

Draft Disability Assistance for Older People (Scotland) Regulations 2024

Draft Equality Impact Assessment

August 2023

Draft Equality Impact Assessment (EQIA)

<p>Title of Policy</p>	<p>The Disability Assistance for Older People (Scotland) Regulations 2024</p>
<p>Summary of aims and desired outcomes of Policy</p>	<p>The Social Security (Scotland) Act 2018 sets out the broad framework for the delivery of the Scottish Government’s social security benefits.</p> <p>On 1 April 2020, executive and legal competence for disability benefits, including Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance was transferred to Scottish Ministers.</p> <p>Pension Age Disability Payment will be the replacement for Attendance Allowance in Scotland. This new benefit will be delivered by Social Security Scotland.</p> <p>Attendance Allowance will continue to be delivered during a transition period by the Department for Work and Pensions under the terms of an Agency Agreement to ensure the safe and secure transfer to Pension Age Disability Payment.</p> <p>The draft Disability Assistance for Older People (Scotland) Regulations 2024 set out the eligibility criteria and how Social Security Scotland will deliver Pension Age Disability Payment. This benefit will accept new applications from those over State Pension age.</p> <p>The regulations also make provision for the case transfer process for people in Scotland who currently receive Attendance Allowance. These provisions are not currently included within the full draft regulations, however they will be added in due course.</p> <p>This policy is closely aligned with the Healthier, Wealthier and Fairer Strategic</p>

	<p>Objectives, and contributes to the following National Outcomes:</p> <ul style="list-style-type: none"> • We respect, protect and fulfil human rights and live free from discrimination; • We tackle poverty by sharing opportunities, wealth, and power more equally; • We live in communities that are inclusive, empowered, resilient and safe.
Directorate, Division, Team	Social Security Directorate, Social Security Policy Division, Disability Benefits Policy Unit

Executive Summary

The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of the Scottish Government’s social security benefits.¹ On 1 April 2020, executive and legal competence for disability benefits, including Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance was transferred to Scottish Ministers.

The Scottish Government has now replaced Disability Living Allowance for Children with Child Disability Payment, and Personal Independence Payment with Adult Disability Payment. Attendance Allowance is currently being delivered by the Department for Work and Pensions on behalf of the Scottish Government under the terms of an Agency Agreement.

Under the 2018 Act, it is the Scottish Government’s intention to replace Attendance Allowance with Pension Age Disability Payment. This was formerly known as Disability Assistance for Older People. Pension Age Disability Payment will be delivered by Social Security Scotland on behalf of Scottish Ministers. People will be able to challenge a determination by requesting a re-determination, and subsequently they will be able to appeal to the Social Security Chamber of the First-tier Tribunal for Scotland.

The draft Disability Assistance for Older People (Scotland) Regulations 2024 set out the eligibility criteria and how Social Security Scotland will deliver Pension Age Disability Payment. Section 31 of the 2018 Act sets out the legal basis in which Scottish Ministers make regulations for the rules and structures of disability assistance. Therefore, the title of these regulations do not use the specific name of this benefit.

¹[Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://legislation.gov.uk)

The regulations also make provision for the case transfer process for people in Scotland who currently receive Attendance Allowance. These provisions are not currently included within the full draft regulations, however they will be added in due course.

Based on information from the Department for Work and Pensions' Stat-Xplore service, there were around 144,000 individuals in August 2022 with an entitlement to Attendance Allowance in Scotland whose awards would transfer to Pension Age Disability Payment.²

The public sector equality duty is a legislative requirement which states that the Scottish Government must assess the impact of applying a proposed new or revised policy or practice on groups with protected characteristics. Policies should reflect that different people have different needs. Equality legislation covers the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex, sexual orientation as well as marriage and civil partnership.

This Equality Impact Assessment has identified potential impacts on disabled people in Scotland who are over the State Pension age as a result of replacing Attendance Allowance with Pension Age Disability Payment.

It was found that, overall, the Scottish Government's policy has a number of improvements on the existing process which would have a positive impact on people in Scotland with protected characteristics. Where areas of improvement have been identified, the Scottish Government has made changes to better meet the needs of people living in Scotland.

Background

Pension Age Disability Payment will be a disability benefit for people over State Pension age. It will be awarded to help with extra costs if a person has a disability severe enough that they need someone to help look after them.

As part of the commitment to a safe and secure transfer, Scottish Ministers do not propose to make significant changes to the existing Attendance Allowance eligibility criteria when introducing Pension Age Disability Payment. Examples of this include the replication of the current 6 month qualifying period for Attendance Allowance and continuing alignment by not introducing a mobility component. By maintaining the current eligibility criteria, individuals in Scotland who are eligible for passported benefits and premiums from the UK Government will have seamless access to this vital support. This will provide security to people in Scotland when Pension Age Disability Payment is rolled out.

However, there are some key changes along with a number of practical administrative differences between Pension Age Disability Payment and Attendance

² [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

Allowance which Scottish Ministers expect to have a positive impact for disabled people in Scotland. These differences have been developed through the commitments under the Social Security Charter.³ The Scottish Government recognises social security as a human right and has designed Social Security Scotland's services with the people who use them so that everyone is treated with dignity, fairness and respect. The Scottish Government is committed to continually improving Scottish disability benefits by continuing to engage with disabled people and stakeholders to identify areas for further improvement in future.

Application Process

The Scottish Government has made changes to the application process for all forms of disability assistance, including Pension Age Disability Payment, which will help to reduce stress and anxiety for individuals. People interacting with Social Security Scotland will require options and choices that suit them best. Social Security Scotland offers a multi-channel approach including online, telephone, paper-based and face-to-face applications. As well as offering choices, this ensures that those who cannot or choose not to adopt digital methods will not become isolated.

People who require further assistance or would prefer face-to-face support will be able to access that through Social Security Scotland's Local Delivery service. Local Delivery staff will provide one-to-one support and help disabled people to understand what Scottish Government benefits they may be entitled to. They can also provide assistance to complete application forms and take forward any follow-up actions relating to a person's application. It is considered that this support will be of particular benefit to older people applying for Pension Age Disability Payment, as many older people may find completing application forms overwhelming and might not have access to a support network to assist them.

The Scottish Government also launched the Social Security Independent Advocacy Service in January 2022, and has committed to investing £20.4 million in the service over the following four years. The service is free and supports people who self-identify as a disabled person to access and apply for Social Security Scotland assistance.

As with the Scottish Government's other disability benefits, a new approach to gathering supporting information is being utilised by Social Security Scotland which will help reduce stress and anxiety for individuals. A Case Manager will ordinarily only seek one piece of supporting information from a professional to support the decision-making process when making a determination on an individual's entitlement to Pension Age Disability Payment.

Case Managers will use a collaborative approach to help people gather supporting information from a professional, where an individual does not already have this to hand. This includes Case Managers obtaining supporting information from professionals on the individual's behalf. Case Managers can also assist in gathering supporting information from the individual's wider support network, such as a family

³ [Social Security Scotland - Our Charter \(socialsecurity.gov.scot\)](https://socialsecurity.gov.scot)

member or unpaid carer, which can help Social Security Scotland to understand the individual's needs, conditions or disability.

