

**REPORT TO: POLICY AND RESOURCES COMMITTEE – 14 NOVEMBER 2016**

**REPORT ON: SCOTTISH GOVERNMENT CONSULTATION ON SOCIAL SECURITY**

**REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

**REPORT NO: 366-2016**

**1 PURPOSE OF REPORT**

This report contains the Council's response to the Scottish Government's consultation on Social Security.

**2 RECOMMENDATIONS**

That the Committee agrees to the content of the Consultation document as outlined in Appendix 1 which will then be submitted to the Scottish Government.

**3 FINANCIAL IMPLICATIONS**

None.

**4 MAIN TEXT**

Scottish Government launched the consultation on devolved social security powers on 29 July 2016. The consultation is also supported by a number of events across Scotland to ensure as many groups as possible are able to provide input to the process.

Scottish Government are undertaking a separate options appraisal around the delivery mechanisms for Social Security. Phase <sup>1</sup> of this process saw the initial high level appraisal completed. Phase 2 will involve a more detailed appraisal around 'back room' delivery functions and will focus on value for money, financial affordability and achievability of options.

The Consultation is in three parts:

Part 1: A principled approach – this section contains questions around principles for the new Social Security Agency, outcomes and the user experience, delivery of social security in Scotland, equality and low income and independent advice and scrutiny.

Part 2: The Devolved Benefits – this section contains questions on each of the powers being devolved to Scotland in the area of Social Security

Part 3: Operational Policy – this section contains questions covering advice, representation, advocacy, complaints, reviews and appeals, residency and cross-border issues, overpayments and debts, fraud, protecting information and uprating of benefits

Scottish Government have advised analysis of the responses received to the consultation will be collated, with results published early in the 2017, alongside details of the second stage of the options appraisal.

Scottish Government have further signalled their intention to bring forward a Social Security Bill before the end of this parliamentary term.

**5 POLICY IMPLICATIONS**

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

**6 CONSULTATIONS**

The Chief Executive and Head of Democratic and Legal Services have been consulted on the preparation of this report.

**7. BACKGROUND PAPERS**

None.

M M Stewart  
Executive Director of Corporate Services

1 November 2016

## **APPENDIX 1**

### **A New Future for Social Security**

#### **Consultation on Social Security in Scotland**

#### **Consultation Questionnaire**

**July 2016**



## Introduction to the consultation questionnaire

This questionnaire is designed to accompany the Consultation on Social Security in Scotland. [insert link] Please refer to that consultation to give context to the questions repeated here.

Send your completed response to:

[socialsecurityconsultation@gov.scot](mailto:socialsecurityconsultation@gov.scot)

or

Social Security Consultation  
5<sup>th</sup> Floor  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU.

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form**. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Chris Boyland  
5<sup>th</sup> Floor  
5 Atlantic Quay  
150 Broomielaw  
Glasgow,  
G2 8LU.

or

E-mail: [socialsecurityconsultation@gov.scot](mailto:socialsecurityconsultation@gov.scot)

## CONSULTATION QUESTIONNAIRE AND RESPONDENT INFORMATION FORM

Consultation on Social Security in Scotland to determine how best to use the new social security powers which will be devolved by the Scotland Act 2016.

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organisation?

Individual

Organisation

Full name or organisation's name

Craig Mason/Dundee City Council

Phone number

01382 431193

Address

Dundee House  
50 North Lindsay Street  
Dundee

Postcode

DD1 1NN

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response only (anonymous)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

(Currently an officer response: Being submitted to Dundee City Council Policy and Resources Committee on 14/11/16)

### CONSULTATION QUESTIONS

## PART 1: A PRINCIPLED APPROACH

### 1. Fixing the principles in legislation

**Q: Which way do you think principles should be embedded in the legislation?**  
(please tick the option/s you prefer)

A. As a 'Claimant Charter'?	<input checked="" type="checkbox"/>
B. Placing principles in legislation?	<input checked="" type="checkbox"/>
C. Some other way, please specify	<input type="checkbox"/>

Why do you favour this/these option/s?

Please explain your answer

Both legislation and a charter offer the best of both worlds. Principles within legislation can be relied upon by claimants which increases their effectiveness and enforceability. The legislation could also include a requirement to take account of the 'Claimant Charter' which may on a practical level need to be periodically revised and updated. Charters can be effective in the creation of rights and defined privileges but the strength and reinforcement of primary legislation makes this more effective in arguing for the principles to be enforced.

If you think option A, ' a Claimant Charter' is the best way to embed principles in the legislation please advise:

**Q: What should be in the Charter?**

Please explain your answer

Details of claimant expectations on how they should be treated and the standard of service expected in decision making are crucial. Claim handling times, financial redress in issues of maladministration or benefit delays should also be outlined. Relevant rights contained within the European Convention on Human Rights or The United Nations Convention on the Rights of the Child should also be referenced in any Charter regardless of the UK Government's future decisions regarding Brexit and the ECHR.

**Q: Should the Charter be drafted by:**  
(please tick the option/s you prefer)

A. An advisory group?	
B. A wider group of potential users and other groups or organisations?	
C. Both	x
D. Some other way, please specify	

Why do you favour this/these option/s?

Please explain your answer  
 Scottish Government must be accountable for the process. However they should draw upon all stakeholders with benefits system experience. Claimants and users of the system, advisers and advocacy groups as well as existing DWP and public sector staff delivering benefit decisions. Taking opinions from all of those with experience of the current system will ultimately lead to a more rounded and realistic Charter.

**Q: 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?**

Please specify below

Claimant Charter sounds too much like Claimant Commitment’ which is a statement of individual claimant obligations under Universal Credit. There is likely to be some confusion among claimants therefore caution must be exercised. The word “Claimant” however should not be seen as a perjorative term and if used there needs to be a coinciding media campaign to shift people’s perception of the word and be clear about its true nature. Information regarding the significant effect that benefit income can have on local economies and the fact that a much higher proportion of benefits income stays in that local economy needs to be part of such a campaign.

Alternatives might be Scottish Applicant Charter, Scottish Entitlement Charter or Scottish Social Security Charter.

**Q: Do you have any further comments on the ‘Claimant Charter’?**

Please specify below

If you think option B ‘placing the principles in legislation’ is the best way to embed principles in the legislation, please advise:

**Q: On whom would you place a duty to abide by the principle that claimants should be treated with dignity and respect?** (please tick the option you prefer)

A. The Scottish Government	<input checked="" type="checkbox"/>
B. The Scottish Ministers	<input checked="" type="checkbox"/>
C. The Chief Executive of the Social Security Agency	<input checked="" type="checkbox"/>
D. Someone else, please specify	

Please specify below

Everyone who has any part to play in any elements of social security in Scotland should have to abide by the principles that claimants should be treated with dignity and respect – this duty must also be recognised in the application set up, promotional material and the general messages around social security moving forward if Principle two is to be truly realised.

Ultimately thought the Chief Executive of whichever organisation(s) overseeing the new system needs to wholeheartedly adopt the principles as do all employees of said organisation(s). Cultural adoption of the principles needs to be fully embedded within the organisation(s).

**Q: Do you have any further comments on placing principles in legislation?**

Please specify below

**Q: 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?**

(please tick one box)

<b>Yes</b>	<input checked="" type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

Please explain your answer

The principles should be stated in legislation as it makes them more enforceable in real world situations. However, some concepts e.g. ‘treated with dignity and respect’ may be difficult to define legally given their subjective nature regardless of whether the principles are in legislation and/or guidance. The culture and practical application of these principles will be the most important judgement of whether this outcome is achieved.



**2. Outcomes and the user experience**

**Q: Are the outcomes (shown in the table on page 17 of the consultation) the right high level outcomes to develop and measure social security in Scotland?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain your answer

They are reasonable and clear short and long term outcomes to have for assessing the impact of the overall system. However, some appear difficult to determine in practice whether they are being met and will require some accepted measures of performance and evidence framework to determine periodically how far in practice they are being achieved.

It appears to provide a good mix of focus with dignity and respect, transparency, efficiency, health and wellbeing and fairness all featuring.

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

Please specify below

No. We are pleased to note that there are objectives on effective integration with the reserved benefits system and about effective integration with other public services to ensure people get the support they need. These are key outcomes for a successful devolved social security system.

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

Please specify below

Recognition that the concepts around dignity and respect must be apparent at all levels of the organisation (s) involved with Social Security is extremely important and will take both time and effort to achieve.

Ensure that Social Security staff and decision makers receive appropriate disability, equality, poverty and diversity awareness training and are courteous and respectful at all times to claimants. Adopt volunteering opportunities for staff similar to those undertaken by the DWP's Disability and Carers Directorate in the past. This ensured that decision making staff took part in a set amount of volunteering work with disabled support groups and organisations in order to get a better understanding of the needs of disabled people. This could be expanded to include groups experiencing poverty and carers groups.

Consult with stakeholders to ensure use of plain language communications and appropriate arrangements for those with visual impairments, learning disabilities and other conditions. Avoid jargon and technical terms and adhere to Crystal Mark and Plain English Campaign standards.

Use by staff of facilities such as the Language Line are critical. Awareness that those accessing the devolved benefits may have multiple barriers to communication.

Adopt a policy of transparency in communication at all times. Test communications methods and literature with user groups and adult learning teams to ensure that comprehension of new regulations and processes is as clear as possible.

Any call recording processes should ensure that retention of calls is kept for as long as a dispute could conceivably arise with regard to a case.

**Q: 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?**

Please specify below

Those with lived experience both positive and negative must be given the opportunity to share their views and thoughts on how this can be achieved.

The full range of key stakeholders, local authorities, voluntary organisations and the disability organisations. Consideration might be given to buying in or commissioning expertise in this area if it is not sufficiently available within government.

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

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please state below which words or phrases should not be used:

Take care to avoid the use of any stigmatising language, including terms which may have been in common usage in the past but are now regarded as stigmatising to those they are applied to.

Again however it is important to recognise that there needs to be a concerted media campaign to destigmatise claimants and inform the general public of the benefits of a social contract between the state and those who fall into need and require to claim benefits. The UK media, politicians and others have contributed to certain phrases being seen as toxic around welfare and is perhaps the biggest challenge surrounding communication of what the new Scottish Social Security seeks to achieve. Ensuring unhelpful contributions do not go unchecked is also important.

The Poverty Alliance 'Stick your labels' campaign highlights many of the phrases that are unhelpful. Dundee City Council have endorsed this campaign and are actively seeking to raise awareness amongst staff of the words and phrases that are unhelpful.

Also Dundee Partnership and Dundee City Council have as part of their ongoing program around the Dundee Fairness Commission produced online and face to face Poverty Sensitivity and Awareness Training for staff within the Public and Voluntary sectors. This seeks to challenge prejudices and highlight the stigma and reality faced by benefit recipients. To date the training has been received warmly by staff and hopefully will change cultural issues too often experienced by benefit claimants in their dealings with staff within public bodies. Dundee City Council are expanding its programme of poverty sensitivity training to many more staff over the coming year..

