaper than the cheapest tariff on the market.

70) Would a one-off, lump sum payment be more appropriate than regular payments in some situations?

Yes

71) If yes, what are they?

72) What would be the advantages and disadvantages of such an approach?

The UK government recently scrapped a proposal with regards to changes in PIP for some aids. The policy intention document and consultation should perhaps help inform this answer. For some a one-off lump sum payment may be more appropriate however what would happen if after a one off lump sum payment, a regular payment is more appropriate. Would this be rejected? Whilst people have the right to individual choice, what would happen if the lump sum payment is spent on other things, or is stolen or lost for example. Could this place people in financial difficulty?

It may be difficult to assess and award fairly, also claimants would need to be very well informed on the pros and cons. Advantages could be purchasing equipment they could not otherwise purchase that could be of real benefit. This may be cheaper than rental in some cases, but would need to be weighed alongside any future potential costs of repair or replacement etc. Also the lump sum could be used to take steps to improve the condition, where appropriate

73) Should the new Scottish social security system continue to support the Motability scheme?

The Motability scheme seems to be popular, and it is important that the transport needs of disabled people are recognised and supported to ensure these needs are met. It is suggested that a benefits analysis would need to be carried out to further understand the scheme.

74) How could the new Scottish social security system support older people with mobility problems not eligible for a mobility allowance?

There may potentially be other options, for example community transport, other discounted options and deals – particularly for those who are not eligible for free transport. As above, where additional choices are added this adds complexity, and therefore cost to the system.

75) 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?

76) What kind of additional support should be available for people who need more help with their application and during assessment?

Additional support should include access to an advocate or someone who can support you through that process, for example by an increased investment in befriending and advocacy. It may be possible to provide online support if people are using a digital system. It might also be possible to link to other support which is already available at key life transitions or events.

77) How could disability benefits work more effectively with other services at national and local level assuming that legislation allows for this e.g. with health and social care, professionals supporting families with a disabled child.

Holistic approach should be taken with joined up working and shared services locally, helping with applications, administration, assessment and payment of benefits. There are potentially linkages with self directed support and adult care assessments

78)How do you think this might be achieved?

79)What are the risks?

80)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 Earnings Allowance etc) in the benefits system?

In addition to the issues set out above, please tell us:

81)What is right with the IIDB scheme?

82)What is wrong with the IIDB scheme?

Is this still required as a separate benefit, can IIDB be incorporated into DLA and PIP?

Consideration should be given to the interaction of IIDB with Pension Credit and Housing Benefit – is there a possibility that this could be allowed to be disregarded from the assessment of other social security benefits?

83)Should different approaches be taken for people with life limiting conditions compared to people with less severe conditions?

84)What would be the advantages or disadvantages of such an approach?

85)Are there situations where a one off lump sum payment would be more appropriate than a regular weekly IIDB benefit payment?

86)What are they, and why? What would be the advantages and disadvantages of such an approach?

87)Should the Scottish Government seek to work with the UK Government to reform the IIDB scheme?

Where possible and where appropriate the Scottish Government should contribute within the reform proposals. At the very least any information which would come out of the reform proposal could inform any policy decisions taken in Scotland. If the UK Government move towards an employer liability scheme through tax/NI contributions that would be a reserved matter and may be easier to work together to obtain this if this was desired.

88)If yes, what should be the priorities be? What barriers might there be to this approach?

89)Do you agree with the Scottish Governments approach to Severe Disablement Allowance?

“Severe Disablement Allowance (SDA) was available to people unable to work for at least 28 weeks in a row because of illness or disability. It was closed to new applicants in 2001. The equivalent benefit available now is Employment Support Allowance (ESA) which is not being devolved, and working age recipients of SDA are being transferred onto ESA. It is our understanding that by the time this benefit is devolved there will only be a very small number of pension age recipients of SDA in Scotland. The Scottish Government intends to ensure that this group of people who are still receiving this benefit when the powers are transferred, continue to receive this level of award through Scotland’s social security system.”

Yes. Due to the numbers it would be simpler to continue the current process rather than add risk by trying to change a benefit which will have ever-decreasing caseload.