Definition of terminal illness

In August 2022, 3,370 people receiving Attendance Allowance in Scotland had their main condition or disability listed as a terminal illness.⁴

The Scottish Government's definition of terminal illness will support recognition of a wider number of illnesses and conditions through Pension Age Disability Payment than can be accounted for under the current definition in the UK Government system.

This is because the UK Government's time limited definition of terminal illness is able to recognise individuals with malignant illnesses at the end of life, but is less effective in recognising individuals with other degenerative life-limiting conditions, as it can be harder to determine length of life for these illnesses. In these circumstances, individuals with such conditions sometimes may not meet the definition of terminal illness in the UK Government system.

The Scottish Government included provision in the 2018 Act to introduce a new definition of terminal illness that differs from the current UK Government definition. It removes the arbitrary 12 month timescale currently used by the Department for Work and Pensions. Instead, the judgement as to whether a person should be considered terminally ill for the purposes of determining eligibility for Pension Age Disability Payment will be made by clinicians, based on guidance prepared by the Chief Medical Officer.⁵

The Scottish Government's new definition allows medical professionals, including registered nurses, to use their clinical judgement when determining whether an individual has a condition which can reasonably be expected to result in their death. This means that individuals who would otherwise not be entitled to Attendance Allowance through Special Rules will be able to do so under the Scottish Government definition as part of Pension Age Disability Payment, thereby having a positive impact on those with protected characteristics in Scotland.

Applications will be fast tracked from people with a terminal illness. Individuals who are terminally ill will automatically receive the highest rate of Pension Age Disability Payment and there will be no award reviews.

Ongoing awards and reviews

For many people in the current system, the award end date for disability benefits can be extremely stressful, particularly for individuals whose conditions are unlikely to change over time and who are consequently subject to unnecessary reviews of entitlement.

⁴ [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

⁵ [Social Security Scotland Disability Benefits - Terminal Illness CMO guidance \(socialsecurity.gov.scot\)](https://socialsecurity.gov.scot/social-security-scotland-disability-benefits-terminal-illness-cmo-guidance)

Providing ongoing awards that are subject to light-touch reviews will help to reduce the stress and anxiety associated with approaching an award review by removing a financial cliff edge for individuals. This is a change from the 'renewal' process for Attendance Allowance, whereby an individual has to complete a new application form and will see payments stop if they do not reapply in time. By continuing entitlement while a review is taking place, disabled people will continue to receive the assistance they are entitled to until a Case Manager has made a new determination.

Light-touch reviews will make the process easier and less stressful for individuals. This means that Case Managers are able to, if needed, gather supporting information for the person whose award is being reviewed and consider existing information and previous determinations to avoid asking unnecessary questions. Case Managers will be empowered to make a determination without supporting information if this information is unavailable during a review, and request case discussions with practitioners to further reduce the need for intrusive questions.

Having a light-touch review process is more appropriate, particularly where an individual's needs are unlikely to have changed significantly. 66% of respondents to the Consultation on Disability Assistance agreed with this approach alongside general agreement from Experience Panels.^{6,7}

Additionally, when asked if review periods should be between 5-10 years for individuals with conditions unlikely to change, 58% of respondents to the consultation agreed. This will help to cut down on the number of unnecessary award reviews that disabled people will need to go through, and as a result, reduce stress and anxiety, thereby having a positive impact on individuals. Work is also underway to consider in more detail whether and in what circumstances indefinite awards should be made available to people whose needs are highly unlikely to change.

Re-determinations and appeals

The Scottish Government wants to ensure that no one is disadvantaged by time limits for challenging a determination. In response to feedback from the Disability Assistance consultation, Experience Panels and the Disability and Carers Benefits Expert Advisory Group, Scottish Ministers have set the time limit for requesting a re-determination to 42 calendar days across the Scottish Government's disability benefits. This is an increase on the month time limit that is set for requesting a mandatory reconsideration by the Department for Work and Pensions.⁸ This will provide individuals with additional time to seek advice or gather supporting information which might be required before requesting a re-determination.

⁶ [Social Security - A Consultation on Disability Assistance in Scotland - Scottish Government response \(www.gov.scot\)](https://www.gov.scot/reponse)

⁷ [Social Security experience panels: decision making and reviewing an award - main report - gov.scot \(www.gov.scot\)](https://www.gov.scot/experience-panels)

⁸ [Social Security - A Consultation on Disability Assistance in Scotland - Scottish Government response \(www.gov.scot\)](https://www.gov.scot/reponse)

If an individual is not able to request a re-determination within 42 calendar days, they can ask for this time limit to be extended. The 2018 Act provides for an extension of up to a year for late re-determination requests. Guidance will ensure that, where an individual requests a late re-determination, their request is considered in a holistic and person-centred manner, taking account of their circumstances.

In the Consultation on Disability Assistance, it was proposed that Social Security Scotland be allowed 40-60 days to carry out a re-determination. 60% of respondents to the Consultation on Disability Assistance agreed with this proposed approach. However, some stakeholders felt that this was an excessive period for someone to be left without clarity over their award level or eligibility.

Given the concerns raised in the consultation, and subsequent stakeholder engagement, the Scottish Government has settled on the timescale for Social Security Scotland to undertake a re-determination at a maximum of 56 calendar days. It may be necessary to gather supporting information on behalf of the individual, and this information may take some time to obtain.

This will be beneficial as it will ensure that disabled people and their families or carers will have certainty about how long Social Security Scotland has to complete a re-determination. Similarly, by enabling individuals to appeal directly to the First-tier Tribunal, should Social Security Scotland be unable to complete the re-determination process within the prescribed timescale, this will further reduce any uncertainty and make people feel more confident in challenging a determination they do not agree with.

Short-term Assistance

During the Parliamentary passage of the 2018 Act, the inclusion of Short-term Assistance was welcomed by stakeholders and supported by Parliament.

The Scottish Government has committed to providing Short-term Assistance where Social Security Scotland has made a determination to reduce or stop an on-going Scottish Government benefit and that determination is subject to a request for re-determination or an appeal. As with the Scottish Government's other disability benefits, Short-term Assistance will be available for those with an award of Pension Age Disability Payment.

The intention of Short-term Assistance is to ensure individuals are not discouraged from challenging a review of their award determination or from accessing administrative justice, by having to manage, for a period, with a reduced income. Short-term Assistance is not available in the UK Government system. Providing support in this way is another example of where Scottish Ministers are removing barriers in the Scottish social security system.

Short-term Assistance will be available until the First-tier Tribunal for Scotland has made a determination, and is non-recoverable except in cases of fraud or error. Where a person is eligible, the value of Short-term Assistance will be the difference between the level of award paid prior to the reduction and the new level of award. This includes when that amount is now £nil because entitlement to the individual's award has stopped.

The proposal that Short-term Assistance should not be recoverable, except in cases of fraud or error, was also met with approval by 87% of respondents to the Disability Assistance consultation.⁹ This will ensure that, should a re-determination or appeal be unsuccessful, there will not be any overpayments that individuals will need to worry about repaying. This will help to prevent a further reduction in household income should the re-determination or appeal be unsuccessful, something which was stressed by respondents.

Eligibility criteria

A number of key changes for Pension Age Disability Payment have been set out above, including the introduction of the Scottish Government's definition of terminal illness and provision of Short-term Assistance. However, the Scottish Government does not propose to make significant changes to the existing Attendance Allowance eligibility criteria.