Activities such as these will be vital as the Social Security system in Scotland evolves.

**Q: What else could be done to enhance the user experience, when considering the following?**

- 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

Please specify below

- Good customer care, if the 'Claimant Charter' is adopted claimants should expect and receive the level of service agreed in the charter.
- Acknowledging applications and information received in relation to claims.
- Advise what will happen next with clear timescales – if these timescales are not going to be met explain why and what timescales can subsequently expect.
- Provide accessible contacts for more information taking the claimant's needs in to account.
- Advise what people can do if they are not satisfied with decisions. This needs to be clear and consistent at all stages of the application and decision making process.
- Consider when access to services and support is available, traditional office hours are different across organisations, localities and departments – user requirements must be understood and provision provided where possible.

Please specify below

Clear information about entitlements and decisions is essential for all claimants. Where information needs to be translated or overcome communication barriers this should be facilitated in each case. Equal access to information in order to make an informed decision and comprehend entitlements and decision making should be a fundamental right of all those seeking to access the Social Security System. General information should be widely available, accessible and understandable to minimise claimants with a general query from having to contact the agency to receive standard information – freeing up staff time to deal with more complex and specific enquiries.

Frequently asked questions, accessible in various forms of communication across the spectrum of benefits would also be helpful. FAQs and further information around the interaction between reserved and devolved benefits will also be a key requirement here. The confusion that was initially experienced by claimants accessing the nascent Scottish Welfare Fund at the same time as the then reserved Regulated Social Fund is likely to be repeated in multiple instances as claimants get to grip with the new benefits, how they interact and who is responsible for which benefit and which particular function.

Access to Advice, Information, Advocacy and Representation should also be a fundamental right of claimants at all stages of interaction with the system.

Claimant rights and responsibilities should be clearly set out and not assumed at any stage in interaction with the new Social Security system.

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

Please specify below

First and foremost it needs to be recognised that there are low levels of digital access and digital literacy for many that rely on the benefits system. Traditional forms of communication (Telephone, Face to Face, Central Office, Home Visit) are ultimately the way that many NEED to be communicated with. These forms of communication are vital and need to be retained and used.

However it is reasonable and desirable to use all modern forms of communication – e mail, text messages, Skype, apps and Social Media (where appropriate) and to encourage use of digital channels. As much choice as possible should be given to claimants with a recognition that face to face is available where appropriate.

Efficiency and cost saving should be taken into account when taking this approach but with the major proviso that in some cases face to face contact is necessary for those lacking the digital access or skills. In addition many claimants are uncomfortable or unable to use digital communication (including those with disabling conditions) so alternate appropriate communication should also be utilised.

**Q: 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?**

Please specify below

Initially be setting up a workstream that includes claimants and those indirectly affected by decision making (family members and those who have had to bear the support needs resulting from the impact of previous regime's adverse decisions should also be invited). This is because co-production and co-design needs to be inclusive as possible and invite input from all angles of the claimants' experience and needs.

Those DWP officers delivering the devolved services and benefits at present must also be involved as should the advice and information and financial inclusion agencies that support clients through the current system. Involving those with experience of both receiving, supporting clients and providing services will also ensure considerations around cost implications, natural justice, fairness and current omissions and shortcomings will be factored into the process.

Recognising those with lived experience of claiming social security may need assistance to be involved with things like travel expenses, child care and other forms of support. Formal recognition of their contribution should also be arranged and not be tokenistic or an afterthought. Dundee's Fairness Commission has considerable experience of this. It and similar Commissions across the country have experience in this area and should be linked to in order to provide expertise and input.

Local arrangements within Local Government where Advice and Information, Financial Inclusion, Decision making and Health and Social Care have started to explore and put into place holistic innovative approaches to assessment and referral also need to be fully explored for added value. Where possible these should be hardwired for best effect and not looked at as an afterthought. GP co-located Welfare Rights Services such as those in place in Dundee, Edinburgh and Aberdeen are a case in point.

Scotland has a unique opportunity to do things differently here to achieve a more joined up customer experience. The consultation need not be just on social security allowances but on how the process of application might trigger access to other forms of help and support and on how social security support fits into broader policies and outcomes in key areas such as health and wellbeing and health inequalities.

**Q: 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?**

Please specify below

Stakeholder groups or Social Security expert panels

Social Security Expert Panel (Claimants)

Social Security Expert Panel (Advisers)

Social Security Expert Panel (Deliverers)

It is not clear from the commentary notes whether those involved in ‘user panels’ would also be involved in the Advisory Panels discussed elsewhere in the document. It may be a missed opportunity if those with experience of using the system were not involved in all levels of the governance.

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

**Q: Should the social security agency administer all social security benefits in Scotland?**

(please tick one box)

Yes	
No	x

Locality models have sprung up in the last 5-10 years as a result of public sector reform, the necessity of local authority restructuring and the need for better partnership working and joint working brought on by local authority cuts and the do more with less ethos of the Christie Commission.

As a result locality models of delivery and holistic approaches to achieving outcomes have shown the way forward. Local Authority services are now more than ever capable of determining the best local needs of claimants and the best solutions available to support citizens' outcomes. The joined up approach of locality models can be contrasted to single entity models that are too often organisationally focussed. Locality models can be more efficient through application of lean service principles and STEP models.

As a result claimants can experience close at hand, trusted delivery of local authority services that are linked up not only to other decision making departments but Health and Social Care, NHS, Housing, Third Sector, Education, Financial Inclusion and Advice and Information services

Integration with those services already engaged with those entitled to the various different elements being devolved must surely be considered. We are not suggesting all the elements being devolved fit within the local government family but would assert that not all social security benefits should be administered by the social security agency.

Local authorities already have extensive experience of administering various elements of social security type funds in Scotland both entitlement based and discretionary against a backdrop of financial reductions. For instance, Housing Benefit and Council Tax Reduction (previously Council Tax *Benefit*) is published by local authorities. Data since 12/13 shows the cost of administration per claim reducing from £42.03 to £40.14 (14/15); processing times for new claims down from 26 days to 23 days over the same period.



The areas Council currently administer include:

- Housing Benefit, £1.803 billion
- Council Tax Reduction £360 million
- Discretionary Housing Payments, £48 million
- Scottish Welfare Fund £33 million
- School Clothing Grants, £7 million
- Free School Meals £54 million
- Educational Maintenance Allowance (EMA) £32 million
- Concessionary travel – both local and national
- Blue badges for those with disabilities

Councils have a proven track record of being able to quickly put in place delivery arrangements, this was demonstrated for the Scottish Welfare Fund which saw Councils across Scotland quickly put in place arrangements to deliver in a local setting nationally agreed policy. To suggest an untried and untested new agency would be better placed to deliver many of the elements being devolved does not appear to be supported by the evidence available at this time.

Local authorities are in a strong position to be able to expand a role in delivery and administration, using existing infrastructure and accountability arrangements which could take place within a consistent national entitlement and eligibility framework. Synergies already exist at local levels around many of the areas the benefits being devolved cover.

In Dundee there has been a huge leap forward since 2010 whereby the Welfare Reform agenda and commitment by all stakeholders in trying to mitigate against its worst effects has driven improved partnership working and more joined up responses to improving service delivery. The Scottish Welfare Fund and Universal Credit joint partnership with DWP are 2 key examples of this in practice. Having face to face facilities to allow claims to be made, evidence provided and assistance through the claims process is vital for those who require it. However, it must be recognised regardless of who provides this type of service it will always be more expensive to run than digital or telephony service and will require adequate funding. Local Authorities already have a presence in all localities throughout Scotland and already provide similar services around for example Council Tax Reduction. LAs will also continue to provide Personal Budgeting Support as part of the Universal Credit customer journey and there is an opportunity to align the support being provided to access DWP services with

support required to access the new Social Security arrangements in Scotland.

Local authority delivery options do not rule out national applications, back office payment mechanisms and collaboration between Scottish Government, Local Government and relevant stakeholders.

DWP and LA relationships will still exist. If another interface is set up over and above that already in situ this will incur significant added expense and has the potential to increase claimant confusion. This is against the widely endorsed principles of the Christie Commission, doesn't take cognisance of the public services reform agenda and would be a missed opportunity to invest in services to provide services via one port of call in an integrated manner.

Whilst local authority delivery options must be considered, the funding of options must be key to this. Dundee City Council is aware that the Scottish Government is in negotiation with the UK Government about the funding which will be passed over in total for each of the areas of devolved social security. Given that local government could well be involved in delivery of significant elements of the new powers, LAs via Cosla must be at the table with the Government in understanding the funding which will come to Scotland, the adequacy and the timing of this, as well as how the funding will subsequently be deployed in Scotland.

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

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain your answer

Generally, benefits should be in cash and this should be the default position. Whilst we recognise the benefits that could be realised by the ability of those in receipt of benefits being able to access reduced price services we would question how this concept fits with the dignity and respect principles.

There is limited commentary available in the document around what types of services this could include, how this would be procured/managed therefore additional information would be required to allow an informed discussion to take place.

Where goods might be able to be provided as a cost saving then this might prove attractive to some claimants but it should be tested with the Claimant User Panels before any commitment to providing it is made. This is because in many cases clients' lives do not always conform such simple problem/solution approaches. Clients often borrow from relatives or friends to buy goods on the expectation that they will be reimbursed via their next benefit payment. In such instances cash is the only option. Goods may only be attractive to a limited number of claimants.

One possible exception is Sure Start Maternity Grants where applicants should be permitted a choice between packages designed for new mothers that offer considerably better value for money through procurement bulk purchasing. It may be considered as something that could also be subsidised given the importance of providing adequate help in the early years of a child's life (first 1000 days and the effect on development).

**Q: How best can we harness digital services for social security delivery in Scotland?**

Please specify below

It is reasonable to promote and facilitate digital claims and seek to develop this as the main channel for many people. However it should not be compulsory. It is crucial to retain alternative channels for those who are unable for whatever reason to access digital services and these are better provided at a local level with support from and integration with locally provided services.

As has happened in Dundee there needs to be a commitment to ensuring availability of sufficient numbers of computers and efficient IT systems in local libraries/community centres/community venues for the public together with funding for advocacy and advice services to assist clients where necessary.

**Q: Should social security in Scotland make some provision for face to face contact?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain you answer

There is no doubt some customers will struggle to use a system with no face to face contact and for that reason it might be necessary to provide some.

However, we would expect the availability of face to face contact to be proportionate to the likely level of need which will be determined by the ease of use of the application process,

It is however vital that face to face is available when clients are at crisis point. For example: no payment of benefit, reduction of benefit or sanction.

