

Scottish Government Position Paper

**Disability Assistance:
Child Disability Payment**

February 2020

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POSITION PAPER
DISABILITY ASSISTANCE: CHILD DISABILITY PAYMENT**

Introduction

This paper is one of a series of papers providing an update on our position on various matters relating to the development of the devolved social security benefits in Scotland.

The purpose of this paper is to set out our position on Child Disability Payment, the Scottish replacement for child Disability Living Allowance.

Background

The Scotland Act 2016 devolved to the Scottish Parliament new powers in relation to social security, including responsibility for benefits for disabled people. As part of the devolution of social security, the Scottish Government is committed to ensuring that the dignity of individuals is at the heart of Scotland's social security system. Both the Social Security (Scotland) Act 2018 and the Social Security Scotland Charter recognise social security as a human right, which informs our work for all of the people of Scotland.

The Scottish Government will always put people first and will protect the payments on which people rely. The safest way to do this is to introduce benefits incrementally, ensuring that those currently in receipt of benefits continue to receive their awards on time, and at the right amount.

We have listened to many individuals, organisations and groups with direct and personal experience of the social security system. Scotland's social security system is being designed using evidence, and by testing everything that we do with the people who will use or interact with it to make sure we get it right. We are ensuring this new public service for Scotland, meets the needs of the people of Scotland and our system is being established in a way that it can continue to evolve and improve.

As part of our [Consultation on Disability Assistance in 2019](#), we received 263 responses from individuals and stakeholder organisations on our proposals for delivering disability assistance

Delivering Child Disability Payment

Child Disability Payment will be the first form of disability assistance with new claims being accepted from summer 2020. We will deliver this first disability benefit in line with our principles of dignity, respect and fairness.

Key decisions we have taken will ensure that there are bold improvements made to what disabled people currently experience - in line with the changes that people have told us matter to them. These include the following:

Applying for Child Disability Payment

Our telephone and online services will let people know what assistance is available, and how to go about making an application. Local delivery staff will provide pre-application advice and support across Scotland, in places where help is needed, from permanent co-located delivery sites, outreach offices or homes, prison or hospital visits.

We have published a [Benefit Take-up Strategy](#) to ensure that sets out the positive steps we will take to encourage people to take up payments to which they are entitled.

We are designing the application by taking a user-centred approach to allow parents, guardians and carers to apply using the method that is most convenient for them, including by phone, face-to-face, and online, in a way that is simple and accessible.

The eligibility criteria for Child Disability Payment will be clear and transparent, and we will explain to parents and carers what information is most helpful for our Case Managers to reach a fair decision on applications. We will work with them to understand who can best tell us about their child's condition or disability, and where they don't have the information we need to hand, we will collect information for them from public sector partners. We will also provide templates that will help to collect supporting information.

Making Decisions about Entitlement

Children and young people will not be required to undergo a face-to-face assessment to secure entitlement to Child Disability Payment.

We are fundamentally changing the nature of disability benefit decision-making in Scotland: Case Managers will have access to detailed clinical guidance, as well as access to Specialist Advisors with relevant professional experience in delivering health and social care. Our Case Managers will work with parents and carers to fill in any gaps in information, weighing all evidence equally, and using clear guidance that we will develop and agree with stakeholders. Most importantly, Case Managers will start from a position of trust.

Award Duration

All awards of disability assistance will be 'rolling awards' – we will set a review period based on when we anticipate a client's needs may change. Where a client's condition is unlikely to change, the maximum review period will be 10 years.

Reviews will be light-touch so that we can minimise stress. We understand that the transition between key stages of childhood can be difficult, and we want to ensure that families are supported. We will continue to work with stakeholders to get light-touch reviews right.

Uprating Child Disability Payment

As with Disability Living Allowance, the rates payable of Child Disabled Payment will be uprated every year. The Scottish Government believes that the Consumer Price Index (CPI) is the most appropriate measure for uprating of social security assistance, and the Scottish Commission on Social Security agrees.

Redeterminations and Appeals

In the event we make a decision to reduce or stop an award, clients will have 42 days to ask Social Security Scotland for a redetermination (rather than one month under DWP), and we will have a maximum of 56 calendar days to make a redetermination (rather than the open-ended mandatory reconsideration process used by DWP).

Short Term Assistance will also be available as part of Child Disability Payment. The intention is to ensure an individual is not discouraged from challenging a Social Security Scotland decision or from accessing administrative justice, by having to manage for a period with a reduced income.