The Scottish Government will ensure that individuals with an award of Attendance Allowance will not need to reapply when transferred to Pension Age Disability Payment. Significant changes to the eligibility criteria from that of Attendance Allowance would risk creating a two-tier system of disability benefits for those over State Pension age. Changes to the eligibility criteria for Pension Age Disability Payment would cause unfairness, confusion and disruption for individuals by having two different sets of eligibility criteria and rules, whilst undertaking a significantly complicated case transfer process.

Eligibility to Attendance Allowance also provides individuals with entitlement to various UK Government benefits and premiums, usually referred to as 'passporting'. Throughout the consultation on Disability Assistance, people consistently raised concerns about maintaining other support that they are entitled to as a result of their disability benefit award. An example of a passported entitlement through an award of Attendance Allowance is the Severe Disability premium of Pension Credit. Whilst the passporting of benefit entitlements is not the sole reason for Scottish Ministers' approach to safe and secure transfer, the Scottish Government recognises that these entitlements are crucial to disabled people in Scotland.

However, what Social Security Scotland delivers on day one is not the limit of the Scottish Government's aspirations. Scottish Ministers are committed to continually improving disability benefits by continuing engagement with disabled people and stakeholders to identify areas for further improvement in future.

⁹ [Social Security - A Consultation on Disability Assistance in Scotland - Scottish Government response \(www.gov.scot\)](https://www.gov.scot/response)

Who was involved in this Equality Impact Assessment?

This Equality Impact Assessment has been developed involving officials from within the Scottish Government and with a range of external stakeholders, as well as the wider public.

In July 2016, the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses. In particular, comments were invited on a partial Equality Impact Assessment which represented the Scottish Government's work on the impact of social security policy on people with protected characteristics prior to the consultation.

There were 521 formal written responses submitted overall, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children and young people, equalities and human rights, disability and long term conditions, and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 May 2017.¹⁰ In addition, the Equality Impact Assessment that was published alongside the Social Security (Scotland) Bill was used to inform this Equality Impact Assessment for Pension Age Disability Payment.¹¹

The Consultation on Disability Assistance was published on 5 March 2019. In line with the principles of dignity, fairness and respect, the Scottish Government sought the views of the people of Scotland on the three proposed disability assistance benefits to replace Disability Living Allowance for Children, Personal Independence Payment and Attendance Allowance. The consultation closed on 28 May 2019, having received 263 replies, of which 74 were from stakeholder organisations and 189 were from individuals. An analysis of responses was published in October 2019.¹² Targeted consultation with stakeholders representing people with protected characteristics was undertaken during the consultation period.

In August 2022, the Disability and Carers Benefits Expert Advisory Group (DACBEAG) shared advice on Pension Age Disability Payment with the Scottish Government.¹³ Scottish Ministers responded on 1 March 2023,¹⁴ accepting Recommendation 12 which commits the Scottish Government to completing a robust Equality Impact Assessment for Pension Age Disability Payment.

¹⁰ [Analysis of written responses to the consultation on social security in Scotland - gov.scot \(www.gov.scot\)](https://www.gov.scot/analysis-of-written-responses-to-the-consultation-on-social-security-in-scotland)

¹¹ [Social Security \(Scotland\) Bill: Equality Impact Assessment \(www.gov.scot\)](https://www.gov.scot/social-security-scotland-bill-equality-impact-assessment)

¹² [Disability assistance in Scotland: analysis of consultation responses - gov.scot \(www.gov.scot\)](https://www.gov.scot/disability-assistance-in-scotland-analysis-of-consultation-responses)

¹³ [Disability and Carer Benefits Expert Advisory Group - Pension Age Disability Payment: advice - gov.scot \(www.gov.scot\)](https://www.gov.scot/disability-and-carer-benefits-expert-advisory-group-pension-age-disability-payment-advice)

¹⁴ [Disability and Carer Benefits Expert Advisory Group - Pension Age Disability Payment: Response from Ministers - gov.scot \(www.gov.scot\)](https://www.gov.scot/disability-and-carer-benefits-expert-advisory-group-pension-age-disability-payment-response-from-ministers)

The Scottish Government has also held specific stakeholder engagement sessions for Pension Age Disability Payment. In April 2023, a stakeholder engagement workshop was held to inform the findings of this Equality Impact Assessment. Key stakeholders from MND Scotland, Mobility and Access Committee for Scotland (MACS), Scottish Women's Convention and Christians Against Poverty attended this workshop.

The Scope of the Equality Impact Assessment

This Equality Impact Assessment considers the impact of introducing Pension Age Disability Payment on disabled people who are over the State Pension age and have one or more protected characteristics. State Pension age is currently 66 years of age, and is planned to gradually increase to 67 years of age by 2028.¹⁵

Data Sources

- Scottish Health Survey
- Scotland's census 2011
- NRS Mid-year population estimates
- Social Security Experience Panel findings
- Responses to the Consultation on Disability Assistance in Scotland
- Advice from the Disability and Carer Benefits Expert Advisory Group
- DWP Stat-Xplore statistics
- Statistics and Projections from the Scottish Government's Communities Analysis Division
- Scottish Government publications: qualifying periods and mobility policy position papers
- Stakeholder Workshop on the Equalities Impact Assessment

Key Findings

This Equality Impact Assessment has found that the introduction of Pension Age Disability Payment will have a positive impact on the people of Scotland, including individuals who fall under the following protected characteristics.

Age

In the Mid-2021 Population Estimates, people aged 65 and over accounted for 20% of the Scottish population.¹⁶ This is an increase since the time of the 2011 Census, whereby this age group accounted for around 17% of the population.

¹⁵ [State Pension age timetable - GOV.UK \(www.gov.uk\)](https://www.gov.uk/state-pension-age-timetable)

¹⁶ [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](https://nrs.scot.nhs.uk/mid-2021-population-estimates-scotland)

In the current system, the age criteria for Attendance Allowance begins at State Pension age. The Scottish Government intends to align the age criteria for Pension Age Disability Payment with that of Attendance Allowance. In the 2019 Consultation, 89% of respondents agreed with the proposals to align the age criteria with State Pension age.

It will be important for individuals to understand that if they are receiving Adult Disability Payment prior to reaching State Pension age, they will continue to receive this after reaching State Pension age so long as they remain entitled. Individuals will also be able to apply for Adult Disability Payment after reaching State Pension age in circumstances where no more than a year has lapsed since their previous award of Adult Disability Payment, Personal Independence Payment or Disability Living Allowance has ended, and their condition or disability is substantially the same as when their previous award was made. Guidance and communications will be clear on this so that individuals understand if, and in what circumstances, they should apply for Pension Age Disability Payment.

Given Pension Age Disability Payment will be open to new applications for those over State Pension age, the Scottish Government has an opportunity to further tailor the approach to disability assistance with regard to the needs of this age group. Scottish Ministers believe that the approach to Pension Age Disability Payment will have a positive impact on this age group.

Application and decision-making process

Case Managers will be empowered to speak to individuals who have indicated that they are willing to be called to gain additional information or to clarify details of their application and supporting information. Supporting information will be used by Case Managers as a resource to support the decision-making process. This information, along with information in application or review forms, will be approached from a position of trust.