It is also worth noting that the cost of phone calls to benefit centres is financially prohibitive – often customers in crisis have no resources. Freephone numbers for claimants would help enormously and it could be argued that this could promote a spend to save approach.

Where face to face contact is necessary this is best done locally with the provision of links to other advice and information services and sources of support available. This promotes a wrap around, holistic model of service delivery that targets outcomes beyond benefit delivery such as health and wellbeing financial inclusion debt management

**Q: Who should deliver social security medical assessments for disability related benefits?**

Please specify below

The starting point should be fewer medical assessments overall compared to the current system to ensure proportionate use and minimal interference for those with deteriorating long term conditions or longstanding and severe mental health problems.. Many current medicals are unnecessary when one looks at claimants' prognosis and level of severity of their illness or disability.

Alternatives should be considered and evaluated such as access to medical records to inform decision making as is happening in some Dundee and Edinburgh GP surgeries.

It is highly unlikely given data protection restrictions and GP practice insurance that decision makers could have direct access to a customer's existing medical records but a trusted intermediary may be capable of delivering such a service (In Dundee and Edinburgh this is currently welfare rights advisers with express patient consent). This could inform whether better decisions could be made remotely through this process or whether the customer requires to be asked to attend a medical assessment in support of their claim before this is forwarded to a decision maker for consideration.

Although there is an appetite for the person's own medical practitioner – GP, consultant or primary care practitioner to be seen as the best person to be involved this is not a widely held view within Primary Care where GPs and Health Professionals are reluctant to endanger the doctor patient relationship or take on significant extra workloads. However informed specialists co-located in Primary care with access to medical evidence and skill in marrying assessment of functional capability with medical records may be the answer.

Where medical assessments are required to be conducted this should be provided from within the public sector, NHS, or by an organisation created under the NHS. Contracted NHS doctors is the likely way forward.

Salius (an NHS company) are currently sub contracted to provide some assessments by ATOS under the current system. This could be rolled out across Scotland without the need for private contractors.

There needs to be an assurance that mental health specific professionals e.g CPN's, psychiatrists, Mental Health Officers assess claimants with mental health issues and not Occupational Therapists or Physiotherapists as often happens in the current regime.

It may also be worthy of considering light touch telephone interviews as a means of assessing claimants in some cases where evidence is already significant and convincing.

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

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain your answer

Yes, particularly where there is existing experience of similar responsibilities as in local government. This is also best to promote integration with local services/supports and likely cheaper and more cost effective over time as it could make for a more joined up offering using existing infrastructure and data sets where possible. This would however still allow it to be delivered in the context of consistent national entitlement and eligibility.

Housing Benefit and Council Tax Reduction are currently administered by Local Authorities and there is a case for a standardised Scottish Devolved Benefits System to be delivered at a local level in a similar way.

**Q: 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?**

(please tick one box)

<b>Yes</b>	
<b>No</b>	<b>x</b>

If yes, which aspects?

Whilst not necessarily ruling out the 3<sup>rd</sup> sector, not for profit organisation and social enterprises it is difficult to point to an organisation in this sector who has the infrastructure and governance to make this option seem attractive.

In terms of social security delivery via the private sector the narrative around the Scottish Welfare Fund and out sourcing suggest there is not appetite in Scotland to have private companies involved.

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

##### **Q: 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?

Please specify below

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

A narrow focus on Scottish benefits alone might not cover consequences for various groups or the potential for a more confused landscape. How will arrangements for Scottish social security interface with access to other supports and services and make access easier for various groups?

There is a need to consider more broadly the consequences and outcomes for claimants. Decisions to invest additional resources in social security in Scotland could have the potential to neglect investment in other services provided by local authorities and others with unintended consequences.

The questions posed within an EQIA need to be broader than just asking what needs to be done by a Scottish social security system since the right level of support may require both investment in other services and thought to how effectively services can be joined up to achieve outcomes.

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

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

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain your answer

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

This is essential for the progressive, transparent and principled system that the Scottish Government is looking to put in place and allows for sufficient scrutiny where proposals may, even with the best will, lead to unintended consequences or failings in how the system is implemented or develops.

**Q: If you agree, does the body need to be established in law or would administrative establishment by the Scottish government of the day be sufficient?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain your answer

Such a body should be established in legislation with wide powers to investigate aspects of the social security system and requirements to produce regular reports especially around emerging social policy issues and performance.

This ensures transparency, accountability and sufficient independence from political control by any future administration.



**Q: 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)?**

Please specify below

It needs to be independent with a range of expertise and should be given broad powers in law so that it can carry out its functions. While it would have no role in policy making, it should be able to comment on how policies are working in practice, particularly how far objectives and outcomes are being achieved. The body should also be able to make recommendations to ministers, the social security agency and other bodies involved in delivering the social security powers.

Appointments should be time limited and restricted to a single term of between 3-5 years. There should be no restrictions as to membership except in terms of expertise which should come from a wide range of backgrounds relevant to the body's work.

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

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please explain your answer

In the current system decision making is done by DWP civil servants known as decision makers. Prior to 1992 there were Adjudication Officers who in addition to their appointment were also required to have sufficient levels of training and knowledge in their specific areas of law, The more recent regime has seen a decline in these standards of decision making and we would welcome a return to appointed Adjudication Officers/Decision Makers with minimum professional standards, training and knowledge. All such decision makers should be overseen by an independent body able to scrutise standards of decisionmaking acting as an independent inspectorate.

**Q: If yes, should this be a separate body in its own right?**

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

Please explain your answer

In order to engender improved decision making and the savings this can bring to a system the body needs to be a professional one that has a clear remit for this one purpose,

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

Please specify below:

We would endorse the views of the HMCTS Report "Right First Time" where it states

Getting it right first time saves money. Mistakes result in considerable costs for the users of public services, the organisations concerned, and for the wider public purse. There is little evidence that the financial costs of not getting it right first time are fully understood and quantified by public bodies, partly because many of the costs can be off-loaded to tribunals and ombudsmen. As a result, the precise financial cost of poor decision-making and poor service delivery is unknown.

## **PART 2: THE DEVOLVED BENEFITS**

- The following questions do not seem to be those we would need responses to if we are to develop a new social security system based on the principles already set out by SG. These questions start from 'where we are now' rather than developing those principles into a new model for social security. Clearly there are constraints in terms of the linked elements of the social security systems that will not be devolved; and at some point there will be a need to situate any new model within those constraints but we need to look beyond the transitional phase (will, in order to minimise disruption to people receive support through the current UK system). We understand the priority to ensure a smooth transfer but we would anticipate the development of a more strategic development framework rather than a focus on the system Scotland is inheriting.
- Already SG have introduced a constraint through the commitment to maintaining the current level of disability benefits once the powers have been transferred. It is unclear whether this is a minimum or a maximum nor whether this will apply to any new model.
- The commitment to reform aspects of devolved disability benefits also imply a lack of transformational thinking.
- Consideration needs to be given to situating the benefits system that consider a disabled persons' needs in context of the social and health care that is being provided.
- Furthermore the relationship between the financial support provided through all benefits and the charges paid by the individual for care services needs to be examined. Also the whole system of how a transformed social security system should be funded alongside that for social care.
- Relationship and compatibility with other support arrangements for disabled people in Scotland e.g. the existing and new stand-alone provision for people with severe disabilities through ILF Scotland.
- The need to harmonise social security (disability) benefits with social care through person centred approaches already being rolled out such as Self-directed support.

**6. Disability Benefits** (Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Severed Disablement Allowance and Industrial Injuries Disablement Benefit)

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

### **Disability Living Allowance (DLA)**

What is right with DLA?

DLA (Care Component) contains a consideration of the care reasonably required, either as attention or supervision and as such closely matches the social impact on a claimant and their carer unlike PIP.

Mobility is based on a wide range of factors such as discomfort, pain, risk, cognitive impairment and mental health.

It is non means tested, non- taxable and its impact on other benefits is not detrimental and in some cases enhances other entitlements. Any decision to change the tax status of benefits should be considered in terms of how this may affect client incomes and tax burdens in light of the new powers.

What is wrong with DLA?

No consideration of the claimant's living situation and the impact that factors such as isolation or housing type can have on a client's ability to mobilise.

Laundry or housework needs and what is required to maintain a home and homelife is not taken into account.

Aids and adaptations can have a negative effect on entitlement

Cognitive impairment is unlikely to result in an award of higher rate mobility except in the most severe cases (eg. Severe mental impairment with an IQ level of under 55).

Losing DLA can result in massive reductions in overall benefits through loss of premiums and passported benefits.

Short term entitlements are rarely awarded despite often severe limitations for some individuals.



### **Personal Independence Payment (PIP)**

What is right with PIP?

Currently account is taken of aids and adaptations in determining entitlement although this may change

It is non means tested and non taxable. Any decision to change the tax status of benefits should be considered in terms of how this may affect client incomes and tax burdens in light of the new powers.

## What is wrong with PIP?

There is apparently no way of identifying individuals that are currently in receipt of DLA who are about to be 'invited' to apply for PIP. So there is significant potential for vulnerable people to slip through the net.

Despite their efforts to inform and prepare people in their communities – DWP had advised that because of the random selection of people information could not be secured or shared with councils in order that that could target individuals who might need support and advice.

The fact that benefit is suspended 28 days after an invitation to claim form goes unreturned and is then cancelled after a further 28 days unreturned.

Crude assessment process and the danger of assessment being too susceptible to expected outcomes/targets of those making the assessments.

Assessment length and examination seeming to almost set people up to fail in many cases.

Assessment is not always conducted by doctors or specialists in particular areas of expertise (mental health for example).

No recognition of supervision requirements or the input of carers (where provided).

PIP was intended to focus on individuals with the most severe challenges in day-to-day life. This can result in short-termism if the support available to those with lower level needs is withdrawn and those needs then escalate. We are therefore concerned that the proposals will merely pass responsibility for meeting need from the DWP to local authority social work budgets or the NHS, which are already under great strain.

Processes for applying for PIP are extremely long, complicated and not customer friendly. The length of the form, the types of information requested and the standard of communication provided all make it difficult for those in need to access the support throughout the application.

Medical assessments have become more prevalent with the introduction of PIP resulting in increasing stress for claimants and increasing cost to the public purse.

Little flexibility in the face of extremely prescriptive rigid descriptors.

Losing PIP can again result in massive reductions in overall benefits through loss of premiums and passported benefits.

Functional effects of conditions having to predate the claims is too restrictive. Many disabled clients require immediate help with associated disability costs.

Prior residence conditions too restrictive in their approach for returning UK nationals, refugees and asylum seekers.

### **Attendance Allowance (AA)**

What is right with AA?

As for DLA it contains a consideration of the care reasonably required, either as attention or supervision and as such closely matches the social impact on a claimant and their carer unlike PIP.