## **7. Carer’s Allowance**

90) Do you agree with the Scottish Government’s overall approach to developing a Scottish Carer’s Benefit?

Yes, as it would make sense to tie into any changes to the corresponding disability benefits that are being considered. It reduces the need for carers to claim second benefit to top this up, but there is still significant need to increase uptake.

Consideration should be given to how other benefits may overlap, for example, State Pension (if Carers Allowance is taken into account as an income people may not be better off after this is disregarded from the pension)

Care assessment does capture what carers do, which then influences the amount the person being cared for gets. Is there a way that this information can be used from Health and Social Care services?

91) Do you agree with our proposed short to medium term priorities for developing a Scottish carer’s benefit?

Yes, however full consideration should be given onto the impact of increasing Scottish Carer’s benefit within UC and other reserved benefits. Any increase in Scottish Carer’s benefit could reduce amounts of reserved benefits thus being of neutral benefit to the applicant. The way that UC is assessed, there are already instances of current CA claims resulting in a negative impact on UC entitlement. This could also be reciprocated in HB and CTR.

The proposal for exchanging some, or all, of a cash benefit for alternative support could be a way around this unintended issue. For instance pay at UK wide CA rate and top up extra with payment in kind. This may be more complex and issues around choice and dignity would have to be considered

92) How can we improve the user experience for the carer (e.g. the application and assessment process for carer’s benefit)?

93) Should the Scottish Government offer the choice of exchanging some (or all) of a cash benefit for alternative support (e.g. reduced energy tariffs)?

94) What alternative support should be considered?

95)How can we achieve a better alignment between a future Scottish carer benefit and other devolved services?

96)Do you agree with our proposed long term plans for developing a Scottish Carer's Benefit?

Yes, there do appear to be many unjust gaps in those who are entitled to CA currently.

97)Do you have any other comments about the Scottish Governments proposals for a Scottish Carer's Benefit?

See previous comments about ensuring no negative impact on entitlement to existing (reserved and devolved) benefits for Carers.

## **8. Winter Fuel and Cold Weather Payments**

98)Do you have any comments about the Scottish Government's proposals for Winter Fuel and Cold Weather Payments?

As above, in the 'A Principled Approach' section – Scottish Government needs to consider its preferred approach around universalism and targeting. Does the blend of these two payments as means and not means tested work?

99) 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?

Consideration should be given to extending eligibility criteria for disabled people or where child under 5 in the household. In addition the number of days required at the low temperature level could be reduced to say 5. There could be difficulty in paying directly to heating energy provider where electricity cards and non-network energy provided. For those on fuel meters, would this be more likely to encourage people to switch heating on where this is necessary?

In terms of the temperature, the level does seem to be fairly arbitrary on the temperature level and how things like wind, rain and snow impact on requirement for additional heating.

## **9. Funeral Payments**

### **What should funeral payments cover?**

Currently, the funeral payment does not cover the basics of a very cheap funeral, and sometimes does not even cover funeral directors fees and doesn't happen quickly enough. This needs to be more targeted but needs to cover the costs. It is important that funeral payments are made quickly, particularly as a number of funeral directors always ask for disbursement fees upfront, as they need to pay these. It could be explored whether funeral payments can be used to cover this, as you currently need a quote from the funeral director to make an application for funeral payments, but you need to admit the body to get the

quote, and to pay a deposit in order to admit the body. Disbursement fees are fixed in each local authority area, so this part of a funeral could potentially be paid directly to Funeral Directors.

Payments should take into consideration what the deceased had left in provisions, but also be means tested on the person organising the funeral. Is there a way of paying funeral directors directly in order to make the process easier?

Lastly, some of the elements consulted on relating to the Funeral Payment cover a 'traditional' UK funeral ceremony. How will this relate to citizens with other cultures and religions where burial and funeral provision may look significantly different?

100) Which of these elements do you think should be paid for by the Funeral Payment?