From engagement with stakeholders, it is understood that although many people who apply for Attendance Allowance are able to manage their own affairs, it is likely that they may require support from family or a caregiver with aspects such as the application or review processes. The Scottish Government will ensure that individuals can request a third party representative with ease to support them in their engagement with Social Security Scotland. Scottish Ministers believe this strikes the right balance to encourage people in this age group to gain support from friends and relatives when required, while also maintaining their financial independence.

One piece of supporting information from a professional will be sought by Case Managers, such as a medical report or a letter from a support worker. This will be used to support the decision-making process by assisting Case Managers in their understanding of an individual's level of need, condition or disability alongside utilising internal Decision Making Guidance. Where an individual does not have supporting information to hand, Social Security Scotland will use a collaborative approach with the individual to assist in gathering supporting information from a professional and/or their wider support network.

In instances where supporting information is not available, Case Managers can make a determination of an individual's entitlement to Pension Age Disability Payment with no supporting information from a professional, or from their wider support network. Where it is reasonable that this information is not available, Social Security Scotland will consider this when making a determination. This could be due to the individual's health, condition or personal circumstances. Examples include, if an individual has had a recent hospital stay, if they have been unable to receive the support they need from an advocate or support worker, or where they may have lost contact with their support network, including health and social care professionals.

Case Managers will then utilise other decision-making tools, such as case discussions with a health or social care practitioner to assist in using their discretion when making a determination, based on the balance of probabilities. This will have a positive impact on disabled people in this age cohort. As older people are disproportionately impacted by social isolation, this approach will ensure access to a robust determination of entitlement that takes into consideration their current circumstances when supporting information is not available.

Case discussions with a health or social care practitioner can assist Case Managers through advising on aspects such as the side effects of a particular medication, how a disability or health condition will typically affect someone, or the way in which two conditions may interact. This will help Case Managers to make an informed decision regarding an individual's entitlement to Pension Age Disability Payment. Practitioners are registered health or social care professionals employed by Social Security Scotland who will have access to a range of resources and professionals with expertise in conditions more likely to affect older people, such as dementia.

This approach will be of particular benefit for individuals within this age cohort, as Social Security Scotland will be able to support them in gathering supporting information where they do not already have this to hand. The decision-making process will ensure that Case Managers have access to support from in-house practitioners who understand the needs of older people from their clinical and social care background, ensuring that they are able to make the right determination at the first opportunity. This process will similarly help ensure Case Managers develop an informed understanding of the individual's needs and condition(s) when deciding the appropriate award review period.

Mobility

The 2019 consultation and stakeholder feedback suggested there was interest in the introduction of a mobility component as part of Pension Age Disability Payment. The Scottish Government undertook an analysis of the potential impact of this policy change. Further consideration of the impact of the Scottish Government's position can be found in the 'Disability' section of this Equality Impact Assessment.

As part of the development of Pension Age Disability Payment, the Scottish Government has carefully considered whether to introduce a mobility component. Scottish Ministers have concluded that it is not feasible to include a mobility component within the foreseeable future.

In February 2020, the Scottish Government estimated that the introduction of a mobility component could cost an additional £580 million annually.¹⁷

This cost would increase annually due to uprating with inflation and, with an aging population, is likely to grow substantially in the coming years. Due to the financial implications, as set out in the position paper, the Scottish Government would have to find additional funding from the fixed budget. Therefore, given the highly challenging fiscal environment, Scottish Ministers are not currently in a position to consider the introduction of a mobility component.

However, it can be noted that following a consultation in 2017,¹⁸ the Scottish Government committed to maintaining free bus travel through the National Entitlement Card scheme for people aged 60 and over. This scheme provides free travel on registered local and long-distance bus services throughout Scotland, at any time of day for any number of journeys. In recognition of the impact of age, the provision of free bus travel allows older people improved access to services, facilities and social networks, therefore promoting social inclusion.

Alternative accommodation rules: legal detention

Under the UK Government social security system, different approaches have been taken to legal detention for disability benefits for individuals of working age and those of State Pension age.

Payments for those receiving Attendance Allowance are stopped the day after an individual enters legal detention. However, for those receiving Personal Independence Payment, the individual's payments are stopped after 28 days from when they entered legal detention. This position has been replicated as part of Adult Disability Payment in order to maintain alignment with Personal Independence Payment. Similarly, the Scottish Government will align Pension Age Disability Payment with the legal detention rules of Attendance Allowance.

In the 2019 consultation, a number of respondents noted this difference between the Attendance Allowance rules for those who have entered legal detention and that of Personal Independence Payment and Adult Disability Payment. The Scottish Government has given consideration to this during the development of this Equality Impact Assessment. However, as the Scottish Government's position aligns with Attendance Allowance, this will have no material financial impact on individuals as a result of introducing Pension Age Disability Payment.

It is important to note that when an individual enters legal detention, they will continue to have an entitlement to Pension Age Disability Payment, however their award will be reduced to £nil from the day after they enter legal detention. An individual whose award is reduced to £nil due to being in legal detention is not entitled to Short-term Assistance. By reducing the award to £nil during this period, when an individual leaves legal detention they will not be required to make a new

¹⁷ [Scottish Government Position Paper - Mobility Component for Disability Assistance for Older People \(DAOP\) - Scottish Government \(www.gov.scot\)](#)

¹⁸ [Concessionary travel consultation | Transport Scotland \(www.transport.gov.scot\)](#)

application for Pension Age Disability Payment if they continue to be eligible. Therefore, individuals will be able to access their financial support again with relative ease.

Disability

The Scottish Government believes that the changes being made with Pension Age Disability Payment will have a positive impact on disabled people over State Pension age in Scotland.

In August 2022 there were around 144,000 individuals having an entitlement to Attendance Allowance in Scotland. 3,370 of these people had their main condition or disability listed as a terminal illness. This represents just over 2% of the total people entitled to Attendance Allowance in Scotland.¹⁹

Social Security Scotland will create a range of Pension Age Disability Payment stakeholder resources and content in accessible formats. These resources will be proactively supplied to relevant stakeholder organisations through the National Engagement Team for organisations to distribute to people in local communities. Materials will be translated into British Sign Language, braille and easy read formats. This will ensure that people can access and understand all the information relating to Pension Age Disability Payment in a format that works best for them.

Supporting information

Case Managers will usually only seek one piece of supporting information from a professional to make a determination on an individual's entitlement to Pension Age Disability Payment. Case Managers within Social Security Scotland will, if requested, help people to gather supporting information from a professional where an individual does not already have this to hand. Case Managers can also assist in gathering supporting information from the individual's wider support network, such as a family member or carer, which can help Social Security Scotland to better understand the individual's needs and condition or disability.

It is anticipated that this will have a positive impact on disabled people. As with the experience of Child Disability Payment and Adult Disability Payment, this approach to supporting information will help reduce stress and anxiety for individuals. This policy will allow for a consistent approach for those applying for Pension Age Disability Payment, thereby ensuring the appropriate level of assistance is awarded through a robust decision-making process that embodies the values of dignity, fairness and respect.

It is envisaged that by having one piece of supporting information from a professional, Social Security Scotland will be better equipped to make the right determination in the first instance, thereby reducing the likelihood of requiring a re-determination.

¹⁹ [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

Award reviews

The Scottish Government has taken a different approach to the award review framework across all disability benefits to ensure that people's awards are not reviewed unnecessarily. When a Case Manager makes a determination to award Pension Age Disability Payment, they will set a review date based on when they think a person's needs will change, using a person-centred approach.