Given the age of AA claimants generally they are not been subject to review in the same way as PIP and DLA claims are treated.

What is wrong with AA?

There is no equivalent lowest rate care or mobility consideration as is present with DLA.

**Q: Is there any particular change that could be made to these disability benefits that would significantly improve equality?**

Please specify below

Examination / review of age barriers – necessary to review the different rules across

the age ranges to confirm if there is evidence to support these differences.

Realistic timescales for review of awards should be reintroduced which are based on customer's individual circumstances and prognosis.

Mental health problems are not covered comprehensively in medical assessments and the assessments do not tend to favour claimants, relying as they do on a snapshot of a person's condition. Often those conducting the medical assessments are not sufficiently trained in recognising the true extent of a person's mental health condition and the functional effect it can have on a person's daily life.

It is not sufficiently publicised that a recipient of disability benefits may also be capable of work in some regard. As such disability benefits are often a disincentive to work, education or training. Rules need review, clarification and publicising for people in receipt.

Rules in relation to returning nationals, immigration and asylum seekers are too restrictive. In many cases the burden of support and responsibility will then fall on Health and Social Care Partnerships or other services under Social Work legislative obligations (for example in connection with no recourse to public funds clients)

In all cases above the intention is to promote clarity for claimants and decision makers of the devolved disability benefits, their purpose and remit.

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.

**Q: In relation to the above 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

Please specify below

- A person applying for a disability benefit

Applications should be able to be taken by a number of methods with an emphasis on channel shift to more efficient ways of taking applications such as online.



However as mentioned elsewhere it is not always possible for applicants to make online applications and therefore the provision of paper forms needs to be maintained until sufficient digital access is available and people are able to use it.

Telephone applications also need to be retained particularly around those with literacy and digital literacy issues. Processes that rely on an initial call or registration to claim with further more detailed information provided later can be preferable for many than long telephone applications for benefit (eg PIP) or online applications (UC)

- The eligibility criteria for disability related benefits

Assessment of a person's true functional limitations taking the best practice examples from DLA, PIP and Attendance Allowance.

- The Assessment/consideration of the application and the person's disability and/or health condition

A lighter touch with assessments only taking place where absolutely necessary with NHS subcontracted doctors, specialists or agency taking responsibility. Decision making that relies on existing NHS, GP and social care records with patients giving express permission for it being used at a stage before or instead of assessment.

Assessments are recorded at present but there is no way for claimants to easily obtain a copy of the recording of their assessment. Provision needs to be added to allow this to be obtained easily on the day of the assessment.

- The provision of entitlements and awards (at present cash payments and the option of the Motability Scheme)

As is currently the case with cash and the Motability Scheme provided. Social Care services should be available but only for claimants who chose this option to decide and this may link into self directed support models if taken up. Otherwise individuals will often value their own independence and choice and cash is the most flexible in this regard.

- The review and appeal process where a person isn't content with the outcome

By review and then appeal to an independent tribunal such as Her Majesty's Courts and Tribunal Service (HMCTS) currently offer. Alternatively to an equivalent Scottish tribunal run by a body similar to HMCTS.

Reviews/mandatory reconsiderations can offer better value and swifter, less costly decisions than Tribunals if dealt with correctly. ESA decision makers for example can often reverse decisions with supporting evidence whereas PIP decisions are rarely if ever reversed at mandatory reconsideration stage regardless of additional medical evidence provided. The ESA model is much preferable, less stressful for customers, cheaper and gets the decision right as early as possible in the process where an initial application has been challenged and good evidence provided.

**Q: With this in mind, do you think that timescales should be set for assessments and decision making?**

(please tick one box)

Yes	X
No	

Please explain your answer

Timescales should be set for both assessments and decision making. These would be set out in legislation and the 'customer charter.'

Those applying for support and the wider public at large should have a clear understanding of the length of time things should take to ensure confidence in the system and to hold whoever is delivering the service to account.

Claimants rely on disability benefits and the money and passports they provide to meet the costs of their condition and so there need to be clear timescales set. The delays in PIP decisionmaking when it was originally set up were disgraceful and should have been rectified far sooner than was the case.

**Q: What evidence and information, if any, should be required to support an application for a Scottish benefit?**

Please specify below

The evidence and information required to support an application will change depending on the benefit being applied for and the criteria set. The evidence and information required will also be determined by what is available via existing data sets as appropriate.

Identification, NINO, evidence of the condition and diagnosis

Claimant's statement of the functional effects of disability and help reasonably required to overcome functional effects in relation to care, supervision and mobility needs.

Evidence of claimant's individual social situation and the effect the disability has on social inclusion needs

Such other evidence as is required for a decision to be made.

Who should be responsible for requesting this information?

Please specify below

Whichever agency/agencies is/are set up to administer benefit delivery in Scotland.

Who should be responsible for providing it?

Please specify below

The claimant or their designated carer and/or guardian in the first instance in respect of their illness or disability and its functional effect on their care, supervision and mobility needs. In the second instance (to corroborate the case) NHS, primary care and Health and Social Care Partnerships/Education departments or agents directed to interrogate medical and/or associated records in a profession manner with express client agreement or data protection legislative access. Access to carer or support services evidence would be the third source of evidence.

Please explain why

For a balanced view taking into account the claimant's self evaluation of their needs but also the claimant's medical history, records, medical opinions, assessments of need and/or Occupational Therapy/Mental Health/CPN assessments. This should lead to a fully informed decision with multiple sources of evidence and corroboration.

Simply asking GPs for evidence will be unsustainable across Primary care. In many cases GPs are not the best person to ask since the claimant may have more contact with other healthcare professionals or supports that know the functional effects of their condition better. Also GPs' capacity to deliver such information comprehensively.

**Q: 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?**

(please tick one box)

Yes	X
No	

If no, please explain why

Consent needs to be informed, express and clearly known to and understood by the applicant. Otherwise data protection legislation would need to be enacted to allow access to such information.

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

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

If no, please explain why

To be able to come to the fully informed decision detailed above. To reduce client stress. To reach a decision faster.

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

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

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

The impact and functional effect of illness and disability is the best way to determine entitlement.

Care provided or reasonably required (in order to address any unmet need), supervision requirements, attention, domestic, social and other support needs.

Mobility functional limitations associated with both physical and mental health constraints. Consideration of the knock on effects of social isolation if help were not provided.

Other disability related expenditure.

We note that some emerging SG policy commitments, such as those associated with community care charging seek to based entitlement on specific conditions e.g. extend free personal and nursing care (FPNC) to people under 65 who have dementia.

If no, how do you suggest entitlement is determined?

**Q: Currently there are only special rules for the terminally ill but should there be others?**

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please explain why

The rules for the terminally ill are specific and well understood and there are benefits in terms of efficiency and processing to add a limited number of conditions certified by a clear prognosis as is the case with the DS1500 form. Long term conditions such as Motor Neurone disease or Dementia are areas where some inroads could be made into establishing other special rules provisions.

The medical model used in Industrial Injuries Disablement Benefit (IIDB) Tribunals where the individual is assessed by 2 specialists could be copied to ensure that long term conditions sufferers whose condition is not due to improve but deteriorate are offered such a route into long term supportive disability benefit entitlement (with a life award for example).

Special rules for kidney dialysis should be reviewed for better fairness based on the number and type of renal dialysis sessions undergone with an acceptance of the impact each session has on a person's physical ability. Where there is a change of circumstance (eg kidney transplant) this would prompt a review.

How could this be determined?

Via a process similar to the IIDB model currently used with a % disability threshold

needing to be established.

**Q: What do you think are the advantages and disadvantages of automatic entitlement?**

Please specify below

'Automatic entitlement' needs to be seen as highly complex and would require careful consideration. Unintended consequences of such entitlements need to be carefully considered before anything new is put in place.

Advantages would be:

- Reduction in time taken to assess those with certain conditions,
- Simplifies assessment when criteria met.
- Takes stress away from claimant.
- reduced costs for administering those cases potentially and
- a less intrusive process overall.

Disadvantages would be:

- around perceived unfairness with those whose conditions are not on the list
- automatic entitlement might not recognise how a condition affected an individual. The devil is in the detail of the criteria.
- potential for overall expenditure on number of payments to increase

**Q: 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?**

Please specify below

Yes insofar as data protection law is watertight and express consent has been given by the claimant or legally on their behalf.

If consent is not given there needs to be clarity as to what happens next. The suggestion would be that in such cases the claimant's wishes are respected completely but that the self-assessment form/other available information is considered without prejudice resulting from the claimant's refusal to release their medical records. Data privacy should be respected in such cases.

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

(please tick one box)

Yes	X
No	

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

Yes

If no, how could the approach could be improved?

**Q: Should there be additional flexibility, for example, an up-front lump sum?**

(please tick one box)

Yes	X
No	

Please explain your reasons

Costs are not always spread out in relation to disability. However any lump sum should be an advance of benefit where requested and required rather than as a replacement.

**Q: In the longer term, do you think that the Scottish Government should explore the potential for a consistent approach to eligibility across all ages, with interventions to meet specific needs at certain life stages or situations?**

(please tick one box)

Yes	X
No	

Please explain why

This is worth exploring in terms of age equalities. Current age group distinctions are artificial.

**Q: What would the advantages and disadvantages of a single, whole-of-life benefit be?**

Please specify below

We are heartened by the sound of the “*whole of life*” disability and welcome its introduction There would be no need to reclaim at 16 and potential for mobility issues to attract entitlement beyond age 65.

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**Q: Could the current assessment processes for disability benefits be improved?**

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

Please explain how

A lighter touch with assessments only taking place where absolutely necessary with NHS subcontracted doctors, specialists or agency taking responsibility. Decision making that relies on existing NHS, GP and social care records with patients giving express permission for it being used at a stage before or instead of assessment.

**Q: 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.

Please specify below

Health professionals (NHS contracted doctors) with minimum training and specialist practitioners where required to assess issues such as mental health. Link into Primary care and HSCP information to fully inform assessment.

Not for profit or public body should provide the service.

Single local interface, with relevant professional input from cross-sector e.g. HSCPs

**Q: What are the advantages and disadvantages of different types of assessments?**

e.g. paper based, face-to-face, telephone

Please specify below

Paper based allow full consideration of the full extent of a person's condition and its functional effects. They are also easier for advisers and family members to use in



order to tease out the issues.

Face to Face can be a snapshot and as such can be either detrimental or highly supportive of a client's case for benefit depending on the day seen. Large scope for error in such an assessment or misunderstanding through poor communication by a client of the full extent of their condition's effects.

Telephone is similar to face to face but with an even greater chance of miscommunication since visual clues are often missed and misunderstanding can result.

**Q: How could the existing assessment process be improved?**

Please specify below

A lighter touch with assessments only taking place where absolutely necessary with NHS subcontracted doctors, specialists or agency taking responsibility. Decisionmaking that relies on existing NHS, GP and social care records with patients giving express permission for it being used at a stage before or instead of assessment.

