

Adult Disability Payment: Consultation on the Mobility Component

January 2023

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Ministerial Foreword



Adult Disability Payment is the twelfth payment that Social Security Scotland is now successfully delivering. In developing this payment, we listened closely to the views and experiences of disabled people, so that we co-designed a new system that better meets their needs. Crucially, we are delivering a system based on trust that is firmly rooted in our principles of dignity, fairness and respect.

The Scottish Government is committed to seeking opportunities to continuously improve what we do. We have already made bold choices in improving the application and decision-making processes for Adult Disability Payment, whilst maintaining our commitment to delivering a safe and secure transfer of people's existing awards from the UK Government. As we begin to increase the pace of the transition from the Department for Work and Pensions to Social Security Scotland, it is only right that we look beyond safe and secure.

When Scottish Ministers gave a commitment to hold an independent review of Adult Disability Payment in 2023, we wanted to ensure that people had the opportunity to experience the positive improvements we have already made. We also committed to a review of the eligibility criteria for the mobility component, including the "20-metre rule", before the independent review.

This consultation forms part of the review: it will present the evidence that we have gathered, seeking to stimulate discussion and provide people with an opportunity to tell us about what works and what could potentially be changed and/or improved. The findings and analysis of this consultation will be made available to the independent review to consider later in 2023.

Whilst I know that some people would like us to go much further and implement change more immediately, it is crucially important that we consider these matters carefully. Allowing the independent review the opportunity to consider all of the evidence and the eligibility criteria holistically will ensure consistency and coherence.

We are building a Scottish Government social security system that is intended to serve the needs of disabled people both now and in the future. People have placed a great deal of trust in us to deliver that system. It is therefore important that we work collaboratively to identify opportunities, understand any potential unintended consequences and be transparent about how we can address those.

In conclusion, I reiterate my gratitude to the many people who have engaged with us and offered their advice to reach this point, including: our Experience Panel members, the Ill Health and Disability Benefits Stakeholder Reference Group, the Disability and Carer Benefits Expert Advisory Group and the Scottish Commission on Social Security. I am also grateful to parliamentary colleagues, particularly on the Social Justice and Social Security Committee, as well as all of our delivery partners.

This is an important opportunity to make your views known and I encourage you to do so.

BEN MACPHERSON MSP

Minister for Social Security and Local Government

Executive Summary

Adult Disability Payment is the twelfth payment now delivered by Social Security Scotland. It replaces Personal Independence Payment (PIP) in Scotland, and it will provide support to over 510,000¹ disabled people by 2025.

In designing this new payment, we have carefully listened to the views of disabled people, stakeholders, and the public. We have made several improvements to Adult Disability Payment over PIP. These include substantial improvements to the application and decision-making process.

We recognise that there is considerable interest from disabled people and stakeholders about the eligibility criteria for the mobility component. We are consulting on the eligibility criteria for the mobility component to seek a broad range of views on this matter.

The Scottish Government is committed to beginning an independent review of Adult Disability Payment in 2023.

This consultation does not set out or advocate a preferred Scottish Government position or policy. Instead, this consultation is an opportunity for the people of Scotland and our stakeholders to provide views on the evidence presented on the mobility component. Once the consultation closes and the responses have been independently analysed, the findings will help to inform the independent review of Adult Disability Payment commencing later this year. In considering the future delivery of Adult Disability Payment, it is important that any proposals for change are achievable, affordable and realistic.

Introduction

About Adult Disability Payment

Adult Disability Payment is a new payment for disabled adults to mitigate the additional costs of living with a disability or health condition. This includes physical or mental health conditions which have a significant, long-term impact on a person's daily life. People between the ages of 16 and State Pension age, who do not already receive PIP, are now able to apply for Adult Disability Payment.

The eligibility rules for Adult Disability Payment have remained largely the same as under PIP as part of our commitment to a safe and secure transition of the devolution of social security payments. This is to avoid having two sets of eligibility criteria before completing the transfer of people's payments from the UK Government to Social Security Scotland by 2025.

Our vision for disability assistance is to create a compassionate, person-centred approach that treats people with fairness, dignity and respect. In doing so, we have made considerable improvements to the application and decision-making process to offer a significantly better experience for disabled people. More detailed information on the key improvements introduced as part of Adult Disability Payment are included on page 15.

Adult Disability Payment is the most complex payment delivered so far by Social Security Scotland. It is linked to other forms of support which remain reserved to the UK Government, often referred to as "passport benefits." It also involves a much more complex decision-making process than most of the other payments we have delivered so far.

As we undertake the process of transferring people's payments from the UK Government to Social Security Scotland, we are considering what happens after the safe and secure transition has been delivered.

The review of Adult Disability Payment

Some disabled people and stakeholders have called on us to go further in the changes we have made to Adult Disability Payment. In particular, the way the eligibility criteria look at a person's mobility needs has been highlighted as an area for further consideration. Our commitment is to seek the views of as many people as possible to shape the future of Adult Disability Payment – including disabled people, family members and carers, and our stakeholders.

When the Scottish Government [responded](#) to the [Consultation on Adult Disability Payment](#), we set out a commitment to undertake an independent review of the new payment commencing in 2023. Membership of the review will be independent of Government and will secure the input of disabled people.

The Scottish Government has also committed to undertaking a review of the eligibility criteria for the mobility component of Adult Disability Payment in advance of the independent review.

Starting the independent review later in 2023 will give disabled people a year to experience the significant improvements we have already made in introducing Adult Disability Payment. It will also allow Social Security Scotland to build upon a successful start, as it gains further experience and continues to develop its capabilities in delivering this payment.



Figure 1 The timeline of the review of Adult Disability Payment

Key considerations for the review

There are practical delivery and affordability considerations that will have to be appropriately reflected in the remit, and any subsequent recommendations made by, the independent review. These include:

Affordability

The Scottish Government's primary consideration is always about providing the right level of financial support to those who are entitled to it. However, it is also important to consider to what extent changes might result in increased spending or whether they could have unintended consequences for people's entitlement to other "passported" benefits and entitlements.

If there are further changes, which mean either that more people will receive disability assistance, higher payments, or payments for longer, then any resulting increase in expenditure would need to be met from the largely fixed Scottish Budget. The Scottish Government's ability to make significant changes to the eligibility criteria must be balanced against the potential costs and challenging economic

situation. Whilst the Scottish Government has some limited powers over social security and taxation, we must carefully balance priorities for spending within the context of our largely fixed budget.

We are acutely aware that some people are keen to see us make changes more quickly, however we must be realistic about the challenges facing the Scottish Government in considering any potential future changes. As set out in the Emergency Budget Review on 2 November 2022, the financial situation facing the Scottish Government is, by far, the most challenging since devolution. This requires difficult decisions about how to prioritise spending across all our public services. Major changes which result in new, additional spending will therefore not be deliverable within this parliamentary term.

If changes also meant that more people were entitled to a UK Government benefit as a result, the Scottish Government could be asked to fund the increased spending by the UK Government. The Scottish Government and the UK Government have an agreed way of estimating these potential costs². These are called “spillover” costs.

Achieving value for money is a key consideration in our policy development process. It is enshrined as a principle within the Social Security (Scotland) Act 2018 and further defined in our Charter³. As we continue to balance the Scottish budget, challenging decisions will need to be made regarding any new policy suggestions, ensuring that any new changes are affordable and deliver value for money for the public purse.

Social security budgets are demand-led and, once we have agreed who is entitled to a particular benefit, we will pay any eligible person who applies. Any changes that will increase future benefit spending will mean the Scottish Government would need to find the money for those changes. We will need to decide how affordable and sustainable any changes are as part of our wider budget setting process.

The Scottish Fiscal Commission (SFC) – which is Scotland’s official, independent economic forecasting body – has estimated that by 2027-28 we will be spending £7.3 billion a year in social security payments to people in Scotland. This amounts to £1.4 billion more than the level of funding we expect to receive from the UK Government through the social security Block Grant Adjustments⁴.

The SFC expects spending on Adult Disability Payment to double from £2,047 million in 2022-23 to £4,116 million in 2027-28. The existing improvements that we have already made are expected to cost £40 million in 2022-23 and will grow to £670 million by 2027-28. These costs represent the additional investment we are making as a result of our different approach to disability benefits and therefore do not receive any funding from Block Grant Adjustments.