Such reviews will be light-touch and designed to minimise stress and anxiety for disabled people. Social Security Scotland will tailor reviews for each person to ensure that they are suitable to their needs, take account of their preferences and deliver an appropriate determination for each individual. This will have a positive impact, particularly for those who have been awarded the lower rate of Pension Age Disability Payment, as a light touch review will ensure that individuals have an opportunity to tell Social Security Scotland if their needs have increased.

Short-term Assistance

The introduction of Short-term Assistance will have a positive impact on disabled people over State Pension age. Short-term Assistance is currently available for those receiving Child Disability Payment and Adult Disability Payment.

Short-term Assistance will be available when Social Security Scotland has made a determination to reduce or stop an individual's entitlement to Pension Age Disability Payment and that determination is subject to a request for re-determination or an appeal. Short-term Assistance will be non-recoverable, except in cases of fraud or error. This will ensure that disabled people have confidence and financial stability when seeking a re-determination or appeal of changes to their on-going award.

Scottish Ministers believe that this strikes the right balance of supporting disabled people in seeking administrative justice, and to ensure that individuals are not discouraged from challenging a review of their award due to facing a reduced income. Short-term Assistance is not available under the current Attendance Allowance system, and aligns with the Scottish Government's human rights approach to social security in Scotland.

Qualifying period

The current rules set out that an individual must have been disabled or had their condition for six months before becoming eligible for Attendance Allowance. This qualifying period for Attendance Allowance will be replicated as part of Pension Age Disability Payment. However, for people with a terminal illness, there will continue to be no qualifying period. It is understood that some people have concerns about the impact of this rule on those who require financial assistance. Therefore, the Scottish Government undertook an analysis of qualifying periods for disability benefits when establishing a policy position.²⁰

²⁰ [Disability Assistance qualifying periods: policy position paper - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/disability-assistance-qualifying-periods/policy-position-paper/pages/20.aspx)

The Scottish Government believes that the six month qualifying period prior to payment of Pension Age Disability Payment is appropriate and in keeping with the policy intent for Pension Age Disability Payment. It ensures that this form of assistance is targeted at those with longer-term conditions and disabilities. Changes to the six month qualifying period would lead to people with very short-term conditions becoming eligible, substantially changing both the nature and purpose of Pension Age Disability Payment.

When applying the qualifying period, Social Security Scotland will ensure that the impact of unpredictable and fluctuating conditions on individuals is taken into consideration as part of a person centred approach. Unlike Child Disability Payment and Adult Disability Payment, there will be no qualifying period expecting a person's condition to last for a specified time period into the future as part of Pension Age Disability Payment.

As with Attendance Allowance, the rationale for this approach is that the number of people who have stopped receiving their award because their condition improves is negligible; largely attributable to the requirement for a six month initial qualifying period. This helps to mitigate the impact of having a longer qualifying period when compared to Child Disability Payment and Adult Disability Payment.

Terminal illness

In August 2022, 3,370 people receiving Attendance Allowance had their main condition or disability listed as a terminal illness.²¹ It is anticipated that the new definition of terminal illness within Scottish Government disability benefits will support the recognition of a wider number of illnesses and conditions than under the UK Government definition. The Scottish Government expects this to be of significant benefit to disabled people in Scotland, particularly within the age cohort of those entitled to Pension Age Disability Payment.

Estimates published in August 2021 suggest that there could be a 90% increase in the number of successful applications for Pension Age Disability Payment due to having a terminal illness.²² These estimates are based on projections for Adult Disability Payment due to a lack of data on the conditions of those entitled to Attendance Allowance due to terminal illness, so it is therefore possible that this projection may underestimate the impact of the Scottish Government's terminal illness policy.

The implementation of the Scottish Government's definition of terminal illness through Pension Age Disability Payment will have a more positive impact on disabled people over State Pension age in Scotland than that of the current social security system.

²¹ [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

²² [Estimating the impact on successful applications - Estimating the impact of the new definition of terminal illness for disability assistance in Scotland: research - gov.scot \(www.gov.scot\)](https://www.gov.scot/research/estimating-the-impact-of-the-new-definition-of-terminal-illness-for-disability-assistance-in-scotland)

Alternative accommodation rules: hospitals and care homes

Many people with disabilities and long-term health conditions may often experience stays in hospital, sometimes for a lengthy period. As with the current Attendance Allowance rules, Pension Age Disability Payment will continue to be paid to an individual in hospital or a publicly funded care home for 28 days. Beyond 28 days, payment of Pension Age Disability Payment will be reduced to £nil. Pension Age Disability Payment is not intended to be an income-replacement benefit. Payments to support those over State Pension age on a low income are provided by the UK Government through Pension Credit.

As part of this Equality Impact Assessment, the Scottish Government has considered the impact of this rule. The intention of Pension Age Disability Payment is to provide financial assistance to mitigate the costs that individuals and their families incur as a result of a health condition or disability. Continuing to pay Pension Age Disability Payment where an individual's care needs are met in full through alternative public funding, for instance in a care home, hospital or secure accommodation, would lead to funding duplication in meeting the individual's care needs. In the majority of instances when an individual is in hospital, their additional care needs are met by the NHS.

Child Disability Payment is not stopped when a child or young person undergoes a stay in hospital for longer than 28 days. This is because, when children are in hospital they continue to require care and support, usually from a parent or guardian, over and above that which is provided in clinical settings because of their young age. Adult inpatients are not expected to need this kind of pastoral input, and NHS staff are expected to meet essential care needs.

The purpose of the '28 day rule' is to ensure that longer term periods in alternative accommodation are not subject to funding duplication, by receiving Pension Age Disability Payment while the costs of that care are being covered. The 28 day window ensures that people cared for in temporary respite do not lose access to payments as well as recognising that where care placements break down or periods within alternative accommodation end at an early stage, the individual does not experience the additional disruption of losing access to Pension Age Disability Payment. As set out previously, individuals residing in legal detention will have their payment reduced to £nil from the day after they enter legal detention.

Where an individual undergoes frequent short periods in hospital, their payment of Pension Age Disability Payment will be unaffected. People are entitled to continue receiving their entitlement for the first 28 days of a hospital stay in order to meet any outstanding additional costs incurred prior to their hospital stay. Although payment will stop after 28 days of an individual being in a publicly funded hospital or care home, entitlement is unaffected. Therefore, if and when an individual leaves such accommodation, payments will resume, subject to continuing to meet the eligibility criteria for Pension Age Disability Payment.

It is important to note that there is an exception to this rule for those who are residing in a hospice and have a terminal illness. In these circumstances, an individual's payment of Pension Age Disability Payment will continue, and the 28 day rule will not

apply. This will have a positive impact by ensuring that people who are already in extremely difficult circumstances will not see their income reduce as a result of residing in a hospice.

Mobility

As Attendance Allowance provides help with the extra costs associated with an individual's care needs, it does not include a mobility component. The Scottish Government has committed to aligning Pension Age Disability Payment with Attendance Allowance to ensure a safe and secure transfer. Following the 2019 consultation and stakeholder feedback that suggested there was interest in the introduction of a mobility component as part of Pension Age Disability Payment, the Scottish Government undertook an analysis of the potential impact of this policy change.