**Q: Could technology support the assessment process to promote accessibility, communication and convenience?**

(please tick one box)

Yes	X
No	

Please explain why

All available technology should be used to increase accessibility, communication and convenience – information from those with disabilities should be sought to understand the barriers they face and technologies sought to address these where possible.

Technology should not however be used as a default position as has been the case with Universal Credit since many claimants have neither access to or skill in using such technologies and may need to be significantly supported.

**Q: If yes, please explain what technology would be helpful**

e.g. Skype, video conferencing

Please specify below

A range according to suitability and accessibility.

Skype, video-calling, online accounts etc. would all be beneficial to different customer groups.

Skype could replace face to face for claimants who might struggle to attend an assessment. Should not however be used as a default position since many have neither access to or skill in using such technologies and may need to be significantly supported

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

(please tick one box)

<b>Yes</b>	<input type="checkbox"/>
<b>No</b>	<input checked="" type="checkbox"/>

Please explain why

This places unnecessary strain and stress on claimants and is generally a waste of resources. The claimant can, as now, be expected to report any changes in their condition or circumstances.

May be helpful where permission is given for a light touch review to be carried out periodically (perhaps every 10 years) by a decision maker reviewing the customer's medical notes to ensure the level of support was equivalent to need.

**Q: What evidence do you think would be required to determine that a person should / or should not be reassessed?**

Please specify below

Prognosis or self declaration by the claimant. Medical and social care record access.

**Q: Who should provide that evidence?**

Please specify below

GP or health professional or by the claimant reporting a change of circumstances.

If decision makers have access with consent to medical/social care records this would be provided that way.

**Q: 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?**

(please tick one box)

<b>Yes</b>	<input type="checkbox"/>
<b>No</b>	<input checked="" type="checkbox"/>

Please explain why

Generally, benefits should be in cash. Whilst we recognise the benefits that could be realised by the ability of those in receipt of benefits being able to access reduced price services we would question how this concept fits with the dignity and respect principles.

The Motability scheme is however the exception that proves the rule and undoubtedly assists millions across the UK therefore any innovative suggestions could be considered.

But generally NO.

What alternative support do you think we should be considering? (Please specify below)

**Q: Would a one-off, lump sum payment be more appropriate than regular payments in some situations**

(please tick one box)

<b>Yes</b>	<input checked="" type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

Please explain the reason for your answer

Depends on the situation, evidence would need to be collected and assessed to confirm the types of one of expenses that would require one off payments to be made.

Answer has already been given and should be seen as an advance of benefit rather than an alternative.

If yes, what are they?

Large costs associated with disability and social inclusion.

**Q: What would be the advantages and disadvantages of such an approach?**

Please specify below

Advantages

On-off payments could potentially assist with perhaps adaptations or moving expenses etc.

Disadvantages

Inability to manage other more ordinary costs of disability after having used up large sums.

**Q: Should the new Scottish social security system continue to support the Motability scheme?**

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please explain why

The Motability scheme is seen by those entitled to assistance as a positive experience and restricting access to this provision would prove detrimental and unhelpful for many. Loss of freedom and social inclusion for thousands in Scotland if withdrawn.

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

Please specify below

**Q: 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?**

Please specify below

By cash benefit and extending travel and disabled parking concession/taxi card scheme. Attendance allowance top ups for mobility needs. Motability is obviously popular. Continuing to support it is a large part of the solution here.

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

Please specify below

Access to advice, advocacy and representation at all stages of the process/assessment.

Increased numbers of domiciliary assessments.

Ensure assessment centres are appropriately situated for claimants to attend.

**Q: 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.**

Please specify below

A lighter touch where assessments only take place where absolutely necessary with the required information that Primary care, secondary care and local HSCP's can provide prior to assessment. Decisionmaking should rely on existing NHS, GP and social care records with patients giving express permission for it being used at a stage before or instead of assessment.

The starting point should be fewer medical assessments overall compared to the current system to ensure proportionate use and minimal interference for those with deteriorating long term conditions. Many current medicals are unnecessary when one looks at claimants' prognosis.

Access to medical records to inform decision making, as is happening in some Dundee and Edinburgh GP surgeries, can highlight claimant need.

Integration with those services already engaged with those entitled to the various different benefits being devolved at design stage is critical not attempting to integrate once it is complete. Sharing information across the agencies and ensuring the work being done at national and local level is complementary. Backing good case examples where claimants are supported and efficiency and better outcomes can be

demonstrated.

**Q: How do you think this might be achieved?**

Please specify below

Involving services at both national and local level in policy, operational and administrative discussions as early as possible – recognising the huge cross over between the support provided by way of social security, supports that will remain devolved and services provided locally.

**Q: What are the risks?**

Please specify below

Failure to share information and design integrated services will be costly and will lead to an even more cluttered landscape of services in Scotland.

**Q: If DLA and PIP help meet the additional costs of disability, what is the role of Industrial Injuries Disablement Benefit (IIDB) and its supplementary allowances (Constant Attendance Allowance, Reduced Earnings Allowance etc) in the benefits system?**

Please specify below

The IIDB scheme is non-contributory, non means tested and is paid to compensate those injured at work. It is compensatory fo injuries or diseases causing a level of disablement.

**Q: In addition to the issues set out at page 47 of the consultation, please tell us:**

**What is right with the IIDB scheme?**

It is a no fault scheme so an alternative to those who cannot afford to sue or cannot prove negligence on the part of an employer.

It is non means tested so can be paid in addition to other income.

Medical Assessments at appeal is at a gold standard compared to other

assessments within the benefits system.

Constant Attendance Allowance, whilst overlapping with DLA/PIP/AA, is linked to the IIDB disablement assessment where the 100% threshold is reached.

**What is wrong with the IIDB scheme?**

Reduced Earnings Allowance is limited to accidents and industrial diseases prior to 1990 so is of limited value to most claimants

Rules are well established but complex in terms of claimant understanding.

IIDB disadvantages claimants of means tested benefits as it is fully taken into account and as such fails to compensate these claimants financially. There is a case for full or partial disregards for this purpose when claiming means tested benefits.

The assessment discounts loss of earnings.

Please explain your answer

See above

**Q: Should different approaches be taken for people with life limiting conditions compared to people with less severe conditions?**

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

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

Fast tracks applications using the DS1500 form approach.

Brings IIDB into line with other disability benefits and earnings replacement benefits.

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

(please tick one box)

Yes	<input type="checkbox"/>
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No	X
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What are they, and why? What would be the advantages and disadvantages of such an approach?

Lump sums would be a backward step and reminiscent of a time when they were awarded instead of pensions for serious incapacity.

**Q: Should the Scottish Government seek to work with the UK Government to reform the IIDB scheme?**

(please tick one box)

Yes	
No	x

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

**Q: Do you agree with the Scottish Governments approach to Severe Disablement Allowance?**

(please tick one box)

Yes	X
No	

Please explain why

Generally yes given that those in receipt of SDA have been in receipt of it for a large number of years, the number of claims still in payment reduces each year, there would appear to be no benefit in changing this support.

However there is an alternative view whereby the Scottish Government could resurrect the old SDA regime for new and existing disabled individuals as an income replacement benefit for those who have insufficient national insurance contributions on reaching age 16 and who are not considered capable of work due to severe disability (generally but not always from birth). This would take such individuals away from means testing and provide a dignified earnings replacement benefit for those most in need.

This would provide a guaranteed minimum income for young people rather than subject them to even more means testing.





## **7. Carers Allowance**

**Q: Do you agree with the Scottish Government's overall approach to developing a Scottish Carer's Benefit?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain why

We support any measures to increase benefits to carers but there must be a safeguard that this doesn't impact adversely with reserved benefit entitlements such as UC, IS, JSA, ESA, PC, HB and CTR. Regulations for reserved means tested benefits will need to be changed as a result to ensure carers in Scotland to receive in one hand and then have the additional amount taken away from the other.

We are of the opinion that the rule prohibiting earned income above £110 per week for carers needs raised. In addition equalising levels to JSA levels are a start but the aspiration should be much higher, perhaps equal to those receiving ESA Support Group rates.

At present the rate of pay for carers (35hrs per week minimum) is £1.77 per hour. When equalised with JSA rates this takes it up to £2.09 per hour. This is a start but needs to go further.

Carers Allowance should also remain non-means tested with National Insurance Credits a key part of entitlement.

**Q: Do you agree with our proposed short to medium term priorities for developing a Scottish carer's benefit?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain why

Young carers need recognition for the vital role they currently play. Any Young Carers should be financially compensated for the role they play

Access to income maximisation, financial inclusion, employability, advice and advocacy should also be supplied as standard.

**Q: How can we improve the user experience for the carer (e.g. the application and assessment process for carer's benefit)?**

Please specify below

Carers single support line offering all types of advice to carers.

Scotland wide media campaign

Access to income maximisation, financial inclusion, employability, financial inclusion, employability, advice and advocacy should also be supplied as standard.

More generous earned income rules

Concessionary travel/passporting for carers

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

(please tick one box)

Yes	X
No	

Please explain why

See comments about flexibility and maximising choice above.

**Q: What alternative support should be considered?**

Please specify below

Cash should be the default position and any alternative support should be by informed choice of the claimant.

Consultation with carers themselves will give the most helpful indication of this.

Energy tariffs and other supports should be additional to financial support and not an

alternative to it. Fuel poverty, financial inclusion, employability, advice and assistance should be offered as standard, but as a bonus, not an alternative.

To reduce stigma the choice should first and foremost be that of the carer.

Access to Motability for carers.

**Q: How can we achieve a better alignment between a future Scottish carer benefit and other devolved services?**

Please specify below

The development of a single portal for accessing all financial and other support would greatly simplify the process for carers. This would allow for a single integrated assessment which considers the carer's needs in a holistic way. It would also ensure younger carers were more fully informed and able to access advocacy. Self-directed support may have some potential to link into any carer's gateway/single portal.

In addition an aspiration to improve the lot and financial circumstances of carers across the country as and when finances allow.

**Q: Do you agree with our proposed long term plans for developing a Scottish Carer's Benefit?**

(please tick one box)

Yes	X
No	

Please explain why

The main focus for the longer-term appears to be on changing the definition of a carer. The Carers (Scotland) Act significantly widened the definition of who is a carer and this will result in an expectation that any new Scottish definition for welfare purposes follows this. Differing definitions could give rise to concerns about equity.

However the aspiration should remain to constantly be seeking to improve the lot of carers and their financial position. This longer term aspiration should include looking at carer ability to work, improving wellbeing and looking to raise the financial situation for carers when the tight fiscal environment improves.

**Q: Do you have any other comments about the Scottish Governments proposals for a Scottish Carer's Benefit?**

A full and comprehensive needs assessments for all carers needs to be considered in all cases Too often there are too many unrecognised carers within society.