Whilst some of this increase is due to uprating payment levels to account for inflation, the changes we have already made to Adult Disability Payment are also expected to result in more people being eligible and higher payment levels. The additional cost represents deliberate policy decisions to better support disabled people. We therefore see this an investment in the people of Scotland and want to ensure that people who are entitled to our benefits receive them.

Deliverability

Potentially very small changes to any of our benefits can have a significant impact in areas of service delivery. This could involve making changes to application forms, letters, guidance for our case managers, training, or more complex changes to our systems.

Making more significant changes could take longer to implement, depending upon the scale and complexity of those changes. It is equally important to be realistic about the challenges of making significant changes when many people will be in receipt of Adult Disability Payment.

Taken together, complex issues regarding affordability and deliverability will be taken into consideration throughout the independent review process.

Why are we consulting?

The purpose of this consultation is to provide a robust evidence base to inform the independent review of Adult Disability Payment. The findings from this consultation will be passed to the independent review to consider and draw its own conclusions. This will also allow the independent review to consider insights drawn from the early delivery of Adult Disability Payment.

We want to ensure that a range of voices are informing the review of Adult Disability Payment. We are doing this by listening carefully to disabled people and stakeholders about their views on the eligibility criteria for the mobility component. This work has been facilitated by:

- a review of academic literature and engagement with academics,
- previous consultation analyses and findings,
- work with Experience Panel members,
- engagement with the Ill Health and Disability Benefits Stakeholder Reference Group, and
- advice from the Disability and Carer Benefits Expert Advisory Group on work beyond a safe and secure transition.

This consultation seeks views on the eligibility criteria for the mobility component of Adult Disability Payment. There are four sections in this consultation. These are:

- **Section 1:** the “moving around” activity (including the “20-metre rule”)
- **Section 2:** the “planning and following journeys” activity
- **Section 3:** support for people with fluctuating conditions (including the “50 percent rule”)
- **Section 4:** other considerations.

The consultation has been designed to allow for submission of each of the sections independently, as we recognise that respondents may wish to respond to one or more of the sections without wishing to express views on others.

What happens next and when?

This consultation is intended to start discussion and debate about the eligibility criteria for the mobility component of Adult Disability Payment. **We are asking you to engage, to challenge, and to suggest creative approaches.**

By working together, we will ensure that Adult Disability Payment continues to meet the needs of disabled people, both now and in the future.

In addition to this consultation paper, we will engage with people, both online and in person where possible, to ensure that as many people as possible are able to have their say.

At the end of the consultation process all of your feedback will be analysed and the findings will be used to inform the independent review of Adult Disability Payment later in 2023. We will publish our analysis of the consultation and the responses received.

We intend to set out more detail on the remit, timing and membership of the independent review in the next few months. The independent review will however be required to consider the cost and operational delivery aspects of recommendations, together with considering wider related issues, such as the implications of changes for people also in receipt of UK Government benefits. It will be important that the independent review consider priorities for action as part of its recommendations.

Background

In 2015, it was agreed that the Scottish Parliament should have some powers over disability benefits. These powers are set out in the Scotland Act 2016⁵. Using these powers, we created support for disabled children and young people in the form of Child Disability Payment. Then we launched our replacement for PIP in Scotland in the form of Adult Disability Payment.

Adult Disability Payment is the most complex payment delivered so far by Social Security Scotland. It is linked to other forms of support which remain reserved to the UK Government, meaning that significant changes to Adult Disability Payment may impact upon existing arrangements for disabled people to access these other forms of financial support. It also involves a much more complex decision-making process than most of the other payments we have delivered so far.

Our disability benefits are easier to access and have been designed with disabled people. We are committed to ensuring that people receive the support that they are entitled to, by reducing stigma and seeking to positively encourage take-up of all our social security payments. Social security is an investment in the people of Scotland, with Adult Disability Payment providing important financial support to disabled people.

Exploring the evidence

The Scottish Government has undertaken an extensive and comprehensive period of evidence-gathering during the development of Adult Disability Payment.

- In 2016, our Consultation on Social Security⁶ asked for views from the public on the overall approach to Scottish disability assistance, as well as inviting comments on ideas for change.
- The Ill Health and Disability Benefits Stakeholder Group was set up in March 2016 to inform and influence the development of policy options relating to disability benefits.
- In April 2017, we established the Disability and Carer Benefits Expert Advisory Group⁷, to provide independent advice on the development of our disability benefits. To date, the Group's advice has included recommendations on the development of Adult Disability Payment, decision-making, consultations, award duration, and PIP case law.
- We have worked with our unique Experience Panels⁸, which were set up in 2017 and include people with lived experience of the UK benefits system, in the development and design of disability benefits.
- In March 2019, we launched the Consultation on Disability Assistance⁹ to inform more detailed proposals on disability assistance, including Adult Disability Payment. The consultation received 263 responses from a range of stakeholder organisations and people, with most responses being broadly supportive of our proposals.
- In December 2020, we consulted on the draft regulations for Adult Disability Payment¹⁰, seeking views on the proposed eligibility criteria and to identify any gaps, issues, or unintended consequences.

- The Scottish Commission on Social Security scrutinised the draft regulations for Adult Disability Payment and published its report in October 2021, making 24 recommendations and two observations on the draft regulations.

Given that Adult Disability Payment is a new payment, some of the evidence we have considered relates to PIP. This is because the eligibility criteria for both payments are broadly similar, but the way in which they are delivered is significantly different.

Differences between PIP and Adult Disability Payment

Social security is a human right and none of us know when we might need it – it is a shared investment to help build a fairer society, together. We are developing a system that is rooted in trust to make sure people can access the support that they are entitled to.

We made several changes to apply the eligibility criteria fairly and consistently. We want to ensure that the impact of a disability or health condition on a person, including the impact of fluctuating conditions, is fully considered.

We are ensuring that accessing Adult Disability Payment is as straightforward as possible and we always start from a position of trust. We are making sure that people can access the disability assistance they are entitled to. A person can apply for Adult Disability Payment in a way that suits them best: online, by post, over the phone or face-to-face.

When making a decision, Social Security Scotland usually only needs to collect one piece of supporting information from a professional, such as a social care assessment, medical report or prescription list. Also, we equally consider all sources of information, including from a person's family, carers and friends. Social Security Scotland can collect information on a person's behalf if they do not have the information required to hand.

Social Security Scotland fast-track applications from people with a terminal illness. Clinicians use their judgement to determine whether a person is terminally ill, rather than being based on a fixed period of life expectancy.

There are no UK Government-style assessments and Social Security Scotland never use the private sector to carry out health assessments. People are only invited to a consultation on occasions when Social Security Scotland require more information so that they can make a decision. On occasions when a consultation is required, a person experiences a compassionate conversation with a health and social care professional who starts from a position of trust. There aren't any degrading functional examinations, such as asking a person to "touch their toes".

Social Security Scotland work to get decisions right first time, reducing the need for people to go through a re-determination or appeal. However, when people believe that Social Security Scotland have not made the right decision then there are of course opportunities to challenge decisions.

We are funding an independent advocacy service which is available to support people across the full application process, including re-determinations and appeals.

Moreover, following the transfer of a case from the UK Government to Social Security Scotland, which includes a case review in due course, people can access Short-term Assistance while they are challenging a decision after a review. This provides people with the same amount of money they were getting before a decision was made to lower or stop their payment. Short-term Assistance does not need to be repaid either.

We have made changes to the review process. Reviews are light-touch and will take place less frequently than in the UK Government system. Importantly, we have introduced indefinite awards for some severely disabled people whose needs are highly unlikely to change. This helps to avoid the stress and anxiety that can be associated with reviews, while providing long-term financial security to people. Indefinite awards support people to lead their lives more independently and fully.

The table below provides a summary of the key improvements we have already introduced as part of the delivery of Adult Disability Payment:

PIP (UK Government)	Adult Disability Payment (Scottish Government)
Limited advice is available on disability benefits. There is no take-up strategy.	<p>We have telephone, online and Local Delivery services to advise on what payments are available and explain clearly how people can go about applying for these.</p> <p>We have a benefit take-up strategy to encourage people to take up the payments that they are entitled to.</p> <p>We are funding an independent advocacy service which is available to support people across the full application process, including with re-determinations and appeals.</p>
No way of applying for disability benefits online.	New applicants can apply for Adult Disability Payment in a way that suits them best – online, by post, over the phone or face-to-face.
People do not receive updates on how their case is progressing.	We keep people updated on the progress of their case.