Where a person is eligible for Short Term Assistance, this will be the difference between the level of payment prior to the reduction and the new level of payment. Short Term Assistance is not available in the reserved benefits system and providing support in this way is another example of where Scottish Ministers are removing barriers to challenging decisions in the Scottish social security system.

Terminal Illness

The central principle in our approach to terminal illness is to ensure that terminally ill children and young people, and their families, are provided with the support they need, when they need it.

Terminal illness is a complex and sensitive clinical issue. A terminal illness is regarded as a progressive disease, which can reasonably be expected to cause an individual's death. Terminal illness includes a wide range of different diseases and individuals may have a single disease or a number of conditions at any one time.

In Scotland, registered medical practitioners will use their clinical judgement to determine whether an individual is terminally ill for the purpose of accessing disability assistance under special rules. There will be no time limits, and the Chief Medical Officer has set out guidance that will enable registered medical practitioners to make a clinical judgement about whether an illness is regarded as terminal, for the purpose of accessing Child Disability Payment.

Accessible Vehicles and Equipment Scheme

Our Accessible Vehicles and Equipment scheme will be open to disabled children and young people in receipt of the higher rate of the mobility component to help families who might otherwise find it difficult to pay high insurance premiums, or access credit, in order to affordably lease an appropriate car, wheelchair accessible vehicle, powered wheelchair or scooter without requiring a credit check. All vehicles come with a comprehensive package of insurance, breakdown cover, servicing and a range of adaptations at low or no cost for 'worry-free' motoring.

Child Winter Heating Assistance

The Scottish Government is ambitious for Scotland's children. We want to ensure that children have the best start in life and have access to a full range of opportunities as they grow up. We recognise the extra financial demands required during winter to keep houses warm for longer periods while caring for disabled children and want to help parents and carers with additional financial support.

That is why the Scottish Government made a commitment to extend winter heating assistance to families with children who receive the highest rate of the care component of the current DWP Disability Living Allowance benefit. We are introducing Child Winter Heating Assistance (CWHA) in Scotland to improve the health and wellbeing of the most severely disabled children and their families and contribute to a reduction in fuel poverty.

The Scottish Government chose to use being in receipt of the highest rate of the care component to establish eligibility, on the understanding that children and young people who qualify will:

- be most likely to have conditions that require a consistently warm temperature;
- be generally at risk more if they were to spend time in a cold environment; and
- generally live in families that are more likely to be on a low income or in poverty.

From winter 2020, Child Winter Heating Assistance will provide an annual payment of £200 to those who are in receipt of the highest-rate care component of the current Disability Living Allowance benefit and high rate care component awards under Child Disability Payment. DLA clients can often go through a lengthy, complex process to obtain their DLA award. As such, CWHA should be as easy as possible for families to obtain, to ensure that those who are entitled receive the benefit.

Breaks in Entitlement

We recognise that young people and children can spend longer periods than adults outwith detention in legal custody as part of the rehabilitation process. To support the young persons transition back into a community setting, it is important that their family are able to meet their mobility needs.

In order to improve the consistency of rules for Child Disability Payment, we will ensure that where a young person is detained in legal custody, the mobility element of this benefit continues to be paid. This change aligns rules on residential care, residential educational placements and legal custody, ensuring consistency for young people and their families, regardless of which environment where a young person becomes resident.

Summary

Key Differences Between DLA and CDP	
Disability Living Allowance	Child Disability Payment
<i>Thinking about applying</i>	
Limited advice is available from Jobcentre Plus staff and online about disability payments on gov.uk; there is no take-up strategy.	<p>We will have telephone and online services to advise on what payments are available, and explain clearly how people can go about applying for these.</p> <p>We will have a benefit take-up strategy in place to encourage people to take up the payments that they are entitled to.</p>
There is no pre-application advice service, and limited local presence through DWP visiting officers.	Local delivery staff will provide pre-application advice across the country and support and encourage people to take up the payments that they are entitled to.
<i>Making the application</i>	
There is no electronic facility to make an application and no face-to-face applications.	We recognise that parents and carers will require options and choices for how they interact with Social Security Scotland and will offer a multi-channel approach, including telephone, paper-based and face-to-face applications, to ensure that those who cannot or choose not to adopt digital methods will not become isolated by technology
There is limited guidance about the criteria for entitlement to DLA, or how decisions are made.	We will explain the eligibility criteria for CDP clearly and transparently, so that parents and carers know how we will make decisions about a child or young person's case.
Clients with a terminal illness must meet a strict test – death must reasonably be expected within 6 months in consequence of a terminal illness.	There will be no time-limit and we will fast-track applications for clients with a terminal illness. Medical professionals will use their clinical judgement on a case-by-case basis to ensure that those individuals who need support receive this quickly, in accordance with guidance from the Chief Medical Officer.
<i>Supporting Information</i>	
Case Managers don't routinely seek supporting evidence, and the onus is firmly on families of children and young people to do this.	Case Managers will help parents and carers to identify what types of supporting information are most useful to us. Where the information isn't to hand, we will collect information from public sector partners.
The lack of supporting information can significantly affect the outcome of an application.	We will use Specialist Advisers who can bring their knowledge and experience of work in health and social care to provide additional advice to Case Managers, by