YES NO

Professional funeral director fees – advice and administration etc.	
Removal or collection of the deceased	
Care and storage of the deceased before the funeral	
Coffin	
Hearse or transport of the deceased	
Limousines or other car(s) for the family	
Flowers	
Death notice in a paper/local advertising to announce details of funeral (time and location)	
Fees associated with the ceremony e.g. for the minister or other celebrant	
Order of service sheets	
Catering for wake/funeral reception	
Venue hire for a wake/funeral reception	
Memorial headstone or plaque	
Travel expenses to arrange or attend the funeral	

Yes – Professional funeral director fees, Removal or collection of the deceased, Care and storage of the deceased before the funeral, Coffin (basic), Hearse or transport of the deceased, Fees associated with the ceremony, Limousines or other car for the family, Memorial headstone or plaque (to a certain level)

No – Flowers, Death Notice, Order of Service sheets, Catering, Venue Hire, Travel Expenses

101) Are there other elements that you think should be included or explicitly excluded?

102) How can we improve the process for identifying whether someone is responsible for the funeral and should receive the funeral payment?



This could be difficult taking into account the complex relationships within families. Those arranging the funeral might not be the same person as the executor, possibly due to distance, finance, disability, family breakdown, or any other absence

103) 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?

104) 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 could be made.

Whilst in most cases, 3 months would be appropriate as funerals are generally arranged quickly; there is a lack of information and awareness about this support. In addition, grief and family breakdowns could result in delayed applications so arbitrary periods could be extended. While it would be expected that there is a cut off period, it might be best to take an average from data of rejected awards due to applying outwith time with the current process.

105) What are your views on the options for speeding up and simplifying the payment?

The average time between a death and a funeral is 7-10 days. This means that the proposed targets would likely result in all awards being made after the funeral has been arranged. In many cases, culture and social nature dictate that decisions when arranging a funeral are not always made with cost as a priority. What would make things simpler are clearer guidelines on what would be covered and the maximum amount payable for each expense. Funeral Directors would then be able to advise and broach the subject at the time of arranging a funeral. Funeral Directors would then more certainty over payment.

In cases where there is a terminal illness, applications could be made in advance and agreed in principle so close relatives would have the knowledge in advance of the arranging the funeral.

106) 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?

	Yes/No
Funds in the deceased's bank account	
Funeral plan/insurance policy	
Contributions from charities or employers	
Money from an occupational pension scheme	
Money from a burial club	

Funds in deceased's bank account – if over a certain limit then yes,

Funeral plan/insurance policy – yes

Contributions from charities and employers – no unless no next of kin, otherwise yes

Money from occupational pension scheme – no if no next of kin, otherwise yes

Money from a burial club - yes

107) Are there any other funds that you think are appropriate to deduct?

108) Which services should promote awareness of the funeral payment to ensure that claimants know about it at the relevant time?

Religious services (churches, mosques, synagogues etc.), Funeral Locations (Crematoriums/Graveyards etc.), Local Authorities (including Registrars/Social Work), Advice Agencies (including 3<sup>rd</sup> sector), HMRC, DWP (including Tell us Once Project), Hospitals/GPs, Care Homes/Hospices, Funeral Directors, Lawyers, Banks, Insurance Companies and any service industry involved in funerals – tombstone builders, florists, catering etc.

109) Are there any other points that you would like to raise in connection with the new Scottish Funeral Payment?

## **10. Best Start Grant**

110) What are your views on who should receive the Best Start Grant?

As with all means testing, there will always be people at the wrong side of thresholds that would be deserving of an award. Basing on those on very low incomes would be a basic requirement, however income does not necessarily equate to disposable income. Qualifying benefits/criteria would be easier to administer than an income threshold. The Universal Credit eligibility criteria open the door for entitlement when incomes are higher than others, depending on number of children, amount of rent etc. UC is quite complex to unpick, hence why UC awards are selected for eligibility for a number of other benefits/grants etc.

Complex entitlement criteria and assessment could be more expensive than a fairly universal approach. Consideration should also be given, based on the analysis of why the benefit exists, at what point is the first payment most crucial. Is it immediately after the birth, or is it in the first few months. Parents of a first child would have an inbuilt delay before they could meet some of the eligibility criteria. Modelling could be done on whether the first payment is lowered but made universal, with those on low incomes who meet free early learning and childcare or free schools meal or clothing grant criteria being given higher awards for nursery/school starts and/or subsequent children.