PIP (UK Government)	Adult Disability Payment (Scottish Government)
The lack of supporting information can significantly affect the outcome of an application.	Social Security Scotland only needs to collect one piece of supporting information from a professional, such as a social care assessment, medical report or prescription list, when making a decision. We place equal consideration on all sources of information, including from a person's family, carers and friends.
Outcome letters provide limited information about the decision that has been made.	With every notice of determination, we provide detailed reasons to the person about how we reached our decision.
No financial support when challenging a decision.	People are able to access Short-term Assistance while they are challenging a decision after a review. This provides people with the same amount of money they were getting before a decision was made to lower or stop their payment.
Award reviews even for severely disabled people with needs unlikely to change.	We have made changes to the review process. These are light-touch and will take place less frequently than in the UK Government system. Importantly we have introduced Indefinite Awards for severely disabled people with needs which are highly unlikely to change.
People applying for PIP are routinely required to attend a private sector face-to-face assessment.	There are no UK Government-style assessments and Social Security Scotland never use the private sector to carry out health assessments. People are only invited to a consultation on occasions when Social Security Scotland require more information so that they can make a decision. On occasions when people are invited to a consultation, they experience a compassionate conversation with a health and social care professional who starts from a position of trust. There aren't any degrading functional examinations, such as asking a person to "touch their toes".
Assessments do not take place at a time and location that suits the person.	Consultations take place through a range of channels.

Table 1 Differences between PIP and Adult Disability Payment

These changes do not represent the limit of our aspirations for disability assistance. We know that some people would like us to go further in particular areas, including the considerable interest in the way in which the criteria for the mobility component is applied.

About the eligibility criteria for Adult Disability Payment

Adult Disability Payment is made up of two parts, called components: a daily living component and a mobility component.

A person may qualify for one or both components. The amount a person may be entitled to depends on how their disability or condition affects their ability to do everyday activities and get around. For both components, a Social Security Scotland case manager looks at a person's ability to complete several different activities.

There are 10 activities for the daily living component:

- Preparing food
- Taking nutrition
- Managing therapy and monitoring a health condition
- Washing and bathing
- Managing toilet needs or incontinence
- Dressing and undressing
- Communicating verbally
- Reading and understanding signs, symbols and words
- Engaging socially with other people face to face
- Making budgeting decisions

There are also two activities for the mobility component:

- Planning and following journeys
- Moving around

For each activity, there are several statements (called descriptors) that may apply to the person. For example, for the "moving around" activity the descriptors are:

a. Can stand and then move more than 200 metres, either aided or unaided.	0
b. Can stand and then move more than 50 metres but no more than 200 metres, either aided or unaided.	4
c. Can stand and then move unaided more than 20 metres but no more than 50 metres either aided or unaided.	8
d. Can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres, either aided or unaided.	10
e. Can stand and then move more than 1 metre but no more than 20 metres, either aided or unaided.	12
f. Cannot, either aided or unaided, — (i) stand, or (ii) move more than 1 metre.	12

A case manager in Social Security Scotland selects the most appropriate statement that applies to the person for each activity. The statement that is selected depends on several factors, such as whether their condition fluctuates, but only one statement can be chosen.

Case managers must consider the reliability criteria when assessing whether the person can carry out the activity¹¹. This includes the person's ability to carry out an activity:

- safely,
- to an acceptable standard,
- repeatedly, and
- within a reasonable time period.

Case managers also consider a person's ability to carry out an activity using an aid or appliance that they:

- normally use, or
- could reasonably be expected to use.

The rate a person is paid depends on how many points they score for either component. If the person scores:

- between 8 and 11 points they are entitled to the standard rate, or
- more than 12 points, they are entitled to the enhanced rate.

Section 1: The moving around activity

Background

The purpose of this activity is to consider a person's ability to move around without severe discomfort, such as breathlessness, pain, or fatigue. This activity looks at how a person moves around on the types of surfaces normally found outdoors, like pavements and kerbs. It does not include walking up or down stairs or slopes. The Adult Disability Payment application form has been designed to communicate this clearly in response to feedback about the PIP application process.

The activity looks at how far a person can stand and move around. Standing means standing with at least one foot on the ground. This includes the ability to stand and then move up to 20 metres, up to 50 metres, up to 200 metres, and over 200 metres.

The application form for Adult Disability Payment includes guidance for people making an application on the factors that are considered when looking at how far a person can move around. These include:

- how quickly the person can move,
- the risk of falling or injury,
- breathlessness, pain, or fatigue,
- the way the person moves, and
- symptoms or side-effects from moving around.

The criteria for the moving around activity

Depending upon how far a person can stand and move, they may score between 0 and 12 points for this activity:

Descriptor	Points
a. Can stand and then move more than 200 metres, either aided or unaided.	0
b. Can stand and then move more than 50 metres but no more than 200 metres, either aided or unaided.	4
c. Can stand and then move unaided more than 20 metres but no more than 50 metres either aided or unaided.	8
d. Can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres, either aided or unaided.	10
e. Can stand and then move more than 1 metre but no more than 20 metres, either aided or unaided.	12
f. Cannot, either aided or unaided,— (i) stand, or (ii) move more than 1 metre.	12

Table 2 The criteria for the moving around activity

“Stand and then move” describes a person's ability to stand and then move while remaining standing. It does not include a person who stands and then transfers into

a wheelchair or similar device. People who need a wheelchair or similar device to move a distance should not be considered able to stand and move that distance.

An “aid or appliance” that a person may use to support their physical mobility may include any of the following items, which are not limited to:

- a walking stick,
- crutches,
- a Zimmer frame, and
- a prosthetic or prostheses.

The definition of “aided” includes supervision, prompting or assistance, so any of these could also be considered an aid when a person is completing an activity.

The first set of questions are about the moving around activity which is described in section 1 of the consultation paper. They cover:

- Clarity of the moving around activity criteria
- Evidence about the moving around activity
- Changes to the moving around part of the application form
- Changes to how we make decisions about the moving around activity
- Other opportunities to change to moving around activity

1. Do you agree or disagree that the moving around activity criteria for Adult Disability Payment are easy to understand?

If you are unsure of the moving around activity criteria, please refer to page 18 of the consultation paper.

Agree / Disagree / Don't know

1(a). Please give reasons for your answer, outlining which parts you think are easy or difficult to understand and why.

1(b). How could we make the moving around activity criteria easier to understand?

Evidence on the moving around activity

Research findings

We know that some people feel that using a test that is based solely on the distance a person can walk is not a good way to know who has the most significant mobility needs¹². For example, whilst a person may be able to stand and move a few metres, they may not be able to achieve all the things they want to in life due to their mobility needs. This could include accessing healthcare services or taking part in a wider range of personal and social interests¹³.

Some health conditions may potentially be difficult to assess against a specific distance, either because they are a progressive condition or because the person's condition may vary¹⁴. This could include conditions such as asthma, heart disease, or multiple sclerosis.

Disabled people have described to us difficulties with feeling like they must fit into the right box on a form as part of PIP, because the eligibility criteria does not take into account all of a person's circumstances¹⁵. As Adult Disability Payment uses the same criteria as PIP, this means that the same criticism could be applied to Adult Disability Payment. Some people have also told us that they feel like the test is unfair because it is "deficits-based", in that people feel like it is focused on what they cannot do rather than on what they can.

Some people also feel that it is unfair to not consider the cost of acquiring and maintaining mobility aids, such as electric wheelchairs or scooters. This is because these costs can have a significant impact upon disabled people's disposable income¹⁶, such as the cost of:

- repairs,
- maintenance,
- breakdown cover, and
- fuel or electricity.

We also know that some people feel it is unfair not to take account of the additional costs associated with the need to use taxis and vehicles more regularly than someone without their disability or condition¹⁷.

On the eligibility criteria, it was suggested that the use of distances could discourage people from undertaking physical activity that might be beneficial to their health because they fear losing entitlement. One study noted that almost half of the respondents (47 percent) were fearful of losing benefits if they are seen to be more active, with more than half (55 percent) saying they were more likely to be active if benefits were not at risk of being withdrawn¹⁸.

Two fifths of respondents to another survey¹⁹ said that fear of benefits being withdrawn prevented them from being more active. This was particularly common amongst people with communication, social or behavioural conditions, and mental health conditions.

