

## SCOTTISH GOVERNMENT POSITION PAPER

### DISABILITY ASSISTANCE QUALIFYING PERIODS

#### Introduction

This paper is one of a series 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 Qualifying Periods for each form of Disability Assistance.

#### Background

Disability Assistance in Scotland will be made up of three forms of assistance:

- Disability Assistance for Children and Young People (DACYP)
- Disability Assistance for Working-Age People (DAWAP)
- Disability Assistance for Older People (DAOP)

These will replace the DWP administered benefits Disability Living Allowance for Children (DLAC), Personal Independence Payments (PIP) and Attendance Allowance (AA). All of these will be delivered within this parliamentary term.

The Scottish Government has developed Disability Assistance policy through co-production with stakeholders and people with lived experience of the current benefits system. This has included work with the [Experience Panels](#), the Ill-Health and Disability Benefits Stakeholder Reference Group (IHDBSRG) and the Disability and Carer Benefits Expert Advisory Group (Expert Advisory Group).

#### Qualifying Periods

Disability Assistance in Scotland has been developed to provide people with long term conditions and disabilities with financial assistance for the increased costs they incur as a result of requiring care or mobility support.

Qualifying Period rules are time limits that ensure that people must have had, or be expected to have, a disability or long-term condition for a certain period of time to be eligible for Disability Assistance. Where a person of any age is terminally ill, Qualifying Periods do not apply. In introducing our new Disability Assistance, we do not intend to change from the current Qualifying Periods for DLA, PIP or AA.

There are two types of Qualifying Period:

- **Existing duration of condition** – how long a condition has already lasted
- **Expected duration of condition** – how long a condition is expected to last

For each form of Disability Assistance the Qualifying Period is made up of the total of the Existing Duration and Expected Duration periods:

$$\text{Existing Duration} + \text{Expected Duration} = \text{Qualifying Period}$$

### **Disability Assistance for Children and Young People (DACYP)**

We propose that in Scotland children and young people are eligible to receive DACYP where they have had their disability or condition for at least three months, and the condition is expected to continue for a further six months.

### **Disability Assistance for Working Age People (DAWAP)**

We propose that people of working age will require to have had their condition for at least three months before they are eligible to receive DAWAP. The condition must be expected to continue for a further nine months to meet the eligibility criteria.

### **Disability Assistance for Older People (DAOP)**

We propose that older people will require to have had their condition for at least six months before they are eligible to receive DAOP. Unlike DACYP and DAWAP, there will be no rule which requires their condition to be expected to last a specific length of time into the future. This is because, for the majority of the current AA caseload, the numbers of people who leave the benefit because their condition improves is negligible. The need for a person to have had a condition for six months ensures that this form of assistance is targeted at those with longer term conditions and disabilities.

### **Policy Development**

As part of our development of the new disability benefits we have carefully considered whether any of these qualifying periods should be changed. We have concluded that these Qualifying Periods should not be changed for the following reasons:

#### **A change to Qualifying Periods may undermine the fundamental purpose of Disability Assistance: to target long term conditions**

Keeping eligibility targeted to those for whom Disability Assistance is intended would be a significant challenge with any reduction in the qualifying periods. If the qualifying periods are reduced this will extend eligibility to people with shorter term conditions

who may not have significant additional financial requirements associated with their condition as many disabled people have, but who are able to meet the immediate requirements of the disability assessment. This will result in the rapid growth of very short-term awards and more frequent reassessments with associated costs. This would fundamentally change the policy intent and impact of Disability Assistance and put financial pressure on a benefit that exists to support people with long term disabilities and illness, as outlined in more detail below. Therefore these are not changes that we support at this time.

### **Identifying specific benefits or age groups for change**

It would be possible to target qualifying period changes at particular groups, or only change one or two of the types of Disability Assistance. However, it is very difficult to make Qualifying Period changes that would affect any one form of Assistance without reasonably opening out this policy change across all forms of Disability Assistance. Further, any attempt to confine concessions by condition or demographic would move away from the person-centred value base of the Scottish social security system.