There needs to be continual recognition of the amounts that carers save public services and a priority given to carers as a result.

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

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

Please specify below

We welcome extending Winter Fuel Payments to families with disabled children on higher rate of DLA and making early payments to those households who live off the gas grid in the short term.

**Q: 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?**

Please specify below

Wind chill factors could also be included.

A less rigid assessment could be looked at rather than the 7 consecutive day criteria currently used which can be affected by a short term warm spell. 7 days in any 2 week period or 14 days in any 4 week period where the temperature drops below zero might be more helpful.

## **9. Funeral Payments**

### **Q: Proposals for Funeral Payment: What should the benefit cover?**

Please specify below

A dignified funeral for all. Funeral debt feels shameful for many who cannot afford the cost of saying goodbye to a loved one. It can lead to significant levels of debt for people that can have a longlasting impact on their finances.

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

### **Q: Are there other elements that you think should be included or explicitly excluded?**

(please tick one box)

Yes	X
No	

Please explain why

Any reasonable additional cost required for medical, cultural or religious reasons. Removal of a pacemaker is one such instance.

**Q: How can we improve the process for identifying whether someone is responsible for the funeral and should receive the funeral payment?**

Please specify below

The DWP responsible person process for which close relative should receive payment for the funeral can work but can generate stress for claimants and can put family relationships under strain at an already difficult time. Loosening of the evidence requirements and taking claimant evidence at face value would assist with this and speed up the process.

**Q: In terms of the Scottish Funeral Payment, are there any qualifying benefits (e.g. Pension Credit) that you would add to or take away from the current qualifying benefit list?**

(please tick one box)

Yes	X
No	

Please explain your answer  
Council Tax Reduction

**Q: Is the three month application window for a Funeral Payment sufficient time for claimants to apply?**

(please tick one box)

Yes	
No	X

If no, please explain your answer and suggest an alternative length of time in which a claim could be made.

Time should be extended in exceptional circumstances, for instance where a person cannot deal with the person's affairs through ill health. Since bereavement can have a considerable effect on relatives then an extension up to 13 months in line with current extensions to time limits would be appropriate.

**Q: What are your views on the options for speeding up and simplifying the payment?**

Please specify below

An advance of payment is sensible and is in line with advance payments for other benefits where a need exists.

Increasing the amount of information passed from statutory agencies as opposed to requiring applicants to gather information at a time of bereavement is a sensible approach.

**Q: 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	X	
Funeral plan/insurance policy	X	
Contributions from charities or employers		X
Money from an occupational pension scheme	X	
Money from a burial club	X	

**Q: Are there any other funds that you think are appropriate to deduct?**

Please specify below

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

Please specify below

Registrars  
 Funeral Directors  
 DWP  
 Local Authorities  
 Council Tax Teams  
 DWP  
 NHS  
 Advice and Support Agencies



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

Please specify below

**10. Best Start Grant**

**Q: What are your views on who should receive the Best Start Grant (BSG)?**

Please specify below

Anyone in receipt of any Tax Credit or Universal Credit (the 45% option). This ensures the highest spread for a need that is one of the most important one longer term.

BSG should aim to cover as many children as possible and not merely those assumed to be experiencing the greatest inequality. The rise in “in work poverty” means that many more households are being squeezed financially and the risk of tax credits or universal credit recipients who suffer hardship that can also affect a child’s development is a real one. The 45% option is easy and cheap to assess and ensures the best spread of recipients.

Universal provision around the baby box is an excellent idea and is the best course of action. It ensures greatest spread, limits the likelihood of poor take up to virtually nil and shows a commitment to child development for all.

This is one area where collective purchasing could also be hugely effective and useful for people embarking on parenthood for the first time and could help them to make the right choices with as minimal a cost as possible.

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

(please tick one box)

Yes	<input checked="" type="checkbox"/>
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<b>No</b>	
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Please explain why:

There needs to be a way to determine the responsible parent and it would be sensible to retain the current principles used to determine Child Benefit entitlement and payment.

**Q: Do you agree that each of the three BSG payments should only be made once for each child?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

If no, what exceptions would you make to this rule?

We agree with the general principle that each of the three BSGs should only be made once for each child

**Q: Should we continue to use the same method as the SSMG to determine whether a child is the first child in a household?**

(please tick one box)

<b>Yes</b>	
<b>No</b>	<b>x</b>

Please explain why:

The payment made on the birth of any child needs to appreciate the added expense incurred in each case and at each point in time. Otherwise how long would a family be expected to hold onto baby items, 5, 10 or 15 years?

**If no, what alternative method should we use?**

Discretionary power to treat a subsequent child as a first child.

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

(please tick one box)

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Please explain your answer:

Only the equivalent form MAT B1 with the expected date of confinement and the birth certificate are required here.

There may be an option to refer on for advice and assistance and financial inclusion agencies at this stage to ensure that Healthy Start voucher, Statutory Sick Pay, Maternity Allowance and other benefits are also claimed at this time.

**Q: 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)?**

Please specify below:

Each family will have different pressures depending on the family make up and income status – focussing on the outcomes the BSG is trying to influence may help to determine whether starting nursery is the best point to provide this middle payment.

Some families will be faced with one/both parents returning to work much earlier than the date their child 'starts' nursery due to changes in entitlements to other social security benefits etc.

**Q: 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?**

Please specify below:

If it is identified that the 'start of nursery' is the time when those children entitled to BSG should receive it, the point of entitlement to the funded early learning and childcare place (elcp) seems sensible – there may be an opportunity here to dovetail access to the BSG with increasing take up of the funded place – local authorities are

already engaging with those entitled to the elcp and joining up these two initiatives could maximise access to both locally.

**Q: Are there any particular issues related to the nursery payment that you think we should consider?**

Please specify below

**Q: Are there any particular issues related to the school payment that you think we should consider?**

Please specify below

**Q: 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?**

Please specify below:  
Yes – All children

**Q: What are your views on our proposals in relation to the BSG application process?**

Please specify below

The proposal to treat the BSG application process as three separate applications seems the most straight forward and simplest for those entitled to understand.

We welcome as much simplicity in the application process.

MATB1 and birth certificate should be the route in at birth. Nursery and school payments route in should be via local authorities.

**Q: What are your views on establishing an integrated application process for the BSG and Healthy Start?**

Please specify below

Long overdue.

The work of dedicated public health practitioners across Scotland has been patchy and takeup is generally poor without these concentrated efforts.

Linking BSG and Healthy Start and ensuring as simple and integrated an approach as possible is warmly welcomed to ensure good nutrition in the first 1000 days and beyond of a child's development.

A streamlined and simple single application would work best.

**Q: What are the advantages and disadvantages of this approach?**

Please specify below:

Advantages are listed above, but making healthy start and BSG as accessible as possible improves childrens' chances and development and reduces health inequalities.

Disadvantages

None that cannot be overcome with explanation and marketing.

**Q: Would the option to receive items rather than a cash payment as part of the BSG have benefits?**

(please tick one box)

Yes	X
No	

Please explain why

Only as an option where clear benefits are demonstrated and not as a default.

The provision of items rather than cash payments can be a good way to maximise the amount those entitled are able to secure via their payment.

Some local authorities have already proved this model can work via the Scottish Welfare Fund where LAs have on average managed to purchase items such as washing machines, cookers beds etc. via a nationally procured contract saving around 20% on the costs of purchasing items individually.

**Q: Which services should promote awareness of the BSG to ensure that claimants know about it at the relevant time?**

Please specify below

Advice and Information Services  
Financial Inclusion Agencies  
Health Visitors  
Community Nurses  
Primary and Secondary Care  
Employers  
Registrars  
Chemists  
Nurseries  
Schools  
Local Authority

## **11. Discretionary Housing Payment**

**Q: Could the way that Discretionary Housing Payments (DHPs) are currently used be improved?**

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

Please explain why

Any analysis of DHPs needs to understand that it is unfortunately chronically underfunded to meet the requirements of tenants. Its initial purpose has been to a large extent superceded by the impacts of the Bedroom Tax, Local Housing Allowance and the Benefit Cap.

The localised nature of DHP entitlement for Local Authority areas has its benefits. Links to other systems of support for example can mean a more streamline supportive system and better outcomes in many cases. However in the past different Local Authority areas have treated DHP entitlement and administration differently

leading to postcode lotteries in terms of spend. A similar approach to what has occurred in the Scottish Welfare Fund Provision where spends are closely monitored with an eye towards consistency of approach needs to continue.

It would be desirable to move towards full mitigation of the bedroom tax in Scotland as part of the way UC is calculated for Scottish claimants rather than use DHP as a means of doing so. However, it is understood this will not be fully possible until all working age claimants have migrated to UC.

Consideration should be given to using DHP to focus equally on all the elements of housing need and welfare reforms. In some authorities, other measures such as LHA changes are having more of an impact than the bedroom tax yet the way authorities have been funded and the differing priorities of UK and Scottish Governments means that those affected by other measures are subject to prioritised assistance while those impacted by the bedroom tax experience full mitigation. It is important that local authorities continue to exercise discretion on local priorities as Scotland experiences quite different housing markets and pressures in different areas which national priorities are unlikely to address adequately.

As a result of the UK Governments Benefit Cap consideration must be given to the impact of this on families. Scottish government have a policy to tackle Child Poverty, not having the funding to mitigate the effects of the benefit cap on families with children will mean children continue to live in poverty.

**Q: Could the administration of DHP applications be improved?**

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

Please explain why

Local authorities will always strive to improve on efficiency of administration by way of continuous improvement particularly with regard to speed of response however it is important that DHPs are able to respond to local pressures and impacts in different housing markets and local authorities continue to exercise discretion on local priorities.

Sufficient funding needs to be provided to allow LA's to be able to respond to the differing priorities within the local area.

**Q: Does the guidance for local authorities on DHPs need amending?**

(please tick one box)

<b>Yes</b>	
<b>No</b>	<b>x</b>

Please explain why

In broad terms no in that it is important to maintain local discretion for reasons given above. However, guidance will require ongoing review in the light of new pressures and impacts and this should be completed with input from all relevant stakeholders.

**12. Job Grant**

**Q: What should the Scottish Government consider in developing the Job Grant?**

Please specify below

It is important to consider how making this payment integrates with local employability offerings so that public assistance has maximum impact. What is the added value beyond current provision?

Some authorities already provide cash payments to assist with appropriate clothing, tools etc. and it is important that there is no duplication of effort.

There is a strong argument for devolution of this to Local Government to enable alignment with the employability pipelines creating better integration and value for money.

Devolution to Local Government may also provide the opportunity to have this Job Grant up and running earlier than other elements of Social Security as Councils already have the existing infrastructure to make one of payments via arrangements set up to provide Scottish Welfare Fund and or Education Maintenance Allowances. To do otherwise could cause a significant administrative burden. Also to be considered is how would the proposal fit with any existing arrangements in Community Planning Partnership areas.