It is possible that using a more individual model that looks at the barriers a person faces could lead to more detailed questions and the need for consultations²⁰. This could also lead to outcomes that are potentially very subjective and inconsistent.

The use of distances as an objective indicator of the severity of disability is disputed by some, as it is felt to be too generic and fails to consider individual circumstances.

In the context of PIP, it was noted that the way in which assessments were weighted towards the views of a privately employed healthcare professional was problematic²¹. The approach used in PIP assessments marginalised self-assessment by disabled people and reduced the levels of supporting information requested by

professionals who already know disabled people²². We took this evidence into account when setting up Adult Disability Payment.

Adult Disability Payment consultations only take place when there is no other practical way to gather the information we need, and consultations are undertaken by Social Security Scotland staff, not by private companies. We start assessments by trusting what people tell us about their disability or condition is accurate, and we seek supporting information from people or medical professionals who already know the person.

Many of the academics we spoke to were positive about the changes to the application and decision-making processes, including how that would impact upon the moving around activity. This includes:

- starting from a position of trust with disabled people,
- increased training requirements for our practitioners who undertake consultations with disabled people,
- recognising the importance of social, cultural and environmental factors in guidance,
- the consultation process being less challenging or “aggressive” than PIP, and
- a clear commitment to award support people are entitled to, rather than restricting this for budgetary reasons.

Consultation findings

During the [Consultation on Disability Assistance](#) in 2019, several respondents suggested changing the threshold for descriptor (e) from 20 metres to 50 metres. Reasons given included:

- 20 metres was too limited a distance to be of use,
- that 20 metres was designed to reduce peoples’ benefits or prevent them leading a full quality of life, and
- it was better to return to the “virtually unable to walk” test which was used to establish entitlement to the higher rate of the mobility component for Disability Living Allowance (DLA).

Similar numbers of respondents wanted to see the “distance moved” rule to be scrapped entirely on the grounds that it is too simplistic or arbitrary and does not account for things encountered in everyday life such as navigating furniture.

A small number of respondents felt that the main issue was the way in which PIP assessors applied the criteria, or that the way in which the criteria was framed was deliberately designed to catch people out. This is also a factor that we have acted to improve within the Adult Disability Payment system: practitioners are provided with extensive guidance about how to apply the criteria so that it is applied fairly and equally to each person that applies.

2. Are there any other issues with the moving around activity that we have not captured above?

Yes / No / Don't know

2(a). If you said “yes,” what other issues with the moving around activity do you think need to be considered?

2(b). In your view, what are the positive aspects of the moving around activity that we have not captured above?

Improvements made to Adult Disability Payment

The application form

We have sought to address some of the concerns raised about the moving around criteria with the introduction of Adult Disability Payment. We have made it clearer in the guidance accompanying the application form what the activity considers:

What we mean by moving around



Standing

This means standing with at least one foot on the ground.



Walking

This means walking on flat, level ground. It does not include walking up or down stairs or slopes.

Most days

When we ask about most days, we mean more than half of the time in an average week or month.

Figure 2 Guidance on the moving around activity

We also recognise that it can be difficult to estimate how far each distance might be. The Adult Disability Payment application form has been designed to help people better understand how far each distance is, as shown in the diagram below:

How far you can walk

This is on flat, level ground only and includes getting help from someone or something like a walking stick or walking frame.



The length of the arrow is about 20 metres



The length of the arrow is about 50 metres



The length of the arrow is about 200 metres

Figure 3 Example of guidance provided on distance as part of the application form

The application form for Adult Disability Payment also includes prompts next to each question, to help us capture a better understanding of the impact moving around has on someone. In particular, factors such as tiredness, breathlessness and pain are given more prominence:

This might include:

- feeling tired
- being out of breath
- being in pain
- something else.

After you have walked this far on most days, does this change how you feel?

Yes

No

If yes, tell us how you feel after you have walked this far.

Figure 4 Example of the guidance included on tiredness, pain, and breathlessness

3. How effective do you think the moving around section of the application form is at helping us understand a person's mobility needs?

Please only answer in relation to the changes to the moving around section of the application form that are outlined on page 22 in the consultation paper.

Very effective / effective / somewhat effective / not very effective / not effective at all

Please give reasons for your answer

How we make decisions

In addition to making improvements to the application form, we have provided clear guidance for both people applying for and receiving Adult Disability Payment and for our Social Security Scotland case managers about how the eligibility criteria for this activity are applied. This includes more fairly and consistently considering environmental, cultural, and social factors.

We usually seek to collect one piece of supporting information from a formal source, such as from a GP or a support worker. This information only needs to determine, on the balance of probabilities, that the person's disability or condition is consistent with the needs detailed on their application. A piece of supporting information can be something like a social care assessment, medical report, or prescription list. We place equal consideration on all sources of information, including information from a person's family, carers and friends.

A person is only be invited to take part in a consultation when there is no other practicable way to understand their needs. Social Security Scotland practitioners fully discuss the impact of completing the activity, starting from a position of trust in what people tell us as being accurate. We have also removed functional assessments, including physical examinations, as part of the application and decision-making process.

We recognise that a significant issue with PIP assessments also related to assessors making informal observations, for example, about the way a person moved around. Our practitioners only make informal observations whilst a consultation is taking place. The person, or person accompanying them, must be given the opportunity to respond to the observations. This is a significant change to the UK Government system where an assessor can make assumptions about the person without telling them and can do so before or after the assessment has taken place.

4. What impact do you think the changes to how we make decisions on the moving around activity have on understanding a person's mobility needs?

Please only answer in relation to the changes to decision making processes for the moving around activity that are outlined on page 24 in the consultation paper.

Significant positive impact / a positive impact / neither positive nor negative / a negative impact / significant negative impact

Please give reasons for your answer

5. If there was an opportunity to change the moving around activity criteria, what changes would you make (if any)?

Please provide detail about:

- Why you think changes are necessary
- What changes you would suggest
- Could there be any unintended consequences

5(a). If you proposed changes, what positive impacts could these have, and for who?

5(b). If you proposed changes, what negative impacts could these have, and for who?

Section 2: The planning and following journeys activity

Background

The purpose of this activity is to consider a person's ability to plan and follow the route of a journey. To "follow the route of a journey" means for a person to navigate and make their way along a planned route to a planned destination.

This activity is relevant for people whose mobility is affected by mental health, cognitive and sensory impairments, as well as physical problems. Cognitive impairment includes orientation (understanding of where, when and who the person is), attention (including awareness of risk and danger), concentration and memory.

Consideration is given to a person's ability to:

- plan the route of a journey in advance,
- leave their home and embark on a journey,
- follow the intended route once they leave the home, and
- deal with unexpected changes to the journey should they arise.

Safety risks are also considered including, but not limited to, the following:

- tendency to wander into the road,
- inability to safely cross a road,
- risk of self-harm, and
- symptoms of overwhelming psychological distress.

The eligibility criteria

Depending upon the impact of a person's disability or condition on their ability to plan and follow journeys, they may score between 0 and 12 points for this activity:

Descriptor	Points
a. Can plan and follow the route of a journey unaided.	0
b. Needs the prompting of another person to be able to undertake any journey to avoid overwhelming psychological distress to the individual.	4
c. Cannot plan the route of a journey.	8
d. Cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid.	10
e. Cannot undertake any journey because it would cause overwhelming psychological distress to the individual.	10
f. Cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid.	12

Table 3 The planning and following journeys criteria

Case managers should consider if the person needs prompting, supervision or assistance from another person to complete the activity, or an assistance dog or orientation aid.

“Prompting” means reminding, encouraging or explaining by another person. This does not have to be in the physical presence of another individual. For example, a person could be prompted by a telephone call from someone else.

“Supervision” means the continuous presence of another person for the purpose of ensuring a person’s safety. The supervision can be in relation to any risk to the individual’s safety, whether or not the risk directly results from carrying out the activity in question.

“Assistance” means physical intervention by another person and does not include speech.

“Assistance dog” means a dog trained to guide or assist a person with a sensory impairment.

“Orientation aids” are specialist aids to assist disabled people in following a route and do not include:

- ordinary satellite navigation systems such as those found in mobile phones,
- maps,
- lists of directions, or
- a symbol cane which may indicate that a person has needs relating to their ability to see, but does not assist them in the orientation of their surroundings.