	<p>resolving common questions about the impact of conditions, medication, treatment and symptoms.</p> <p>Case Managers will also have access to Decision Making Guidance and Agency Medical Guidance that we will develop further with our stakeholders. This Guidance will capture the impact of living with mental health conditions, other fluctuating conditions, and learning disabilities.</p>
<i>Making Decisions</i>	
The lack of supporting information can significantly affect the outcome of an application.	<p>Case Managers will seek one source of supporting information from a formal source, such as confirmation of a diagnosis or letter from a support worker. This will be used to determine, on the balance of probabilities, that the individual's condition is consistent with the general care and mobility needs detailed on their application.</p> <p>No one will be disadvantaged by a lack of formal supporting information. Case Managers will have the discretion to make an award in the absence of supporting information.</p>
Case Managers don't routinely speak to clients about their decision	Our Case Managers will be empowered to speak to parents and carers to gain further information or to clarify details. We will start from a position of trust in listening to what parents and carers tell us.
<i>Reviews, Redeterminations and Appeals</i>	
Whilst DLA will generally be awarded for fixed periods, DWP can review an award early, for any reason.	If Social Security Scotland do decide to review an award early, we will provide reasons why, and an award will continue during a review period to avoid any cliff-edges.
Clients have one month from the date of a decision to request a mandatory reconsideration, which may not be enough time to engage with relevant services.	In the event that we make a decision to reduce or stop an award, parents and carers will have longer to ask us to make a redetermination (6 weeks).
DWP has no time limits for carrying out mandatory reconsiderations, leaving clients without essential assistance	Social Security Scotland will have eight weeks to make a redetermination; this balances the need to make decisions on vital support quickly, with the need to collect additional supporting information, where required.
Clients cannot appeal to a tribunal without going through this process first.	Parents and carers can appeal directly to a tribunal if Social Security Scotland is

	unable to carry out a redetermination within the time limit.
<i>New forms of assistance</i>	
No equivalent	During redeterminations and appeals, parents and carers will have the option to receive short-term assistance, which will be the difference in value between the previous award and the new award.
No equivalent	Child Winter Heating Assistance will provide a £200 payment to families with disabled children in receipt of the highest rate of the care component, to help with winter heating costs.
Child Disability Living Allowance stops at age 16 and disabled young people are required to apply for Personal Independence Payment.	Clients in receipt of Child Disability Payment before the age of sixteen will continue to receive it until their eighteenth birthday, as we recognise that the transition between child and adult services can be a difficult time for families.

Next Steps

The draft regulations that set out the detailed rules for CDP are being scrutinised by the Scottish Commission on Social Security. The Commission is separate from the Scottish Government, and carries out its work independently of both Scottish Ministers and the Scottish Parliament. We will respond to the Commission's scrutiny report, and intend to lay the regulations before Parliament in Spring 2020.

We plan to open CDP for new applications in summer 2020, and are making arrangements for the transfer of current DLAC cases at a later date.

For the first time, two governments will share social security clients. Many people will be eligible for payments from both the UK DWP and Social Security Scotland, and those payments will affect and in some cases interact with one another. We must make sure our systems work together seamlessly, so people get the right money at the right time; and we will be dependent on DWP play their part in making this happen.

Throughout all of this work, disabled people's organisations and vitally, disabled people themselves, will continue to be central to designing both the overarching and the detailed policy that will deliver our vision for disability assistance.

Scottish Government
Social Security Directorate
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