The Scottish Government published a Pension Age Disability Payment policy position paper in February 2020 which included a detailed analysis of the relevant considerations regarding a mobility component.²³ As part of the development of Pension Age Disability Payment, the Scottish Government has carefully considered whether to introduce a mobility component. Scottish Ministers have concluded that it is not feasible to include a mobility component within the foreseeable future.

Within the policy position paper, the Scottish Government estimated that the introduction of a mobility component could cost an additional £580 million annually. However, this cost would increase annually due to uprating with inflation and, with an aging population, is likely to grow substantially in the coming years.

Due to the financial implications, as set out in the position paper, the Scottish Government would have to find this additional funding from the fixed budget. Given the highly challenging fiscal environment, such a significant increase in costs would require the Scottish Government to reduce spending on other key social security priorities. Having evaluated the financial implications outlined in this paper, the Scottish Government is not currently in a position to further consider the introduction of a mobility component.

As set out above, the Scottish Government intends to align Pension Age Disability Payment with Attendance Allowance to ensure a safe and secure transfer. The introduction of a mobility component as part of Pension Age Disability Payment would be a fundamental change in the policy rationale that underpins Attendance Allowance as a benefit that helps with the additional costs related to an individual's care needs.

As the Scottish Government will ensure that those receiving Attendance Allowance in Scotland do not need to reapply to receive Pension Age Disability Payment, significant changes, such as introducing a mobility component, would risk creating a two-tier system of disability benefits for those over State Pension age. Changes to the eligibility criteria for Pension Age Disability Payment would cause unfairness,

²³ [Scottish Government Position Paper - Mobility Component for Disability Assistance for Older People \(DAOP\) - Scottish Government \(www.gov.scot\)](https://www.gov.scot/publications/position-papers/2020/02/mobility-component-for-disability-assistance-for-older-people/DAOP-Scottish-Government/www.gov.scot)

confusion and disruption for individuals by having two different sets of eligibility criteria and rules, whilst undertaking a significantly complicated case transfer process.

Gender reassignment

There is no robust data relating to the proportion of people in Scotland to whom the gender reassignment protected characteristic applies. However, the Scottish Government recognises that a potential barrier to trans and non-binary people accessing disability assistance is a requirement for individuals to provide their gender when making an application. This is often discriminatory as individuals are asked to tick a box to indicate their gender. This tends to involve a male-female binary which does not apply to individuals whose gender does not fit into one of these categories, such as individuals who are non-binary, agender or genderfluid.

It is anticipated overall though that Pension Age Disability Payment will have a positive impact on this group. Information on an individual's gender is not required to make a determination of entitlement for Pension Age Disability Payment. Therefore, this has been taken into consideration through the design of the Pension Age Disability Payment application form which will not collect information on an individual's gender.

Social Security Scotland staff will embody the values of dignity, fairness and respect. All training for staff will include LGBT awareness and be underpinned by human rights principles.

Pregnancy and maternity

This Equality Impact Assessment has not identified any barriers from Pension Age Disability Payment that have an impact on the protected characteristics of pregnancy and maternity. As an individual is only entitled to Pension Age Disability Payment having reached State Pension age, it is unlikely that they will possess this protected characteristic.

Race

Just under 4% of Scotland's population belong to minority ethnic groups, and 7% of the total population communicate in home languages other than English. Although there are not statistics showing the number of people within Scotland who are in receipt of disability benefits and who belong to minority ethnic groups, it is known that they generally make up 3.7% of those with a reported learning disability or developmental disorder.²⁴

²⁴ 2011 Census in Scotland

There are particular barriers for individuals from minority ethnic groups in applying for disability benefits, especially those with English as a second language, as there may be difficulties in accessing or understanding their entitlements due to language or other communication barriers. In particular, participants in Experience Panels stated that they were not confident in using online resources or other materials because, while they felt they could speak English conversationally, they did not feel comfortable making sense of the complicated and technical language often used by authorities.²⁵

To address this, work has been undertaken with ethnic minority groups alongside the main Experience Panels as part of the Benefit Take-up Strategy. Experience Panel engagements with people who use English as a second language also showed that there is often an assumption around the most commonly translated languages.

There is an expectation that Social Security Scotland will mirror provision by other public sector organisations, and speakers of less common languages have shared that they will generally opt for letters in English, on the assumption that there are no materials available in their home language. This removes individual agency, forcing some individuals to rely on support to apply, and creating a barrier to take-up. Additionally, many individuals have also expressed concerns that they would misinterpret information and, as a result, they would be sanctioned or prosecuted because of language barriers.

As part of the process of applying for Pension Age Disability Payment, Social Security Scotland will ensure that appropriate communication support is provided to meet individual needs both for accessibility and for language barriers. This includes the use of translator services during telephone calls and translation of decision reports when a determination of entitlement is made.

Social Security Scotland will create a range of Pension Age Disability Payment stakeholder resources and content in accessible formats. These resources will be proactively supplied to relevant stakeholder organisations through the National Engagement Team for organisations to distribute to people in local communities. The languages that Social Security Scotland proactively translate materials into were selected through stakeholder consultation. These are: British Sign Language, Farsi, Mandarin, Cantonese, Urdu, Gaelic, Polish, Arabic, braille and easy read formats. Materials in other languages are available on request.

Social Security Scotland's communications team will work with community radio and foreign language press to provide messaging on Pension Age Disability Payment to communities. In some circumstances, printed marketing materials may not be the right way to engage with these communities and where this is the case, Social Security Scotland will provide an engagement approach through work carried out by the National Engagement and Local Delivery teams.

Social Security Scotland will continue to work with experts who have experience of benefit take-up in specific communities, such as Black, Asian and Minority Ethnic women and the Gypsy/Traveller community. The purpose will be to monitor and

²⁵ [Social Security Experience Panels: Ethnic Minorities \(www.gov.scot\)](http://www.gov.scot)

provide management information to effectively target take-up activity and assist the production of take-up resources for Social Security Scotland staff and stakeholders. The Scottish Government will draw on best practice from take-up initiatives and campaigns undertaken across Scotland and elsewhere in the United Kingdom.

Gypsy/Traveller community

Within the broader classification of ethnic minority, just over 4,000 people in Scotland (0.1% of the population) identified their ethnic group as 'White: Gypsy/Traveller'.²⁶ Although there are not statistics held on the number of Gypsy/Traveller people who receive disability benefits under the current system, the census showed that 28% of Gypsy/Travellers reported having a life limiting long-term health problem or disability, compared to 20% of the general population. It is thus more likely that this group will need to access disability benefits, but also likely that this group may experience additional barriers to accessing benefits.

The Scottish Government was also informed anecdotally that the Gypsy/Traveller community operate within the 'cash economy' and that they are more likely to have a post office account than a bank account. This can be problematic in terms of receiving payments. The payment method of Pension Age Disability Payment will be important for some people, and in particular the Gypsy/Traveller community. In addition to Post Office and Credit Union accounts, payments can be made using iMovo which is a secure digital voucher system that can be delivered to individuals in several forms, such as SMS and email. These can be redeemed at one of 2850 PayPoint outlets in Scotland.