The next set of questions are about the planning and following journeys activity which is described in section 2 of the consultation paper. They cover:

- Clarity of the planning and following journeys activity criteria
- Evidence about the planning and following journeys activity
- Changes to the planning and following journeys part of the application form
- Changes to how we make decisions about the planning and following journeys
- Other opportunities to change the planning and following journeys activity criteria

6. Do you agree or disagree that the planning and following journeys activity eligibility criteria is easy to understand?

Agree / Disagree / Don’t know

6(a). Please give reasons for your answer, outlining which parts you think are easy or difficult to understand and why.

6(b). How could we make the planning and following journeys activity eligibility criteria easier to understand?

Evidence on the planning and following journeys activity

Research findings

We know that some stakeholders feel that the focus on overwhelming psychological distress is an overly strict way to measure a person's ability to plan and follow a journey. The descriptors may also not capture the types of activities that a person would like to do, such as access education, healthcare, or employment.

It has also been suggested to us that using fixed eligibility criteria can make it challenging to assess the ways in which a mental health condition can affect a person's mobility²³. This is often because symptoms may be "episodic" and fluctuate significantly, depending on a range of factors.

We have heard that the activities and descriptors make little allowance for disabled people with mental health conditions, who might face significant barriers when trying to use public transport²⁴. In particular, we heard how some people with a learning disability face considerable discrimination in using public transport safely.

Some people questioned what the difference is between a planned and an unplanned journey, as well as the rationale for making such a distinction in the eligibility criteria. It was also highlighted that people who don't have the support they need to undertake a journey face difficulty in describing the impact of their disability or condition, as they do not currently undertake any journeys.

Many of the academics we spoke to were positive about the changes to the application and decision-making processes, including how they would impact upon the planning and following journeys activity. The training for practitioners undertaking consultations, particularly in relation to mental health, was welcomed. It was also noted that the eligibility criteria allows for people with a sensory disability to qualify for support.

Consultation findings

During the Consultation on Disability Assistance²⁵, we asked for views on the mobility component of Adult Disability Payment. Most respondents focused on the processes involved in making decisions, rather than on specific changes to the eligibility criteria.

For example, many responses to that consultation also focused on the need to take better account of the impact of mental health conditions on a person's physical health. This included reference to conditions such as psychosis, paranoia, depression, allodynia, and anxiety issues.

7. Are there any other issues with the planning and following journeys activity that we have not captured above?

Yes / No / Don't know

7(a). If you said “yes”, what other issues with the planning and following journeys activity do you think need to be considered?

7(b). In your view, what are the positive aspects of the planning and following journeys activity that we have not captured above?

Improvements made to Adult Disability Payment

The application form

We have made improvements to the application form to address concerns raised about the planning and following journeys activity. The guidance available as part of the application form has been enhanced, so that it is clear what is considered for this activity:

What we mean by planning and following journeys



What this section is about

Your ability to plan a journey and follow the route there.

It is not about your physical ability to walk somewhere. We'll ask you about that in our Moving around question.

It's ok if you're not sure where to put something. We'll take into account all relevant information that's included anywhere in your application.

Familiar journey

When we ask about familiar journeys, this is to places in your local area that you know the way to. For example your:

- local shop
- friend's house.

Unfamiliar journey

When we ask about unfamiliar journeys, this is to places in your local area you:

- have not been to before
- need to plan a route to.

Figure 5 An example of the guidance on the planning and following journeys activity

The application form for Adult Disability Payment has also been designed to provide guidance about the difference between planning a journey and following a journey:

Planning an unfamiliar journey (before you leave your home)

Think about what you do when you need to work out how to get somewhere new. This is before you leave your home.

For example, what would you do if you had to:

- meet a friend at a café you have not been to before
- go for an appointment at a building you have not been to before
- go and visit someone at their house for the first time.



Planning a new route without help



Planning a new route with help

Figure 6 Example of the guidance on planning an unfamiliar journey

Following an unfamiliar journey (after you leave your home)

Think about when you have directions to a new place. We want to know if you need help to get there. This is after you leave your home and includes help you need if you get lost on the way. This includes:

- help you might need but do not already have
- help you only need sometimes.

Things you might need to use to help you include:

- help from another person
- an assistance dog
- a white stick
- a long cane
- something else.



Following a new route without help



Following a new route with help

Figure 7 Example of the guidance on following an unfamiliar journey

We also know that some people do not leave home and may not be able to undertake any journeys. In order to ensure that we collect relevant information, additional guidance is included next to questions on the application form:

Think about leaving your home to go somewhere. We want to know if you have a condition that makes you feel so anxious that you are unable to do this at all.

This might be a mental health condition such as:

- anxiety
- agoraphobia
- depression
- something else.

Can you leave your home at all?

Yes
I can sometimes or always leave my home, even if I feel anxious or distressed.

No
I cannot leave my home at all because of my mental health.

If no, tell us more about how you feel and why.

Figure 8 Example of the guidance for people unable to leave home

8. How effective do you think the planning and following journeys section of the application form is at helping us understand a person’s ability to plan and follow journeys?

Please only answer in relation to the changes to the planning and following journeys section of the application form that are outlined on page 29 in the consultation paper.

Very effective / effective / somewhat effective / not very effective / not effective at all

Please give reasons for your answer

How we make decisions

We heard during the Consultation on Disability Assistance²⁶ about how behavioural observations, as part of PIP assessments of people with mental health conditions, could be inappropriate and stigmatising:

“Behavioural observations such as maintaining good eye contact, whether the individual is sweating, rocking back and forward or fidgeting are inappropriate, as are comments on appearance. The assumption that an individual must be rocking back and forward and dress unconventionally perpetuates the stereotype that individuals with a mental health condition must look and act a certain way (campaigning / advocacy organisation).”

The previous research with Experience Panels also highlighted a lack of understanding when UK Government assessors were assessing how different conditions impact someone’s ability to plan and follow a journey:

“...because I had actually turned up and I was there, she said in my assessment that she didn’t believe my anxiety was so bad (survey respondent)”²⁷.

We have therefore removed the Mental State Examination as part of consultations for Adult Disability Payment. The guidance for our case managers also focuses on building a more holistic assessment of the impact of a disability or condition on a person’s ability to plan and follow a journey.

Our consultations are carried out by people who are suitably qualified to do so and employed by Social Security Scotland. Social Security Scotland practitioners have two years’ work experience after having obtained their qualification. People often have multiple conditions and, whilst it is not always possible to exactly match these complex presentations with one practitioner, we have recruited a sufficient number of practitioners with an extensive range of expertise who can support each other.

The role of a practitioner is substantially different to the role of a UK Government assessor. Practitioners are not trained to “assess” people. Instead, they are trained to gather information from people by having conversations with them, and to support case managers with information and advice.

Where a person has a mental health condition or a learning disability or difficulty and a consultation is required, it is carried out by a practitioner with relevant experience. This is intended to address concerns with the current UK Government service around clinicians without a relevant background being involved in undertaking the medical assessments, and that people with a mental health condition were not properly listened to or understood.

9. What impact do you think the changes to how we make decisions on the planning and following journeys activity has on understanding a person’s ability to plan and follow journeys?

Please only answer in relation to the changes to decision making processes for the planning and following journeys activity that are outlined on page 31 in the consultation paper.

Significant positive impact / a positive impact / neither positive nor negative / a negative impact / significant negative impact

Please give reasons for your answer

10. If there was an opportunity to change any specific aspects of the planning and following journeys activity, what changes would you make (if any)?

Please provide detail about:

- Why you think changes are necessary
- What changes you would suggest
- Could there be any unintended consequences

10(a). If you proposed changes, what positive impacts could these have, and for who?

10(b). If you proposed changes, what negative impacts could these have, and for who?

Section 3: Support for people with fluctuating conditions

Background

A Social Security Scotland case manager decides for each activity which of the descriptors apply to the person and, therefore, how many points they receive.

The impact of many health conditions and disabilities can change or fluctuate, with both “good” and “bad” days. A case manager should therefore consider that a person’s ability to carry out mobility activities may change daily.

As a result, a person may satisfy several different descriptors for an activity at different times.