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

**Q: Should the choice of managed payments of rent be extended to private sector landlords in the future?**

(please tick one box)

<b>Yes</b>	<b>X</b>
<b>No</b>	

Please explain why

We would support the choice of managed payments being extended to private sector landlords where the tenant requests it. Tenant control and respect for their choice is key. The extension of managed payments will lessen rent arrears, help tenancy sustainment and increase access to private landlords who will be more favourable towards prospective tenant groups where a degree of rental income is assured to be paid.

However it is also important to put in place the arrangements to address the specific risks for payment of rents in the social sector as a priority.

**Q: Should payments of Universal Credit be split between members of a household?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain why

It would be important to have this choice to address situations of possible domestic abuse, financial abuse or controlling abuse or when the payment may be going to a member of a household who is not the tenant with the responsibility for payment or rent. It also fair and equitable to split payments between the household and this principle should be firmly embedded in the system.

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

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

b) automatic household payments, with the option to choose individual payments?

(please tick one box)

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

**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?**

Please specify below

We would support a split that favours the main carer, otherwise 50/50.

It would be important to have this choice to address situations of possible domestic abuse or when the payment may be going to a member of a household who is not the tenant with the responsibility for payment or rent.

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

Please specify below

Local authorities and RSLs are concerned about the impacts of UC on rent collection and the potential for large build-up of rent arrears as numbers and complexity of need increases in UC rollout. The Scottish flexibilities to allow direct managed payments to social landlords have been viewed as important to mitigate against these impacts and priority should be given to bringing these in as soon as possible.

**Q: Do you have any comments about the Scottish Government's powers over the housing element of Universal Credit?**

Please specify below

The present housing element of Universal Credit creates unnecessary problems for claimants and will certainly increase rent arrears levels across all housing sectors.

**Private landlords will be less likely to rent to benefit claimants and therefore**

**there needs to be a clear ability for rent to be payable direct to the landlord where the tenant agrees.**

LHA underfunding of rental incomes is also a clear problem within the current system and although the Scottish Government are to be commended in terms of effectively abolishing the bedroom tax in the social sector, forthcoming freezes of LHA rates will further worsen an already underfunded LHA private sector.

### **PART 3: OPERATIONAL POLICY**

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

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

Please specify below

Publically funded advice providers should play a full part in the development of the new Scottish social security system – they have significant experience across the social security landscape, both in terms of entitlement based systems and discretionary payments, to exclude publicly funded advice providers would risk losing significant experience and opinion on the areas identified.

A workstream to include advice sector providers would provide an outlet for advisers to add to the development of the system around the devolved powers.

Once the new system is agreed, publicly funded advice providers will also help to deliver training to local groups such as Social Work teams and voluntary sector organisations.

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

Please specify below

As a first step it is important to gain a current understanding of the current landscape across Scotland around publicly funded advice agencies. Scottish local government, Scottish government and the UK government provide funding to various organisations, for various lengths of time to do various types of work. Sometimes the funding is to do benefit specific work and at others general work around signposting etc. without understanding the current landscape it will be difficult to assess what the impact is across the various parts.

Having a complete picture around what is currently available, what will continue to be available and what each 'advice agency' specialises in will allow a truer understanding of the impact and therefore more realistic actions required to allow publicly funded advice services to assist those affected by changes appropriately.

Advice agencies, welfare rights teams and money advice agencies of all types are currently well versed in managing change within the benefits system. The implementation of the UK Government's welfare reform agenda has seen the greatest period of change in the social security landscape since Beveridge. Dundee City Council welcomes the aspiration of the Scottish Government to ensure that agencies work together better. We also welcome the redesigning of the Scottish National Standards framework to ensure that quality of advice and assistance to claimants is paramount in an ever changing system.

Advice, representation and advocacy services also need to form strong relationships with those administering the devolved benefits system and take cognisance of the development of those systems and how they are impacting with agencies' clients. Development of mechanisms such as user groups, local advice forums and customer service forums are vital as are escalation procedures to ensure that poor practice or policy can be challenged through different channels.

Advice agencies understand the complex interactions between different benefits and are quick to spot emerging social policy issues and flaws in the new systems. All means of communication are therefore required to ensure that there is meaningful and informed feedback from the sector.

Dundee has very positive relationships with local Jobcentre Plus staff, Clydebank Benefit Delivery Centre and the PIP Service Centre. Numerous groups such as the DWP Liaison Group, the Advice Workers Forum, Welfare Reform Group, Universal Credit Working Group and Financial Inclusion Strategy Group provide for better practice sharing, improved customer service and better outcomes for claimants.

As well as a workstream to engage with advisers and advice agencies there also needs to be the capacity for ongoing conversations as the landscape shifts and plans are developed in more detail, especially against the parallel development of the UK Government's continuing welfare reform agenda. Since advisers are often the first to be approached by the public when benefits are to change, clear communication with advice agencies is crucial for successfully informing the public of any imminent changes. Areas such as the rollout of Universal Credit and changes to Attendance Allowance are areas where large amounts of customers are likely to seek advice. As the system's interactions and complexities get more pronounced then there will be a need for better and more specialist advice as well as advocacy.

**Q: How could the transfer of the devolved benefits to Scotland be used to drive improvements in the provision of publicly funded advice?**

Please specify below

Reducing competition for the same funding – devolution of benefits to Scotland perhaps allows the opportunity to examine and agree a long term strategy for ensuring the various elements of advice and support required are adequately covered across Scotland and prevent over-provision in certain types of support or localities.

Remember though that benefit delivery and the provision of advice are separate entities and need to be separated to a degree. However advice needs to be properly funded in order to deliver high quality advice in an ever changing environment.

Trusted agencies capable of meeting Scottish National Standards and working in partnership together are two areas that could demonstrate a way forward for better, more strategic advice delivery. However there is undoubtedly going to be a need for larger levels of advice delivery in what is going to be an ever changing and more confusing environment for claimants, especially in the short term. All agencies need to be able to demonstrate worth in their particular areas of expertise in order to form a wide landscape of agencies able to advise on both devolved and reserved benefits.

There is a need to map service provision, support and fund transformational change in existing agencies, and support and fund Scottish National Standards sufficiently. Provide longer term funding where agencies can demonstrate partnership working, added value and expertise in particular areas will ensure that the sector can grow as the new devolved benefits are added to the current system.

Consider good practice examples of innovative working to communicate or deliver the devolved benefit outcomes better.

**Q: Do you think that Independent Advocacy services should be available to help people successfully claim appropriate benefits?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain why

Yes, advocacy services compliment advice services and meet an often overlooked area of trusted assistance that claimants can turn to.

Independent Advocacy services are critical to those who need additional support beyond that the advice sector are able to provide this will remain as true of the benefits being devolved as it is currently.

Whilst we recognise the intention to ensure Social Security in Scotland is straight forward to claim, fully accessible with a claimant focus some claimants will always require the services of advocates and continuation of this feature would appear to fit with Principle 4 identified in the A New Future for Social Security in Scotland around 'putting the user experience first'.

**Q: 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?**

Please specify below  
Map their use by citizens and listen to their examples of social policy issues affecting their clients as the new benefits are rolled out.

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

**Q: Do you agree that we should base our CHP on the Scottish Public Services Ombudsman's 'Statement of Complaints Handling Principles'?**

(please tick one box)

<b>Yes</b>	<b>x</b>
<b>No</b>	

Please explain why  
Basing the CHP on the SPSO Statement of Complaints Handling Principles seems sensible and would align the Scottish Social Security complaints procedure with other large public bodies e.g local authorities already operating in Scotland.

The principles have claimants interests at the centre of the complaints process and are clear on how complaints should be dealt with.

**Q: How should a Scottish internal review process work?**

Please specify below  
We believe that first and foremost a decision must be done correctly insofar as is possible first time. The principle right first time is one that is essential to ensuring that claimants' lives are not impacted unnecessarily by poor decision making or poor practice.

Decisions should be delivered fairly, quickly, accurately and effectively;  
Decisions should be clear and take into account all relevant evidence and the circumstances of the case;  
Claimants should be updated and informed at all times  
Decisions need to be communicated and explained properly  
Claimants rights of review, appeal and dispute need to be absolute.

Any decision making body should learn from the outcomes of its complaints, mistakes and from claimant feedback.

Staff should be adequately trained in order to get the majority of decisions right first time.

Any decision making body must be a learning organisation and get their culture right.

Provision of information times in support of a claim should be extended to 2 months.  
Any threats should be removed from the decision making process.

Claimants need to be able to ask for a review whenever their condition or circumstances change.

**Q: What would be a reasonable timescale for the review to be carried out?**

Please specify below

Timescale should be discussed as part of co-production work and also work with those agencies who have experience of decision making processes.

As a starting point though reviews should be carried out within 2-4 weeks (10-20 working days) generally from the date when all relevant evidence has been provided.

If taking longer then this should be highlighted to the claimant as soon as possible.

**Q: Should a tribunal be used as the forum for dispute resolution for the Scottish social security system?**

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please explain why

There is no acceptable alternative forum for dispute resolution. Specialist tribunals

are the only forum where the full legislative arguments can be brought out and a full consideration of the disagreement can be heard by an exploratory panel who know the rules in order to be able to apply the client's circumstances to them.

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

Please specify below

**Q: How can we ensure that our values underpin the appeals process for a Scottish Social Security agency?**

Please specify below

Any appeals process needs to be separate and independent from the decision making agency.

Appeals need to be dignified, exploratory, non-adversarial and non threatening for claimants. The culture of the tribunal needs to be one that does not judge or treat an appellant with harshness or disdain. The process should be clear, straightforward and as uncomplicated as possible. Administrative burdens should be minimal. Advocacy and representation should be seen as complimentary to the Tribunal's aims.

Travel costs should be paid to appellants in advance of a hearing.

Decisions need to be clear and understandable insofar as is possible.

**Q: Are there any other values that you feel should be reflected in the design of the appeals process?**

Please specify below

Fairness  
Natural justice  
Non-adversarial  
Exploratory

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



Please specify below

Timescale should be discussed as part of co-production work and also work with those agencies who have experience of decision making processes.

This is a difficult question to answer since evidence gathering for an appeal can take significant time for an appellant.

Two months minimum and no later than 3-4 months to wait for a hearing as a result would be our suggestion for a starting point but subject to co-production.

In addition if an appellant requires a postponement or adjournment in order to prepare their case better or obtain further evidence or representation then this should be looked on more favourably in the interests of natural justice.

**Q: 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?**

Please specify below

Access to independent advice and advocacy as standard.

Clear, detailed information around the appeal, how the Tribunal work, what they are likely to ask. This should be available in all forms, written, spoken word, web, social media, You Tube etc.