What is the interplay between other payments like the uniform grant and free school meals? Is there a possibility to connect these?

The payment should be made to the person with care, who receives child benefit.

The main issues with the current system is parents that have to wait until after the baby is born to get their Sure Start Maternity Grant (i.e. working parents that are not on Income Support and have to depend on their Child Tax Credit award which can take some time to process) especially if these families do qualify but claim their grant before their child tax credit is awarded and they are advised that they do not qualify for the maternity grant - when in fact they do if they had claimed 2 weeks later.... This either leads to families not getting the money they are due to receive or having to reclaim again following their appropriate benefit award. It would be ideal to avoid this.

It would be ideal to identify families that are going to qualify before the baby is born and get the grant awarded at this stage (29weeks). It will also help expanding mums buy additional clothes for their bumps and take a significant amount of stress away from families leading up to their baby being born who will be concerned they have to buy all these baby items and they are going to have to wait until their baby is actually here and their appropriate benefits have been processed.

111)Should we continue to use the same system to determine who is responsible for a child for the purposes of the BSG application?

Yes – criteria needs to be simple

112)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?

Yes, unless in shared access agreements stipulate % age access, and payments should be split accordingly. It may be possible to use child benefit data to establish necessary information and reduce complexity.

113)Should we continue to use the same method as the SSMG to determine whether a child is the first child in a household? If no, what alternative method should we use?

Yes, probably the simplest method to determine residency without cross referencing UC, HB, CTR, EMA, SWF, school roll data.

114)Do you agree that we should retain the requirement to obtain advice from a medical professional before making a maternity payment?

Difficult, whilst promoting applicants seeking medical advice and ante-natal care should be retained, if the analysis shows that those most in need do not seek it then the current requirement is failing. Those most at need are missing out in entitlement. Could the maternity payment be split so proportion paid earlier if medical advice/ante-natal care sought? Would be it possible to use information from the MAT1B form?

115)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)?

It is difficult to identify anything else which would be applicable to the majority.

116)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?

Depending on the circumstances the start of nursery will fluctuate from 2-5 and could also include nurseries and child minders. Would those who do not go to nursery receive anything? This will obviously go in hand with eligibility criteria.

117)Are there any particular issues related to the nursery payment that you think we should consider?

118)Are there any particular issues related to the school payment that you think we should consider?

119)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?

It would be easier to link the payment to the start of school in terms of Primary 1.

120)What are your views on our proposals in relation to the BSG application process?

The proposals would seem to be a fair approach.

Considering some of the interplay with nurseries and schools and various agencies, this benefit may be better delivered by local government, although health data would be required in order to make the first payment

121)What are your views on establishing an integrated application process for the BSG and Healthy Start?

This would make sense it will possibly increase take up, simplify application process and administration and maximise the Best start for children.

122)What are the advantages and disadvantages of this approach?

123)Would the option to receive items rather than a cash payment as part of the BSG have benefits?

It would be helpful to understand what sort of costs the payment is designed to meet in order to understand whether items would meet the policy intention. For example, using the money for books and toys needed at different developmental stages could be met through 'deals' being negotiated for certain items – allowing the payment to go further.

Whilst it could be argued that items instead of cash may stigmatise some people, items would be more cost effective and ensure the awards are spent on items that the benefit intention is there to cover. Collective purchasing of items would possibly allow more things to be bought thus maximising the award.

It might also be worth considering, whether there is any overlap with Community Care Grants for goods requested which are covered within this.

124)Which services should promote awareness of the BSG to ensure that claimants know about it at the relevant time?

Health Care professionals (GPs, midwives, ante/postnatal care clinics, health workers, nurses), Social Workers, Registrars, Child Benefit Agency, HMRC, DWP, Local Authorities (SWF/HB/CTR/DHP/EMAs/Clothing Grants), Childcare providers, Schools, Advice Agencies, 3<sup>rd</sup> Sector, Retailers who sell baby/children's goods (including Supermarkets)

## **11. Discretionary Housing Payment**

125)Could the way that DHPs are currently used be improved?