The eligibility criteria

For people with a fluctuating condition, the descriptor that applies for a particular activity is established as follows:

If one descriptor is satisfied on over 50% of days	That descriptor
If two or more descriptors are each satisfied on over 50% of days	The descriptor that scores the higher or highest number of points
If no descriptor is satisfied on over 50% of days, but two or more descriptors when added together amount to more than 50% of days	The descriptor which is satisfied for the greater or greatest proportion of days, or Where both or all descriptors are satisfied for the same proportion, the descriptor which scores the highest number of points

Table 4 The fluctuating conditions criteria

Our consultation and engagement with stakeholders highlighted the importance of considering fluctuating conditions. This is particularly relevant to both the “moving around” and “planning and following journeys” activities, as we recognise that many conditions fluctuate on a daily or weekly basis.

The next set of questions are about the planning and following journeys activity which is described in section 3 of the consultation paper. They cover:

- Clarity of the criteria for fluctuating conditions
- Evidence about the criteria for fluctuating conditions
- Changes to the application form about fluctuating conditions

- Changes to how we make decisions about fluctuating conditions
- Other opportunities to change the criteria for fluctuating conditions

11. Do you agree or disagree that the criteria for fluctuating conditions is easy to understand?

Agree / Disagree / Don't know

11(a). Please give reasons for your answer, outlining which parts you think are easy or difficult to understand and why.

11(b). How could we make the fluctuating conditions criteria easier to understand?

Evidence

Research findings

Some people with fluctuating conditions have expressed views that the eligibility criteria for variable or fluctuating conditions could be improved as part of PIP²⁸. How the eligibility criteria applies to people with fluctuating conditions was highlighted as something that is potentially difficult to understand. However, some people also felt that the eligibility criteria for fluctuating conditions conveyed enough of the sense intended behind the criteria. It was suggested that the notion of an “average” day was unhelpful for the most severely disabled people.

We have also heard positive feedback from academics that the improved approach to the application and decision-making processes within Adult Disability Payment would introduce important improvements. This included having more experienced practitioners and starting from a position of trust in what a person tells us about their condition. Notwithstanding this, some stakeholders viewed retaining the PIP eligibility criteria as having an inequitable impact on people with fluctuating conditions²⁹.

Consultation findings

During the Consultation on Disability Assistance³⁰, some respondents suggested assessing a person on an “average” day or considering symptoms on a “worst” rather than “best” day. This was suggested as a better way of fully capturing a complete picture of the impact of a person’s disability or condition, instead of relying on the ability to complete an activity 50% of the time.

Examples of specific conditions that respondents thought were likely to fluctuate included Multiple Sclerosis, Lupus and Ehlers-Danlos Syndrome. Suggestions for incorporating these conditions more effectively included taking an average day as the analysis point or considering symptoms on a “worst” day rather than “best” day.

The recent research with Experience Panel members asked how people felt about the guidance on how the descriptors should apply to people with fluctuating

conditions. Findings from this research have informed our approach to this consultation and will be published later in 2023.

Previous Experience Panels research also highlighted some of the challenges that people with fluctuating conditions face with regard to PIP assessments and criteria:

“The forms were written in such a way that it doesn’t allow for fluctuating or multiple conditions...”³¹

“He said “I’d appreciate if you just answered the questions I was asking, because that’s not on the form.” I’m a person, I’m a human and I don’t necessarily fit into the boxes on the form.”³²

This feedback has informed the Scottish Government’s approach – particularly in relation to the challenges for people whose disabilities or conditions do not easily match up with criteria. When developing Adult Disability Payment, we have worked to ensure that assessors are suitably qualified and experienced with the conditions they are assessing and have the guidance and support necessary to make decisions.

Advice from the Disability and Carer Benefits Expert Advisory Group

The Disability and Carer Benefits Expert Advisory Group provided advice on Adult Disability Payment on 20 December 2019³³. It did not recommend providing condition-specific activities or descriptors, noting:

“We do not believe creating new activities or descriptors for specific conditions is the best way to do this, as there is a distinct possibility this will create an unhelpful precedent. We believe it is impossible to accommodate all distinct conditions and people with conditions that are excluded would feel especially alienated.”

Whilst the advice of the Group was not unanimous, it made some suggestions about possible ways to make the eligibility criteria more flexible. For example:

- implementing a more discretionary “safety net” regulation for people who don’t score the minimum number of points,
- applying different thresholds for different conditions in a way similar to Industrial Injuries Disablement Benefit,
- allowing an averaging of points, for example: if someone scores 24 points in a bad week and 6 points on a good week, and a bad week happen on average 1 week in four, they would average 10.5 points, and
- returning to the more flexible DLA test as it better captured people who do not fit neatly into the more rigid PIP framework.

12. Are there any other issues with the fluctuating conditions criteria that we have not captured above?

Yes / No / Don’t know

12(a). If you said “yes”, what other issues with the fluctuating conditions criteria do you think need to be considered?

12(b). In your view, what are the positive aspects of the fluctuating conditions criteria that we have not captured above?

Improvements made to Adult Disability Payment

The application form

The Scottish Government has sought to address these concerns by providing a legal definition of what it means to carry out an activity to an acceptable standard³⁴, so that it considers the impact on the person, which can include factors such as pain and fatigue³⁵. A definition is not provided for the PIP equivalent.

We have also amended the definition of what it means to complete an activity safely, to make clear that the person’s ability to move must be undertaken in a way that is unlikely to cause harm.

Further improvements to the application form include clear guidance on how the eligibility criteria is applied. This helps to support people in providing relevant information, guided by the reliability criteria, about how they feel after completing an activity and how long the impact lasts for.

The screenshot shows a form section with a pink callout box on the left. The callout box contains the text 'This might include:' followed by a bulleted list: 'feeling tired', 'being out of breath', 'being in pain', and 'something else.'. To the right of the callout box is the question: 'After you have walked this far on most days, does this change how you feel?'. Below the question are two radio button options: 'Yes' and 'No'. Below the radio buttons is the text: 'If yes, tell us how you feel after you have walked this far.' followed by a large empty rectangular box for the user to provide an answer.

Figure 9 Example of how the application form asks about fluctuating conditions

13. How effective do you think the fluctuating conditions section of the application form is at helping us understand the needs of people with fluctuating conditions?

Please only answer in relation to the changes to the fluctuating conditions section of the application form that are outlined on page 37 in the consultation paper.

Very effective / effective / somewhat effective / not very effective / not effective at all

Please give reasons for your answer

How we make decisions

We have introduced bespoke consultation durations to allow us to properly consider things like fluctuating conditions. Unlike UK Government assessments, a consultation is not a standard duration. Instead, a consultation only covers the areas of the application which are relevant to the person and on which the case manager has requested further information to make a decision. People therefore are not asked unnecessary or repeated questions, nor are they rushed into giving an account of how completing an activity makes them feel. Practitioners take the time necessary to fully understand the impacts of a disability and/or health condition on a person.

The practitioner discusses with the person the full impact of completing an activity and of their disability or health condition on them.

Guidance is available for case managers to ensure that environmental, cultural and social factors are taken into account. Compared to PIP, this is to ensure a fairer and more consistent application of the eligibility criteria.

14. Thinking about the changes we have made to how we make decisions about fluctuating conditions, what impact do you think this is having on understanding the impact of a person's fluctuating conditions?

Please only answer in relation to the changes to decision making processes for fluctuating conditions that are outlined on page 38 in the consultation paper.

Significant positive impact / a positive impact / neither positive nor negative / a negative impact / significant negative impact

Please give reasons for your answer

15. If there was an opportunity to change any specific aspects of the fluctuating conditions criteria, what changes would you make (if any)?

Please provide detail about:

- Why you think changes are necessary
- What changes you would suggest
- Could there be any unintended consequences

15(a). If you proposed changes, what positive impacts could these have, and for who?

15(b). If you proposed changes, what negative impacts could these have, and for who?

Section 4 – Other considerations

Alternative approaches

We understand from consulting with disabled people and stakeholders that many support using a points-based system for Adult Disability Payment. A majority of respondents to our 2019 consultation on Disability Assistance agreed (57% of respondents who answered) with our approach to use a points-based system to determine eligibility.

This was to ensure a smooth transition from PIP to Adult Disability Payment, rather than have two different sets of eligibility criteria. Some people consider one of the main challenges with a points-based system is that it only provides an indirect indication of the impact a condition has on a disabled person³⁶.

The Scottish Government agrees that the way in which the points-based system was applied as part of PIP was not consistent in adequately assessing fluctuating, variable or mental health conditions.