### **Any change in policy that increases entitlement may incur additional costs and impact on access to ‘passported’ benefits delivered by DWP.**

Under current DWP administration, clients in receipt of disability benefits may be entitled to additional ‘passported’ benefits and DWP premiums where the disability benefit acts as a ‘passport’ to automatic entitlement of additional benefits or premiums. If we were to change Qualifying Periods for Disability Assistance there is a risk that DWP would not pay these reserved premiums and benefits until clients had met DWP Qualifying Periods. This would mean that clients would receive passported benefits up to six months later than when they started to be paid Disability Assistance, causing confusion and disruption for clients.

There is also a risk that, should eligibility rules diverge significantly from current DWP rules, Disability Assistance may not continue to be recognised as ‘like for like’ for passporting purposes. This would put all reserved passported benefits at risk for clients eligible for Disability Assistance. We know that these passported benefits are very important to many people receiving Disability Assistance. As it is not within our devolved powers to ensure this entitlement continues, we do not want to take action that may threaten this.

### **Financial Implications**

As well as carefully considering the policy implications of making changes to Qualifying Periods, we have undertaken analysis to understand the potential financial implications of changes to existing Disability Assistance Qualifying Periods.

Given the Scottish Government's current challenging financial outlook and the financial commitments we already have within our social security programme, we think it is sensible to maintain the current Qualifying Periods and not make further changes at the point that Disability Assistance is introduced in Scotland. To do otherwise would require a reprioritisation of existing resources for instance changing the levels of assistance paid to clients.

### *Existing Duration Rule Changes*

The potential financial implications of removing the Existing Duration rule (which requires a person to have had their disability or condition for a specific period of time) are set out below:

- Removing the three month Existing Duration rule for Disability Assistance for Children and Young People was estimated to cost a potential **£6 million per annum**
- Removing the three month Existing Duration rule for Disability Assistance for Working Age People was estimated to cost a potential **£47 million per annum**
- Complete removal of the six month Existing Duration rule for DAOP would lead to people with very short-term conditions becoming eligible, substantively changing the nature and purpose of this form of assistance. Because of the scale of the impact associated with this change is not possible to quantify at the moment.

### *Qualifying Periods Alignment*

We also considered the potential financial impact of introducing consistent Qualifying Periods across all three forms of Disability Assistance. The changes outlined below would result in a client needing to have had their condition for three months but with no requirement that it continue for a specified number of months.

The three actions to align the Qualifying Periods, and related costs, are:

- Remove the six months Expected Duration rule for DACYP which was estimated to cost a potential **£5 million per annum**
- Remove the nine month Expected Duration rule for DAWAP which was estimated to cost a potential **£69 million per annum**
- Reduced the Existing Duration rule from six months to three months for DAOP which was estimated to cost a potential **£21 million**.

This alignment could result in a total cost of **£95 million** per annum.

There is a significant degree of uncertainty associated with these costs. Whilst analysts used the best available data to arrive at these estimates, they should be viewed as indicative. There is limited published data on prevalence of short-term disability in Scotland and the impact that it has on daily living and mobility. There is a risk that the analysis understates the potential increase in costs. It should be noted that the cost of changing the Existing Duration rule cannot be added to the cost of changing the Expected Duration rule for the same benefit to arrive at a total cost of changing both.

### **Next steps**

The Scottish Government's priority is for a safe and secure transition of disability benefits from DWP to ensure that Scottish clients continue to receive their Disability Assistance payments with no disruption. As outlined in this paper, any significant policy changes to Qualifying Periods could impact on the fundamental purpose of Disability Assistance and threaten eligibility for reserved passported benefits. Taking this into account alongside the significant financial costs, we do not intend to make changes to the current Qualifying Periods rules.

The Scottish Government will carry out a wide ranging public consultation on all of our proposals relating to Disability Assistance. Once the responses to the consultation have been analysed the Scottish Government will publish a response and begin to refine our proposals to ensure we deliver Disability Assistance that works for the people of Scotland.

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