The intention of DHPs is to offer short term assistance for those experiencing financial hardship. UK and Scottish Government policy has moved so DHPs are seen as the 'silver bullet' for welfare reforms. The discretionary nature of DHPs has been diluted because of covering the 'bedroom tax' shortfall regardless of financial hardship, however funding for other significant shortfalls is not matched.

If an extension of DHP provision is to be considered then change in regulations may be required. DHP might even benefit from being called something different and given a clearer purpose.

Future HB/UC regulation change will indicate that demand for DHPs will persist, and even if the requirement to mitigate the impact of the bedroom tax within UC is implemented this will be 2017/18 at the earliest.

DHP is so demand led it is difficult to manage – the description in the consultation budget does not seem to describe a fixed budget fund like DHP (as distinct to other social security benefits). If this remains fixed budget, then there has to be an element of discretion in order to manage demand.

DHP is very closely linked to reserved benefits, and future changes will continue to add increased demand and pressure. How will this be managed?

Data sharing as UC progresses mean that this will become more challenging, e.g. what is a housing cost?

126) Could the administration of DHP applications be improved?

There is always room for improvement; however the pressure that LAs are under to deliver an increase in DHP applications with no additional funding is immense.

127) Does the guidance for local authorities on DHPs need amending?

The guidance for local authorities is based on DWP policy and funding. The DWP have been reluctant to change legislation and guidance in line with high profile court cases. Local Authorities will also have a Policy for their priorities based on funding and on top of this due to the discretionary nature of the assessment awards will vary based on individual applications.

There are plenty of good examples of local authority policies and guidance which should be explored.

## **12. Job Grant**

128) What should the Scottish Government consider in developing the Job Grant?

Establish what funding the DWP offer in terms of funding for work wear and travel. Consider the payment to cover necessary goods/expenditure for commencing work. Is it expected to cover subsistence awaiting first pay? (if so is there an overlap with other hardship payments?).

In terms of supplementing with free bus travel for a 3 month period, consideration should be given whether this is appropriate in all cases. For instance in our area some villages have little or no bus service (especially early in morning/late in evening) which might prohibit the use for some workers. Indeed for

those who commence work and work shifts, bus timetabling may mean that bus travel is not suitable. Whilst travel subsistence is commendable, different modes of travel (possibly combinations) should be considered: bus, train, ferry, underground, tram etc.

How does this interplay with similar offers from DWP and also local provision from local authorities?

All new payments will need to be considered by HMRC to establish whether it would be classed as a benefit for tax.

### **13. Universal Credit flexibilities**

129) Should the choice of managed payments of rent be extended to private sector landlords in the future?

Yes, claimant choice is the preference.

Landlords can ask for managed payments for those that are more than 8 weeks in arrears for UC, and ask for safeguarded payments for HB under the same criteria or where the claimant has vulnerabilities. There is no reason why managed payments of rent by choice can't be extended. This, however, will add in further administrative work. Are there going to be portals developed between social and private sector landlords and UC in the future? Most is currently postal or email based and administrative delay by the DWP could become an issue (for instance change of payment details/address). Could a delay from a private landlord result in a delay in the rest of the UC payment? – these kind of questions would need fully clarified.

130) Should payments of Universal Credit be split between members of a household?

The ability to split payments already exists where there are vulnerability issues. The default position should be to pay one member of a household. Evidence should be obtained to see if the current provision for splitting payments works, and if any anecdotal evidence on whether this has unintended consequences (e.g. domestic abuse, hardship etc)

131) If Yes, please indicate if you think the default position should be:

- a) automatic payments to individuals, with the option to choose a joint payment
- b) automatic household payments, with the option to choose individual payments?

(b) in principle, but care should be taken to make sure that decision making elements do not delay payments being made

132) 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?

133) Do you have any other comments about how the Scottish Government's powers over Universal Credit administrative flexibilities will be delivered?

Payment should be weekly or multiple weeks rather than monthly

At all times consideration should be given to the fact that UC is reserved and software reliant at times. Too much complexity could result in additional costs.

### **13. Universal Credit housing element**

134) Do you have any comments about the Scottish Government's powers over the housing element of Universal Credit?