We have already outlined several ways in which the points-based system under Adult Disability Payment can better meet the needs of people with a range of disabilities and health conditions. In addition, we have developed guidance and training to assist case managers to use the eligibility criteria to take a person-centred approach to decision-making.

This includes comprehensive information on how the descriptors should be applied when considering fluctuating, variable, and mental health conditions. Case managers also have access to practitioners. Social Security Scotland practitioners have professional experience in health and social care provision, which provides a comprehensive insight into assessing the impact of a condition.

Some stakeholders, such as the Disability and Carer Benefit Expert Advisory Group³⁷, have called upon the Scottish Government to ensure that the social security system is transformed in line with the social model of disability, taking a human rights-based approach.

Some people consider one of the main challenges with a points-based system is that it only provides an indirect indication of the impact a condition has on a disabled person³⁸. We have heard, for example, how people felt with PIP that they had fit into the boxes on an application form because of how the eligibility criteria works.

16. If there was an opportunity to consider alternative approaches to a points-based system to understand disabled people's needs, what alternatives would you propose (if any)?

Please provide detail about:

- Why you think changes are necessary
- What changes you would suggest
- Which changes you would prioritise

- Could there be any unintended consequences

Please consider **what specific changes to the eligibility criteria** you think would be required.

16(a). If you proposed changes, what positive impacts could these have, and for who?

16(b). If you proposed changes, what negative impacts could these have, and for who?

16(c). If you proposed changes, which of these would you prioritise?

Please consider:

- The importance of individual changes to you
- Which changes you think could be implemented more easily
- How affordable those changes are likely to be given a largely fixed budget

Our approach to understanding disability is one which is person-centred, and looks at the barriers disabled people face.

We believe that the independent review should have the opportunity to consider the eligibility criteria for Adult Disability Payment from more than one perspective. This includes considering the best way to understand the needs of disabled people as part of both the eligibility criteria and more widely as part of the application and decision-making process.

17. Other than changes to the eligibility criteria, are there any changes you think we could make to Adult Disability Payment to support people's mobility needs (if any)?

Please provide detail about:

- Why you think changes are necessary
- What changes you would suggest
- Could there be any unintended consequences

Please consider what specific changes other than changes to the eligibility criteria you think would be required. Please refer to page 13 of the consultation paper, which outlines the improvements we have already made to the application and decision-making processes.

17(a). If you proposed changes, what positive impacts could these have, and for who?

17(b). If you proposed changes, what negative impacts could these have, and for who?

17(c). If you proposed changes, how would you prioritise these?

Please consider:

- The importance of individual changes to you
- Which changes you think could be implemented more easily
- How affordable those changes are likely to be given a fixed budget

Deliverability of recommendations

Adult Disability Payment is the most complex social security payment that the Scottish Government has delivered so far. It has involved considerable collaboration and partnership working with disabled people to ensure that our systems, processes and services work for disabled people.

We are committed to a learning system of social security that is focused on continuous improvement. This will ensure that benefits like Adult Disability Payment work for disabled people, both now and in the future.

The Scottish Government still plans to deliver several other new benefits in the next few years including:

- Winter Heating Payment,
- Scottish Carers Assistance,
- Pension Age Winter Heating Assistance, and
- Pension Age Disability Payment.

Whilst we are well placed to undertake the work to design and build these benefits, a lot of work remains to be done. We know that some people and stakeholders would like us to accelerate our pace in delivering long-term change.

Potentially very small changes to any of our benefits can have a significant impact. This could involve making changes to application forms, letters, guidance for our case managers, training or more detailed changes to our systems.

Making more significant changes could take longer to implement, depending upon the scale and complexity of those changes. It is equally important to be realistic about the challenges of making significant changes when many people will be in receipt of Adult Disability Payment.

We are acutely aware that some people are keen to see us make changes more quickly. However, we must be realistic about the challenges facing the Scottish Government in considering any potential future changes. As set out in the Emergency Budget Review³⁹ on 2 November 2022, the financial situation facing the Scottish Government is, by far, the most challenging since devolution. This requires difficult decisions about how to prioritise spending across all of our public services. Major changes which result in new, additional spending will therefore not be deliverable within this parliamentary term.

18. How can the independent review ensure that any recommendations it makes are both deliverable and affordable?

Please provide detail about:

- The considerations the review should take into account
- What types of change you think the review should prioritise considering
- Any other considerations you think are relevant to managing deliverability and affordability

Please give reasons for your answer.

Considering the impact of recommendations on reserved benefits and entitlements – “passporting”

Disabled people who receive a specific rate of PIP or Adult Disability Payment may be entitled to additional amounts as part of other means-tested benefits as a result. These are known as “passported benefits” and include:

- Universal Credit
- Employment and Support Allowance
- Jobseeker’s Allowance
- Income Support
- Pension Credit
- Housing Benefit

There are also other sources of support delivered by the UK Government that a person entitled to a specific rate of PIP or Adult Disability Payment might be entitled to, such as:

- a discount on road tax (known as Vehicle Excise Duty) and
- being able to apply for a driving license at age 16.

These benefits are delivered by the UK Government. The UK Government have decided that both PIP and Adult Disability Payment can currently allow disabled people to qualify for the same additional amounts. This is because the eligibility criteria for both benefits are broadly similar.

If we were to expand eligibility for Adult Disability Payment significantly and reserved benefits remained linked to our benefit, that could increase UK Government expenditure in Scotland. Under the terms of the Fiscal Framework⁴⁰, the UK Government could make a financial claim from the Scottish Government to recoup any additional costs incurred by providing this linked support/“passporting” to disabled people in Scotland who would not have been eligible for this support pre-devolution. This poses a significant risk to the Scottish Government budget.

Alternatively, the UK Government may elect to alter their system for assessing eligibility for these reserved benefits. UK Government officials indicated in their evidence to the Social Justice and Social Security Committee on 10 March 2022⁴¹

that, if the criteria for Adult Disability Payment were to become very different from PIP, it would be for the UK Government to decide how eligibility to reserved benefits for disabled people living in Scotland would be assessed.

This would potentially result in a longer time for any changes to be implemented, as we would also need to consider the timescales required by UK Government to implement new processes to replace existing “passporting” arrangements. It may also mean that disabled people living in Scotland are required to re-apply for “passported benefits”.

We want to ensure that any alternatives to the “passporting” system do not introduce new restrictions and/or inconveniences for disabled people continuing to receive the payments that they are entitled to.

19. How can the independent review consider the impact of any recommendations on existing “passporting” arrangements?

Please provide detail about:

- The considerations the review should take into account when making recommendations
- How changes could be implemented given a largely fixed budget
- Any other considerations you think are relevant to “passporting” arrangements

19(a). How much of a priority to you is maintaining the current “passporting” arrangement?

Very high / high / medium / low / very low

19(b). Please explain why you chose this answer.

Questions

1. Do you agree or disagree that the moving around activity criteria for Adult Disability Payment are easy to understand?

Agree / Disagree / Don't know

1(a). Please give reasons for your answer, outlining which parts you think are easy or difficult to understand and why.

1(b). How could we make the moving around activity criteria easier to understand?

2. Are there any other issues with the moving around activity that we have not captured above?

Yes / No / Don't know

2(a). If you said 'yes' what other issues with the moving around activity do you think need to be considered?

2 (b). In your view, what are the positive aspects of the moving around activity that we have not captured above?

3. How effective do you think the moving around section of the application form is at helping us understand a person's mobility needs?

Very effective / effective / somewhat effective / not very effective / not effective at all

Please give reasons for your answer

4. What impact do you think the changes to how we make decisions on the moving around activity have on understanding a person's mobility needs?

Significant positive impact / a positive impact / neither positive nor negative / a negative impact / significant negative impact

Please give reasons for your answer

5. If there was an opportunity to change the moving around activity criteria, what changes would you make (if any)?

5(a). If you proposed changes, what positive impacts could these have, and for who?

5(b). If you proposed changes, what negative impacts could these have, and for who?

6. Do you agree or disagree that the planning and following journeys activity eligibility criteria is easy to understand?

Agree / Disagree / Don't know

6(a). Please give reasons for your answer, outlining which parts you think are easy or difficult to understand and why.

6(b). How could we make the planning and following journeys activity eligibility criteria easier to understand?