Refugees

The ethnic minority population also includes refugees. Refugees are eligible for benefits such as disability benefits, but typically experience additional barriers in comparison to the general population in accessing them. Specific research has been undertaken with this group as part of the Experience Panels to highlight barriers and challenges in accessing social security by Mobile Populations.²⁷

Participants felt stigmatised, misunderstood, judged and discriminated against by government officials under the current system. Refugees highlighted the need to learn more English to access services and interact effectively with government officials to be a barrier. It was highlighted that many refugees have a strong reliance on translators and interpreting services to communicate with government officials.

Social Security Scotland will ensure that individuals who require the use of translator services during telephone calls have access to this support. Decision reports when a determination of entitlement is made will be translated for individuals who require this information in another language. Social Security Scotland staff will also undertake training in inclusive communications to ensure individuals can interact in ways that

²⁶ 2011 Census in Scotland

²⁷ [Social Security Experience Panels: Seldom Heard Programme of Research: Mobile Populations \(www.gov.scot\)](http://www.gov.scot)

work for them. This approach will help to reduce the stigma felt by refugees in their interactions with Scotland's social security system.

Participants felt that they could not find correct information on benefits and eligibility from official government channels under the UK Government system. Many perceived the social security system to be complex and difficult to understand. It was also noted by some participants that they encountered barriers in accessing information and application processes that are online, because they did not have internet access or digital services.

As previously noted, Social Security Scotland will proactively provide stakeholder organisations with Pension Age Disability Payment resources and will provide a multi-channel application process, including paper-based, telephone and face-to-face applications. The application form for Pension Age Disability Payment has been designed through user research to ensure it is accessible and reduces some of the complexities associated with the social security system. This approach should help to mitigate barriers in accessing information and the application process for refugees and other Mobile Populations.

Residence and presence

The current rules for Attendance Allowance set out that an individual would be required to be present for 104 out of the previous 156 weeks. Since the Disability Assistance public consultation launched, a change has been made to Scottish Government policy to reduce the past presence test from 104 out of 156 weeks to 26 out of 52 weeks.

This position has been settled upon to ensure compliance with recent developments in case law in relation to the United Kingdom's social security system.²⁸ Removing the test entirely, would carry a financial cost as well as a number of delivery implications. The test also provides for a number of exceptions such as for individuals with a terminal illness. The Scottish Government believes this strikes the right balance between meeting the policy intent behind the residence and presence eligibility criteria and ensuring fairness for individuals applying for Pension Age Disability Payment.

Scottish Ministers have previously legislated to ensure those settling in Scotland from Afghanistan are exempt from having to satisfy the habitual residence and past presence tests. These provisions will also be included as part of the Pension Age Disability Payment regulations. This includes those with leave to enter or remain in the United Kingdom under immigration rules in relation to the Afghan Relocations and Assistance Policy, the previous scheme for locally-employed staff in Afghanistan, those granted discretionary leave outside the immigration rules as a dependent of a person in relation to that scheme, as well as those granted leave under the Afghan Citizens Resettlement Scheme.

²⁸ [Upper Tribunal Administrative Appeals Chamber - Case Number CDLA/2208/2018 and CDLA/2019/2018 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728282/Upper_Tribunal_Administrative_Appeals_Chamber_-_Case_Number_CDLA/2208/2018_and_CDLA/2019/2018.pdf)

Provisions in relation to individuals from Ukraine that have settled in Scotland due to the Russian invasion which took place on 24 February 2022 and were residing in Ukraine immediately before 1 January 2022 will also be included in the Pension Age Disability Payment regulations.²⁹ This exempts individuals from having to satisfy the habitual residence and past presence tests. This exemption will apply to those arriving in the United Kingdom under the Ukraine Family Scheme and Homes for Ukraine. These individuals will be able to meet the residency conditions for Scottish Government benefits from day one, meaning they will be eligible subject to all other entitlement conditions being met.

The Scottish Government has also legislated in relation to the conflict in Sudan, whereby those who were resident in Sudan prior to 15 April 2023 will be exempt from the past presence and habitual residence tests for Scottish Government benefits if they left Sudan in connection with the violence.³⁰ This will also be applied to Pension Age Disability Payment.

The inclusion of these provisions will have a positive impact on disabled people who have settled in Scotland from areas of conflict by ensuring that they have access to Pension Age Disability Payment at the earliest possible opportunity, therefore assisting with the additional costs relating to their care needs as a result of a disability or health condition.

Terminal illness

It is known that there is a low uptake of palliative and end of life care services for Black, Asian and Minority Ethnic groups in the United Kingdom. This was also identified in the 'Palliative and end of life care for BAME groups in the United Kingdom' report,³¹ which identified 45 literature reviews in this area. Some suggested factors for low uptake included a lack of referrals, lack of knowledge about services or the impact of family and religious values interacting with the idea of palliative and hospice care.

It is likely that some of the reasons for a low uptake of palliative care could also lead to a low uptake in disability benefits when terminally ill. As population projections are suggesting that there will be a general increase in population for those over State Pension age and continued international migration to Scotland,³² this may present a challenge to ensure that Pension Age Disability Payment is accessible for those who are terminally ill from minority ethnic groups.

There is some evidence that ethnic minority groups can vary in the extent to which individuals would wish to know about their terminal diagnosis. This has been

²⁹ [The Social Security \(Residence Requirements\) \(Ukraine\) \(Scotland\) Regulations 2022: policy note - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/policy-notes/pages/2022-02-24-ukraine-residence-requirements-regulations-2022.aspx)

³⁰ [The Social Security \(Residence Requirements\) \(Sudan\) \(Scotland\) Regulations 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2023/0000/regulations/2023/0000/made)

³¹ [Report: Palliative and end of life care for Black, Asian and Minority Ethnic \(BAME\) groups in the UK \(mariecurie.org.uk\)](https://www.mariecurie.org.uk/reports/palliative-and-end-of-life-care-for-black-asian-and-minority-ethnic-bame-groups-in-the-uk)

³² [2020-based interim national population projections: year ending June 2022 estimated international migration variant - Office for National Statistics](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandlife/birthsdeathsandmarriages/migration/articles/2020-based-interim-national-population-projections-year-ending-june-2022-estimated-international-migration-variant/1644129)

highlighted in a cross-cultural study involving some East Asian countries.³³ The research around this is not specific to any particular age group. The terminal illness policy has been developed in a way that is supportive of individuals from minority ethnic groups where explicit knowledge of a terminal diagnosis may be considered not to be in the best interests of the individual.

The Scottish Government has worked with people with lived experience to refine the way that terminal illness is spoken about. Scottish Ministers' commitment to accessible communication includes making sure that language barriers are not created for people who communicate in languages other than English.

The Chief Medical Officer's guidance contains important information for practitioners to support sensitive communication with individuals relating to their diagnosis. It also makes allowance for situations where sharing the terminal diagnosis with the individual would be harmful to them.

To support terminally ill people, it will also be possible for a third party to complete the application form, and this will similarly be supportive of individuals where explicit knowledge of a terminal diagnosis is deemed not in their best interests. In these ways the terminal illness policy is supportive of those from minority ethnic groups.

Figures for terminally ill people are not collected by ethnic group. As the numbers are small, caution would be needed as release of these statistics could identify individuals. To mitigate this, although ethnicity monitoring is not compulsory, it will form part of the application process through the Equalities Monitoring form, and individuals will have to 'opt out' if they wish not to submit this information. This should lead to collection of better data which can be used to inform changes to Pension Age Disability Payment, and where relevant, terminal illness policy.