What consideration is being given to future legislation changes which will apply LHA rates to social sector housing? Whilst it is laudable that action is being taken to in effect remove the social sector size criteria being used, the future changes in regulations have shifted the goalposts. If the Scottish Government choose to mitigate this change, they could face legal challenge that they do not mitigate it in the private sector where both will be assessed under the same criteria.

135) Also worth considering are changes to funding for temporary and supported accommodation which will have more of an impact.

### **Part 3: Operational policy**

### **14. Advice, representation and advocacy**

136) What role[s] should publicly funded advice providers play in the development of a new Scottish social security system?

Similar to this consultation, advice providers should be involved in drawing up detail on the changes and delivery of the Social Security system and be represented at appropriate high level meetings for example Citizen's Advice Scotland and Rights Advice Scotland.

137) What steps need to be taken, to understand the likely impact of the transfer of the devolved benefits on publicly funded advice in Scotland?

Forecasts would be helpful to estimate demand for information and assistance in connection with the new devolved benefits. For example, predicted numbers requiring assistance with claims and likely take up numbers under new criteria. Also current claimants may have fears regarding potential changes in income which will mean that the public will seek out advice. Estimates from uptake after similar changes would be useful, but could also be difficult to measure accurately.

If any automatic health conditions criteria are to be used for disability benefits, would health have potential figures or other sources of the number of individuals in Scotland likely to qualify as this would be helpful to communicate to advice services and by area.

It is also necessary to define what is meant by 'publicly funded advice' – almost all advice services are publicly funded. In addition to local authority in-house advice provision, third sector advice providers are often funded by local authorities and other local public sector partners.

138)How could the transfer of the devolved benefits to Scotland be used to drive improvements in the provision of publicly funded advice?

Advice providers should be represented on any scrutiny or advisory body that is set up for Scotland. There should also be regular liaison meetings between key management of the delivery agents and advice providers on issues arising for claimants in order to ensure continuing improvement.

139)Do you think that Independent Advocacy services should be available to help people successfully claim appropriate benefits?

As you have stated a lot of claimants have specific issue related to managing mail or attending appointments, often they are caught in a Catch 22 situation refused benefit as their condition is so severe that they fail to attend medicals or respond to mail. Advocacy services are able to assist at this time and also make good use of volunteers and buddies to assist. In the past claimants were more likely to have family close by to assist, but this is less and less the case now.

Partnership working between advocacy services and advice agencies good be improved with more shared premises etc to assist vulnerable clients

140)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?

## **15. Complaints, reviews and appeals**

141)Do you agree that we should base our CHP on the Scottish Public Services Ombudsman's, 'Statement of Complaints Handling Principles'?

Yes, the process meets the Government's principles.

142)How should a Scottish internal review process work?

Minimise administration and make it simpler for applicants. Review all current review processes – HB, CTR, DHP, SWF, DWP mandatory reconsiderations (etc.) then create a review process encompassing all the good points of each existing review process.

143)What would be a reasonable timescale for the review to be carried out?

If all information is received, then 14 days is realistic. If the review requires further information 14 days could be unrealistic with a month being more realistic. In most cases it will depend what information is required and who can provide it.

144)Should a tribunal be used as the forum for dispute resolution for the Scottish social security system?



A tribunal is a good forum, however the overlap between some of the devolved benefits and its interaction with reserved benefits might constrain it.

There should also be more options on alternatives, also the current format could be much improved. Currently although tribunals are meant to be claimant friendly and informal, they are often the opposite. Far too often the most vulnerable clients are those who are put off by appealing and the process. They should be made more informal and more options on locally based Tribunals or more options for support and rep availability/funding.

145) If no, are there any alternative methods of dispute resolution that you think would be preferable to a tribunal?

146) How can we ensure that our values underpin the appeals process for a Scottish Social Security agency?

Have a link between feedback/outcomes at appeal and regulations/guidance/decision making/training for decision makers, customers, advisors. This will allow strong focus on improvement, consistency and transparency.

147) Are there any other values that you feel should be reflected in the design of the appeals process?