7. Are there any other issues with the planning and following journeys activity that we have not captured above?

Yes / No / Don't know

7(a). If you said "yes", what other issues with the planning and following journeys activity do you think need to be considered?

7(b). In your view, what are the positive aspects of the planning and following journeys activity that we have not captured above?

8. How effective do you think the planning and following journeys section of the application form is at helping us understand a person's ability to plan and follow journeys?

Very effective / effective / somewhat effective / not very effective / not effective at all

Please give reasons for your answer

9. What impact do you think the changes to how we make decisions on the planning and following journeys activity has on understanding a person's ability to plan and follow journeys?

Significant positive impact / a positive impact / neither positive nor negative / a negative impact / significant negative impact

Please give reasons for your answer

10. If there was an opportunity to change any specific aspects of the planning and following journeys activity, what changes would you make (if any)?

10(a). If you proposed changes, what positive impacts could these have, and for who?

10(b). If you proposed changes, what negative impacts could these have, and for who?

11. Do you agree or disagree that the criteria for fluctuating conditions is easy to understand?

Agree / Disagree / Don't know

11(a). Please give reasons for your answer, outlining which parts you think are easy or difficult to understand and why.

11(b). How could we make the fluctuating conditions criteria easier to understand?

12. Are there any other issues with the fluctuating conditions criteria that we have not captured above?

Yes / No / Don't know

12(a). If you said "yes", what other issues with the fluctuating conditions criteria do you think need to be considered?

12(b). In your view, what are the positive aspects of the fluctuating conditions criteria that we have not captured above?

13. How effective do you think the fluctuating conditions section of the application form is at helping us understand the needs of people with fluctuating conditions?

Very effective / effective / somewhat effective / not very effective / not effective at all

Please give reasons for your answer

14. Thinking about the changes we have made to how we make decisions about fluctuating conditions, what impact do you think this is having on understanding the impact of a person's fluctuating conditions?

Significant positive impact / a positive impact / neither positive nor negative / a negative impact / significant negative impact

Please give reasons for your answer

15. If there was an opportunity to change any specific aspects of the fluctuating conditions criteria, what changes would you make (if any)?

15(a). If you proposed changes, what positive impacts could these have, and for who?

15(b). If you proposed changes, what negative impacts could these have, and for who?

16. If there was an opportunity to consider alternative approaches to a points-based system to understand disabled people's needs, what alternatives would you propose (if any)?

16(a). If you proposed changes, what positive impacts could these have, and for who?

16(b). If you proposed changes, what negative impacts could these have, and for who?

16(c). If you proposed changes, which of these would you prioritise?

17. Other than changes to the eligibility criteria, are there any changes you think we could make to Adult Disability Payment to support people's mobility needs (if any)?

17(a). If you proposed changes, what positive impacts could these have, and for who?

17(b). If you proposed changes, what negative impacts could these have, and for who?

17(c). If you proposed changes, how would you prioritise these?

18. How can the independent review ensure that any recommendations it makes are both deliverable and affordable? Please give reasons for your answer.

19. How can the independent review consider the impact of any recommendations on existing "passporting" arrangements?

19(a). How much of a priority to you is maintaining the current "passporting" arrangement?

Very high / high / medium / low / very low

19(b). Please explain why you chose this answer.

Responding to this consultation

We are inviting responses to this consultation by 25 April 2023.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/social-security/adult-disability-payment-review>.

You can also scan this QR code:



You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 25 April 2023.

To request a version of the consultation in Braille or large print, please e-mail ADPreview@gov.scot or phone 0131 244 6212.

If you are unable to respond using our consultation hub, please complete and send the Respondent Information Form (**Annex A**) to:

Disability Benefits Policy Unit
Scottish Government
Area 1B (South)
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the “About You” page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. 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.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or email: ADPreview@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Footnotes

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- ¹ [Scotland's Economic and Fiscal Forecasts](#) (December 2022), Scottish Fiscal Commission
- ² [The agreement between the Scottish Government and UK Government on the Scottish Government's Fiscal Framework \(2016\)](#)
- ³ [Social Security Charter](#)
- ⁴ [Scottish Fiscal Commission, Scotland's Economic and Fiscal Forecasts, December 2022, Chapter 5, Social Security](#)
- ⁵ [Scotland Act 2016](#)
- ⁶ [Consultation on Social Security in Scotland \(2016\)](#)
- ⁷ [Disability and Carer Benefits Expert Advisory Group website](#)
- ⁸ [Engagement on Social Security \(www.gov.scot\)](#)
- ⁹ [Consultation on Disability Assistance \(2019\)](#)
- ¹⁰ [Consultation on Adult Disability Payment Regulations \(2020\)](#)
- ¹¹ Disability Assistance for Working Age People (Scotland) Regulations, regulation 7(2)(b)
- ¹² Alldridge, P. (2019) 'On Being Able to Walk Twenty Metres: The Introduction of Personal Independence Payments', *Journal of Law & Society*, 46(3), pp. 448–475
- ¹³ Ibid
- ¹⁴ Alldridge, P. (2019) 'On Being Able to Walk Twenty Metres: The Introduction of Personal Independence Payments', *Journal of Law & Society*, 46(3), pp. 448–475
- ¹⁵ Smith JA, Doolan E. The Social Impact of Accounting Processes on Benefit Claimants in the UK. *J.Hum.Rights.Soc.Work* 2020 5(2):64-77, UK Government's response to the consultation on the PIP assessment "moving around" activity, p7 and (Oliver 1990, 1999; Tremain 2001, 2015).
- ¹⁶ Analysis of Responses to Consultation on Social Security (2016), Scottish Government
- ¹⁷ UK Government's response to the consultation on the PIP assessment "moving around" activity, p13
- ¹⁸ Johnson, E., Spring, E. (2018) [The Activity Trap: Disabled people's fear of being active](#), Activity Alliance
- ¹⁹ [Activity Alliance Annual Disability and Activity Survey](#) (January 2020), Activity Alliance and IFF Research,
- ²⁰ UK Government's response to the consultation on the PIP assessment "moving around" activity, p7
- ²¹ Porter, T., Pearson, C., Watson, N. (2021) [Evidence, objectivity and welfare reform: a qualitative study of disability benefits assessments](#), *Evidence and Policy: A Journal of Research Debate and Practice*
- ²² Newton, S. 2018. Personal Independence Payment: Medical Examinations: Written question – 125263. Available at: [on the UK Parliament website](#)
- ²³ SAMH (2016) [Personal Independence Payment – What's the problem?](#)
- ²⁴ Grant, E., et al. (2011), Scope, [The Future of PIP: a social model-based approach](#)
- ²⁵ *ibid.*
- ²⁶ *Ibid.*
- ²⁷ [Research Findings 10: Social Security Experience Panels: Personal Independence Payment Discovery – Visual Summary \(www.gov.scot\)](#)

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- ²⁸ [Feeling the benefit? Fluctuating illness and the world of welfare: Disability & Society: Vol 35, No 8 \(tandfonline.com\)](#)
- ²⁹ Young, S. (2021) [How social security can deliver for disabled people in Scotland](#), Joseph Rowntree Foundation
- ³⁰ *ibid.*
- ³¹ [Research Findings 10: Social Security Experience Panels: Personal Independence Payment Discovery – Visual Summary \(www.gov.scot\)](#)
- ³² *ibid.*
- ³³ [Advice on Disability Assistance for Working Age People](#), Disability and Carer Benefits Expert Advisory Group, December 2020
- ³⁴ Regulation 7(4) of Disability Assistance for Working Age People (Scotland) Regulations 2022
- ³⁵ [Scottish Government Response to advice from Disability and Carer Benefits Expert Advisory Group’s advice on integration of PIP Case Law](#), July 2020
- ³⁶ Bickenbach et. al (2015), ‘Assessing Disability in Working Age Population A Paradigm Shift: from Impairment and Functional Limitation to the Disability Approach’, World Bank
- ³⁷ Disability and Carer Benefits Expert Advisory Group (October 2022), Beyond a Safe and Secure Transfer
- ³⁸ *ibid.*
- ³⁹ [Emergency Budget Review](#), Scottish Government, 2 November 2022
- ⁴⁰ [The agreement between the Scottish Government and the United Kingdom Government on the Scottish Government’s fiscal framework](#), February 2016
- ⁴¹ [Official Report of the Social Justice and Social Security Committee](#), Scottish Parliament, 10 March 2022



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