Religion and belief

According to data published by the Scottish Surveys Core Questions in 2019, 50.7% of respondents identified as having no religion, while 46.4% identified as Christian (Church of Scotland, Roman Catholic or other Christian). 1.1% identified as Muslim, with 1.7% belonging to other religions.³⁴

Although religion and belief may vary with age, the Scottish Government has not identified any particular barriers resulting from Pension Age Disability Payment which may affect people with the protected characteristic of religion and belief.

³³ [A Cross-Cultural Study on Behaviors When Death Is Approaching in East Asian Countries - PMC \(nih.gov\)](#)

³⁴ [1.1 Source Surveys and Core Questions - Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](#)

Sex

Data from the Papworth Trust found that women are slightly more likely than men to be disabled in the United Kingdom.³⁵ 23% of women are noted as having a disability, compared to 19% of men.

A report by the Women's Budget Group has also found that, overall, women are twice as likely to rely on social security as men.³⁶ This higher percentage of disabled women compared to men is also reflected in the ratio of those in receipt of Attendance Allowance. In August 2022, 37.1% of those receiving Attendance Allowance in Scotland were men, and 62.9% were women.³⁷ However, this may in part be explained by the differences in life expectancy in Scotland. Between 2019 and 2021, life expectancy in Scotland was 76.6 years for men and 80.8 years for women.³⁸

There is evidence that gender inequalities are likely to have become even more pronounced in light of the COVID-19 pandemic. When healthcare systems come under pressure, it becomes increasingly likely that women will take on further caring responsibilities.³⁹

Although some disabilities and health conditions have a different impact on men and women, Social Security Scotland's approach to decision-making is guided by the social model of disability and will be person-centred through the values of dignity, fairness and respect. People employed by Social Security Scotland will be required to undertake equalities training which will help to ensure that people applying for and receiving Pension Age Disability Payment do not face discrimination, including discrimination on the basis of sex.

Sexual orientation

In 2019, around 3% of people in Scotland identified their sexual orientation as 'lesbian', 'gay', 'bisexual' or other.⁴⁰ This is likely to be an under-report, as younger people are more likely to self-identify their sexual orientation in surveys than older people.⁴¹ In 2021, 17% of those who identified as gay, lesbian or bisexual had experienced discrimination, compared to 8% who identified as straight.⁴²

A report by the Equality Network found that disabled people who identify as LGBT were more likely to experience discrimination than LGBT people without a disability. 59% of disabled LGBT people had experienced prejudice or discrimination within the

³⁵ [papworth-trust-disability-facts-and-figures-2018.pdf \(papworthtrust.org.uk\)](https://www.papworthtrust.org.uk/papworth-trust-disability-facts-and-figures-2018.pdf)

³⁶ [Social Security, Gender and Covid-19 - Womens Budget Group \(wbg.org.uk\)](https://www.womensbudgetgroup.org.uk/social-security-gender-and-covid-19)

³⁷ [Stat-Xplore - Home \(dwp.gov.uk\)](https://www.dwp.gov.uk/stat-xplore)

³⁸ [Life Expectancy in Scotland, 2019 - 2021, Report \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/life-expectancy-in-scotland-2019-2021-report)

³⁹ [The COVID-19 Outbreak and Gender: Key Advocacy Points from Asia and the Pacific - United Nations \(un.org\)](https://www.un.org/en/development/desa/policy/2020-2021-outbreak-and-gender-key-advocacy-points-from-asia-and-the-pacific)

⁴⁰ [Supporting documents - Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents-scottish-surveys-core-questions-2019)

⁴¹ [Sexual Orientation in Scotland 2017: A Summary of the Evidence Base \(www.gov.scot\)](https://www.gov.scot/sexual-orientation-in-scotland-2017)

⁴² [Scottish Household Survey 2021 - telephone survey: key findings - gov.scot \(www.gov.scot\)](https://www.gov.scot/scottish-household-survey-2021)

last month at the time of publication in 2015, compared to 47% of non-disabled LGBT individuals.⁴³

The Scottish Government is committed to engaging with this group to build a service that meets their needs. 9% of Social Security Experience Panel members identify as lesbian, gay or bisexual and have been actively involved in the design of Social Security Scotland's services.⁴⁴

Applications for Pension Age Disability Payment will only request information that is required for processing and determining entitlement to this benefit. The Scottish Government are trying to ensure that all individuals are comfortable in disclosing only necessary information. User research has assisted with the design of the application form, ensuring that the application uses inclusive language. It is therefore expected that the Pension Age Disability Payment application form will support equal opportunities for the LGBTI community in accessing this benefit.

Social Security Scotland staff will embody the values of dignity, fairness and respect. All training for staff will include LGBT awareness and be underpinned by human rights principles.

Marriage and civil partnership

There is not a requirement to impact assess against this protected characteristic unless the policy or practice relates to work, for example Human Resource policies and practices. However, the Scottish Government has not identified any particular barriers resulting from Pension Age Disability Payment which may affect people with the protected characteristic of marriage or civil partnership.

Recommendations and conclusion

This Equality Impact Assessment process has identified that overall, the introduction of Pension Age Disability Payment to replace Attendance Allowance would have a positive impact for people in Scotland with protected characteristics. These impacts include:

- Those applying for Pension Age Disability Payment will benefit from an improved decision-making process that starts from a position of trust and supports individuals to receive the right determination at the first opportunity.
- The application form will be more accessible, and information about Pension Age Disability Payment will be available in multiple languages and in accessible formats.

⁴³ [The Scottish LGBT Equality Report - Equality Network \(equality-network.org\)](https://www.equality-network.org/)

⁴⁴ [Social Security Experience Panels: Who is in the Panels? - 2020 Update - Full report \(www.gov.scot\)](https://www.gov.scot/)

- Awards of Pension Age Disability Payment will be ongoing and subject to light touch reviews, alleviating some of the worry caused by the review process.
- Terminally ill people will have their application fast-tracked and processed using the Scottish Government’s definition of terminal illness, which removes arbitrary timescales and is based on clinical judgement.
- When an individual disagrees with their award review, they will have access to Short-term Assistance during the re-determination and appeals process. This is non-recoverable and will mitigate a drop in the level of household income while reducing anxiety for those seeking administrative justice.

The Scottish Government is aware that groups who share protected characteristics may face difficulties in accessing or understanding their entitlements due to language or other communication barriers. Scottish Ministers are committed to mitigating these barriers both within Social Security Scotland and by ensuring that the independent advocacy service will be available to signpost people to third sector organisations where necessary. Interpreter services and assistance to complete application forms will be available.

The Act and the Charter recognise that social security is a human right, which informs all of the Scottish Government’s work. The creation of a social security charter acts as a bridge between the principles in the Act and everyday delivery of social security in Scotland to improve the experience of individuals. In this way the Scottish Government will invest in the people of Scotland, making a positive difference to the lives of all.

<p>Name and job title of Policy Lead: Joseph Scullion Disability Benefits Policy Officer Social Security Policy Division</p> <p>Name and job title of a Deputy Director or equivalent: Ian Davidson Deputy Director Social Security Policy Division</p>	<p>Date this version authorised: 7 August 2023</p>
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