148) What do you consider would be reasonable timescales to hear an appeal in relation a decision on a devolved benefit?

The timescale for hearing an appeal will depend on the timescale for submission and administrative competence. Time needs to be allowed for both parties to prepare. Applicants will need time to arrange advice, advocacy and representation.

2-3 months from the date the appeal is lodged might be achievable but it will depend on the resource and funding. If the Tribunals are held in regional locations there might be variations in capacity

149) 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?

Ensure effective and timely communication with clear details of what is happening, when an update should be received and what action the appellant has to take and by when.

150) How could the existing appeals process be improved?

There are a number of separate bodies that look at appeals currently, is there an opportunity to look at the uniformity of different processes? Also, a number of different agencies are using different terminology, is there an opportunity for a Scottish umbrella body for reviews and appeals?

Any appeals process should be transparent, independent, and well linked to advice, advocacy and representation. Consideration should be given as to how these appeals processes interact with reserved benefits.

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

160) Should Scottish benefits only be payable to individuals who are resident in Scotland?

Yes there needs to be clear eligibility criteria to allow fairness and transparency. Entitlement should be based on residency as this is the clear mandate the Scottish Government has to govern and pass legislation within the legal boundaries of Scotland. By making a clear distinction, administration will be less complex.

161) What are your views on the “habitual” residence test currently used in the UK by DWP?

It is a fair test in principle, whether or not the procedure needs improved is another matter for discussion. It can be complex, particularly around EEA nationals and will need to be re-explored post-Brexit.

162) Are there other issues that the Scottish Government should take into account when it comes to residency rules?

Consideration should also be given on whether immigration test should also be satisfied – right to claim benefits within UK. This is not particularly clear from the consultation whether this is to be taken for granted. It is essential that if the social security system is more generous in Scotland, then care should be taken to minimise benefit tourism. Since the Scottish funding for Social Security is limited, priority should be given on providing the service for residents of Scotland whilst fulfilling any obligation via EU law.

163) What factors should Scottish Government consider in seeking to coordinate its social security system with other social security systems in the UK?

Consideration should be given to protecting claims for benefits where there is equivalence between Scotland and rest of UK. If a claimant makes a claim to Carers Allowance for instance, but moves to Scotland before a decision is made, it would be beneficial if either the application can be transferred or the claim date protected.

164) How can the Scottish Government ensure that no-one either falls through the cracks or is able to make a ‘double-claim’?

Assuming applications are based on NINOs for identification purposes, double-claims can be prevented by checking with the corresponding awarding body out with Scotland before putting any claim into payment. This will require either efficient communication processes, or access to each other’s benefit systems. In terms of ensuring that no-one falls through any gaps, that could be minimised with the design of the benefits, the processes and the delivery. Risk assessments should be done as and when the system is designed which will allow for consideration to be given to each solution for those potentially who could fall through the system, allowing for appropriate pro-active measures being taken.

## **17. Managing overpayments and debt**

165) Could the existing arrangements for recovering social security overpayments be improved in the new Scottish social security system?

Yes, make the process more streamlined and efficient thus bringing cost savings. Where possible overpayments should be recovered from on-going deductions tied to income and expenditure, rather than invoicing. The policy of automatically not recovering overpayments due to official error should be revisited to be fair to the wider taxpayer. The policy should allow discretion where it is clear that the overpayment could have been prevented or minimised if the claimant had notified the relevant authority. Mistakes can happen, and there should be a responsibility for a claimant to notify that an award is incorrect.

166) What are your views on the role that financial advice can play in the recovery of overpayments?

When overpayments are created and recovered, it is essential that there is signposting to advice agencies to provide financial advice. This would also work in tandem with any possible appeal over the overpayment, which many people might not be able to deal with alone.

## **18. Fraud**

167) Should the existing Scottish Government approach to fraud be adopted for use in our social security system?

Yes. Counter-fraud strategy must ensure appropriate measures should be taken, with dialogue with counterparts working for DWP. Legislation needs to be checked to ensure information can be shared, and obtained from any part of the UK and consideration should be given on the impact of the current social security fraud on the justice system.

168) If no, what else should be used instead?