Informed updates on the progress of an appeal by the appeal agency.

Decision Making guides etc. should be available to the general public.

Ensuring communications are provided in a way that best suits the applicant and local supports available to guide them through the process are critical.

Regular reports on the performance of appeals processes etc. should also be part of the process.

**Q: How could the existing appeals process be improved?**

Please specify below

- Reduce delays
- Make it more customer friendly
- Ensure appeals can be heard both orally and in writing
- Ensure technology is utilised to minimise disruption where possible
- Access to representation at all tribunal venues if required.
- Relaxation of adjournment and postponement access for appellants with

good reason.

- Judge consistency training.
- More domiciliary hearings for claimants
- Currently judges are using interlocutory instructions threatening to strike out appeals if not complied with. An alternative would be interim hearings to decide whether to proceed, possibly done remotely by Skype etc to save cost.
- All paperwork should be in electronic format
- Full written reasons to be supplied in all cases.
- Separate private meeting spaces for appellants to converse with their representative.

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

**Q: Should Scottish benefits only be payable to individuals who are resident in Scotland?**

(please tick one box)

<b>Yes</b>	
<b>No</b>	<b>x</b>

Please explain why

In general individuals who are residing in Scotland should be able to access Scottish benefits – those living outwith Scotland are not part of the tax base.

However there needs to be recognition of current rules around disability benefits being able to be exported to EU countries. This should be retained.

Also in the Borders and Dumfries and Galloway it needs to be recognised that in the small number of cases where for example a carer and the disabled person live on opposite sides of the border this needs to be considered and an approach adopted as to consistency.

**Q: What are your views on the ‘habitual’ residence test currently used in the UK by DWP?**

Please specify below

A different test for those benefits devolved to Scotland would likely cause some confusion and some unhelpful results e.g DWP rule customer not habitually resident for Universal Credit and Scottish Social Security Agency rule habitually resident for Disability Benefits?

However the habitual residence test is currently too restrictive especially in areas such as applying time limits within which a person is not habitually resident. It does not take the applicant's circumstances into account.

**Q: Are there other issues that the Scottish Government should take into account when it comes to residency rules?**

Please specify below

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

Please specify below

That there are likely to be interactions between different communities across national borders.

The individual's needs are paramount in each case. Solutions need to be found where both systems do not initially dovetail together. Poor administration or arguments around responsibility should not be to the detriment of the individual's decision being made.

**Q: How can the Scottish Government ensure that no-one either falls through the cracks or is able to make a 'double-claim'?**

Please specify below

By data sharing.

Fraud is unlikely to be eliminated entirely but the vast majority of clients are honest individuals (less than 0.7% of claims are fraudulent) Current data sharing should be expanded to include the agency/agencies responsible for Scottish Social Security and legislation should be considered around data sharing if required.

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

**Q: Could the existing arrangements for recovering social security overpayments be improved in the new Scottish social security system?**

(please tick one box)

Yes	<input checked="" type="checkbox"/>
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No	
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If yes, please explain your answer

Recovery of an overpayment can often leave families in severe hardship, when making the decision to recover it is important that impact of recovery is considered in each case before deductions are taken.

Overpayment decisions and processes also need to be simplified with clarity of decisions for the claimant being the main goal.

Ensuring that entitlement and overpayment decisions are made at the same time. This allows entitlement and overpayment to be decided together and less confusing for people and allows the two decisions to be decided together if reviewed or appealed.

**Q: What are your views on the role that financial advice can play in the recovery of overpayments?**

Please specify below

This will depend on the size of the overpayment and how long it may take for this to be recovered. In some cases simple financial advice will suffice, in others more specialised help may be required.

However in general money advice and information cannot worsen the situation and can often help clients enormously. Full access to advice and representation is also critically required in such instances because of the often complex nature of overpayment cases. They are one of the worst understood decision types within the social security system at present.

**18. Fraud**

**Q: Should the existing Scottish Government approach to fraud be adopted for use in our social security system?**

(please tick one box)

Yes	
No	x

If no, what else should be used instead?

With fraud being so uncommon within the social security system there should be a presumption that an overpayment is the result of innocent failure to disclose or misrepresentation. Claimants currently feel compelled to accept penalties against threat of prosecution and interviews under caution within the system are seldom understood by claimants as they are conducted. In many instances there has also been evidence of female members of households being burdened with a fraudulent conviction when in truth any fraud may have been initiated by a controlling partner.

Tribunals should be the default first method by which alleged fraudulent cases are examined.

**Q: If yes, should our existing counter-fraud strategy be adapted in any way?**

(please tick one box)

<b>Yes</b>	<input type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

Please explain your answer

**Q: How could the new Scottish social security system ‘design out’ errors and reduce the potential for fraud at the application stage?**

Please specify below

Questions need to be clear and concise so that the number of errors made by individuals are minimised. An individual needs to understand what is being asked of them and what actions they are required to take going forward. Within the current social security system individuals are required to report any changes in circumstances. Given customers a tolerance level of what changes to report may reduce the number of errors and subsequent overpayments.

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**Q: Should the Scottish social security system adopt DWP's existing code of practice for investigators?**

(please tick one box)

<b>Yes</b>	<input type="checkbox"/>
<b>No</b>	<input checked="" type="checkbox"/>

Please explain your answer

As mentioned above claimants currently feel compelled to accept penalties against threat of prosecution. We believe the ability to challenge an overpayment through the Tribunal should be the adopted first port of call for such cases with representation if required. There should initially be a presumption of innocence and not guilt.

**Q: What are your views on the existing range of powers granted to investigators?**

Please specify below

This gives officers additional powers to investigate true fraudsters and ensures those that are committing fraud potentially on a large scale are fully investigated.

**Q: What are your views on conducting interviews under caution?**

Please specify below

These can play an important role in determining whether fraud has been committed, there is a danger however that an individual is not fully aware of the seriousness of the situation. Generally the investigation officer carrying out the interview under caution is not experienced within the field to recognise if the individual is suffering from mental health issues or domestic violence for example

Claimants should understand clearly what they are being asked to attend and able to have representation available to them in such circumstances.

As mentioned above claimants often do not understand the seriousness of interviews under caution, sometimes for example bringing their children into interviews.

**Q: What improvements could be made around conducting interviews under caution?**

Please specify below

Independent advice should be given to the individual before the interview under caution takes place, this would ensure that the individual is clear on how the interview will take place and the potential implications.

Transcripts need to be tidied up so as not to include slang or any indication of hesitation etc. This is often subjective and can inadvertently reflect badly on a claimant when the reality is something quite different such as nerves, stress or panic..

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

(please tick one box)

<b>Yes</b>	<input checked="" type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

Please explain your answer

The public purse must be protected, however individuals need to be clear from the onset on what constitutes fraud and how their actions will be considered.

The current offences are clear and easy to understand, however these need to be more readily communicated to individuals so they are aware of their obligations.

However again it needs to be clear that fraud only occurs when there has been deliberate falsification of evidence or omissions within declarations with intent to gain benefit.

**Q: Should the Scottish Government impose the same level of penalties for social security fraud as are currently imposed?**

(please tick one box)

<b>Yes</b>	<input type="checkbox"/>
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No	x
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Please explain your answer

The level of penalty needs to fit the circumstances of the individual situation.

### **19. Safeguarding your information**

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

(please tick one box)

Yes	x
No	

Please explain your answer

All of the principles are sensible and it makes sense to be consistent with those adopted by other Scottish Public Services.

**Q: If yes, should our existing Identity Management and Privacy Principles be adapted in any way?**

(please tick one box)

Yes	x
No	

Please explain how

To allow data sharing between reserved and devolved benefits

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

Please specify below  
Stakeholders such as  
Local Authorities



Advice Agencies  
DWP  
UK Government  
Scottish Government  
NHS

**Q: What are your views on privacy issues that may affect the new agency?**

Please specify below

There needs to be a balance between ensuring personal sensitive data is protected but where the individual has agreed to share that data it is used for the purpose that the individual has agreed to without delay to ensure as efficient a process as possible.

**Q: Do you perceive any risks to the individual?**

Please specify below

Loss of individual personal data. This cannot be completely avoided but should be minimised as much as possible.

If Yes, What solutions might be considered to mitigate against these?

**Q: 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.

(please tick one box)

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Please explain your answer

Co-production may bring this to the fore but many claimants complain about the complexity and having to supply information multiple times to the same agency.

Where it is for the benefit of the claimant and to reduce the burden on them supplying information multiple times, with consent this should be arranged.

There needs to be a safeguard to ensure that data is also up to date and correct at the time of sharing.

In terms of disability benefits the use of patient data with the patient's express consent is something that we believe could massively transform the assessment of functional limitation and benefit entitlement. This however needs to be express consent or else data protection legislation may need to be amended or new legislation introduced at a Scottish level.

**Q: Would you support strictly controlled sharing of information between a Scottish social security agency and other public sector organisations (for example local authorities) to support service improvements and deliver value for money?**

(please tick one box)

<b>Yes</b>	<input checked="" type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

Please explain your answer

The ability to share information that promotes a holistic approach to local service delivery for claimants is to be encouraged where the benefits to clients are obvious and it results in a more joined up approach to delivering client services, benefits and reducing inefficiencies. A holistic model of client support based on Scottish Government priorities and focussed on early intervention to prevent people reaching a crisis point in the first place is the way forward in this regard.

Data would need to be strictly controlled as it is at present (for example DWP data can be used by Local Authorities for the purposes of determining non-residential charging contributions from clients but there are strict rules) but the benefits could be significant and would go a long way to offering

**Q: What are your views on having the option to complete social security application forms online? Can you foresee any disadvantages?**

Please specify below

There are issues around those with digital literacy and also those who are currently digitally excluded (still a significant portion of society).

The main determinant of digital exclusion is age but other significant factors – often combined with low income – include disability, learning difficulties, ethnic origin, location, culture and language. These client groups would be significantly challenged by such a change being “by default”. Therefore there should always be an option for paper or telephone contact in cases where this is needed.

From a channel shift point of view however there are obvious benefits in terms of efficiency and cost.

**Q: 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)?**

Please specify below

Again digital exclusion would restrict many being able to access such an account.

## **20. Uprating**

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

Please specify below

Welfare Reform brought in a change in the uprating rules from the Retail Price Index (RPI) to the Consumer Price Index (CPI). The Scottish Government should consider returning to the RPI which is generally at a higher rate in order to preserve the real cost of living increases that claimants face.

In particular this should be considered in the case of disabled claimants who are most likely to face long, “slow burn” erosion of their incomes over time.

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

If so, please explain which benefits and why

Funeral costs could be linked to the average cost of a funeral in some way. Best Start Grants could be linked in some way to the cost of having a new baby and Cold weather payments linked to average fuel costs in some way.