169) If yes, should our existing counter-fraud strategy be adapted in any way?

170) How could the new Scottish social security system 'design out' errors and reduce the potential for fraud at the application stage?

Design forms so clear in what is being asked. Obtain appropriate evidence. Use all systems available to obtain information. Have effective communication between reserved benefits and other agencies within social security. Improve training and guidance for decision makers. Have clear legislation to remove gaps between it and policy intention. Ensure effective controls and monitoring is in place. Consider random review processes.

171) Should the Scottish social security system adopt DWP's existing code of practice for investigators?

Yes, this will allow robust counter-fraud investigation.

172) What are your views on the existing range of powers granted to investigators?

The existing powers seem proportionate and sufficient.

173) What are your views on conducting interviews under caution?

Conducting interviews under caution is a necessary part of the due investigative and potentially legal process when investigating fraud (a crime). Consideration should be given on how, where, when and with who interviews under caution are conducted to make them less stressful.

There should also be consultation with those who currently work in counter-fraud to identify if there is any unnecessary delay/stress being made on the system by legal professionals advising clients in a way to maximise legal aid, which in the long run places an unnecessary burden on the system.

174) What improvements could be made around conducting interviews under caution?

175) Should the Scottish Government retain the same list of offences which people can be found guilty of in terms of social security fraud?

Yes, unless there is clear evidence that change in legislation is required to make it efficient

176) Should the Scottish Government impose the same level of penalties for social security fraud as are currently imposed?

Not sure making the penalties less than the current penalties would send the desired message. Similar penalties would be sufficient.

## **19. Safeguarding your information**

177) Should the existing Scottish Government approach to Identity Management and Privacy Principles be adopted for use in our social security system?

The existing approach should be adopted. Depending on design of delivery, and how it integrates with reserved/existing benefits, consideration should be given whether any adaptations are required.

178) If yes, should our existing Identity Management and Privacy Principles be adapted in any way?

179) Who do you consider should be consulted in regard to the Privacy Impact Assessment and what form would this take?

The Scottish Information Commissioner should be involved, and probably would be able to provide information on those who would be most appropriate for involvement.

180) What are your views on privacy issues that may affect the new agency?

181) Do you perceive any risks to the individual?

The design of delivery, and the systems required to provide social security would impact on the risk of privacy issues if there is no alignment and different agencies involved in making decisions/payments.

182) What solutions might be considered to mitigate against these?

183) 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? For example, this information could be used to prepopulate application forms or to support applications, reducing the burden on applicants.

Yes, strictly controlled sharing of information is required for efficient provision of social security for the benefit of applicants, improved decision making and the prevention of fraud.

Proper legislation that allows safe and secure sharing of information is critical to sharing of resource, local authorities, health information, HMRC, council tax data, financial assessment for care

Consideration should be given as to whether claimant consent should be more powerful than it actually is? For example, restrictions in current legislation means the secondary use of council tax data to allow for processing other payments such as uniform and free school meals is not possible, even where claimant has expressly given their consent.

184) 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?

Yes, this is already being done within existing social security arrangements. Every process could be improved upon, however in its current form it is effective and regulated.

185) What are your views on having the option to complete social security application forms online?

As long as it is an option then there should be no issues. Online applications are becoming the norm both within social security and in wider society.

186) Can you foresee any disadvantages?

187) 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)?

Secure emails would need to be used in both directions. Possibly a secure online account similar to our My account could be used to securely access information.

## **20. Uprating**

188) What are your views on the best way to ensure that devolved benefits keep pace with the cost of living?

At the point in time the decision is made whether to uprate is based on CPI in September. If this is negative there is no uprating, however this might not be the case in later months. As funding is linked to national uprating by UK Government, it would be difficult to increase benefits over and above what UK Government does.

That being said, the devolved benefits are not necessarily to cover against the cost of living, but specific types of expenditure – medical, caring, travel, maternity, children etc.

189) Are there any devolved benefits in particular where uprating based on a measure of inflation would not be effective?

190) If so, please explain which benefits and why.

Best Start Grant/Job Grant might not need uprated each year, but reviewed at start of each parliament, for example.

