

Citizen Participation and Public Petitions Committee

17th Meeting, 2023 (Session 6), Wednesday
22 November 2023

PE1854: Review the adult disability payment eligibility criteria for people with mobility needs

Lodged on 17 March 2021

Petitioner Keith Park on behalf of MS Society

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to remove the 20 metre rule from the proposed adult disability payment eligibility criteria or identify an alternative form of support for people with mobility needs.

Webpage <https://petitions.parliament.scot/petitions/PE1854>

Introduction

1. The Committee last considered this petition at its meeting on [26 October 2022](#). At that meeting, the Committee agreed to write to the Cabinet Secretary for Social Justice, Housing and Local Government and to the MS Society (the petitioner).
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is in **Annexe B**.
3. The Committee has received new responses from the then Minister for Social Security and Local Government, the petitioner and the Cabinet Secretary for Social Justice which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#). All written submissions received on the petition before May 2021 can be viewed on the [archive webpage](#)
5. Further background information about this petition can be found in the [SPICe briefing for this petition](#).

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 6,119 signatures have been received.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1854: Review the adult disability payment eligibility criteria for people with mobility needs

Petitioner

Keith Park on behalf of MS Society

Date Lodged

17/03/21

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to remove the 20 metre rule from the proposed adult disability payment eligibility criteria or identify an alternative form of support for people with mobility needs.

Previous action

We have lobbied numerous MSPs. We have also extensively campaigned for the removal of the 20 metre rule from the assessment framework of PIP since its inception.

Background information

The Adult disability payment (ADP) will replace Personal Independence Payment (PIP) in Scotland and will be delivered by Social Security Scotland.

The Scottish Government is currently consulting on the ADP and the draft Disability Assistance for Working Age People (Scotland) Regulations describe the detailed criteria, rules and processes for delivery of the payments.

We want the Scottish Government to remove the 20 metre rule from the proposed ADP framework for the highest rate of mobility support within the new disability assistance - a position which is supported by Citizens Advice Scotland.

For people living with MS, the biggest change in PIP has been the introduction of the 20 metre rule. This measure of mobility means that people who are able to walk even the smallest distance over 20 metres can no longer get the highest level of financial support under PIP.

Since PIP began to replace Disability Living Allowance in 2013, one in three people with MS moving over to this benefit have had their support downgraded, including one in ten who have lost support altogether. This is happening even though MS is a progressive condition where people's needs are only likely to increase.

The UK Government has never been able to produce any evidence that people who can walk over 20 metres have lower levels of need for mobility support. In June 2018 we produced our report 'PIP: A step too far' which looked at the impact of the changes on people living with MS. Further research was then carried out and published in our report of April 2019 'The cost of the PIP 20 metre rule.' We found that over the (then) spending review period of 2020-2023 "the total knock-on costs to the UK Government outweigh what it will save by reducing PIP support for people with MS via the 20 metre rule" Additional research was then published in November 2019 focussing on the application, assessment and decision making processes - 'PIP fails: how the PIP process betrays people with MS'.

The basis for the proposed ADP are the principles of dignity, fairness and respect. Throughout the consultation period stakeholders from across Scotland have highlighted concerns about the PIP assessment framework and how it is unfair. In fact the Scottish Government consultation document highlights this and says, "making changes to the mobility or 50% rules in isolation could further embed unfairness in to the framework". This admission that the framework is unfair goes against the principles that underpin the regulations associated with ADP.

Many aspects of our findings are reflected in the Scottish Government's 'Welfare Reform Report' which looked at the impact of welfare reforms on disabled people citing the Lived Experience Panels and comparing the differing approaches between the UK and Scottish Government. So it is disappointing that currently the Scottish Government is looking to retain such a discredited assessment criteria.

The Scottish Government should be thinking creatively as to how it can support people whom would otherwise have been in receipt of the higher level mobility payment if it feels it has to continue with the 20 metre rule. For example, how feasible would it be to introduce a mobility allowance in a manner similar to the Carers Allowance Supplement? A review and design exercise should be carried out with disabled people, charities and healthcare professionals to design an agreed appropriate alternative. In the meantime the 50 metre threshold should be reinstated.

Annexe B

Extract from Official Report of last consideration of PE1854 on 26th October 2022

The Convener: We move on with our consideration of continued petitions. PE1854, on reviewing the adult disability payment eligibility criteria for people with mobility needs, was lodged by Keith Park. The petition calls on the Scottish Parliament to urge the Scottish Government to remove the 20m rule from the proposed adult disability payment eligibility criteria or to identify an alternative form of support for people with mobility needs.

When the committee last considered the petition, it agreed to ask the Scottish Government to engage with stakeholders on the review of the adult disability payment. The Scottish Government has now confirmed that engagement with relevant stakeholders will be included in the remit for both stages of the ADP review. We also have a further written submission from the petitioner, which calls on the committee to seek further evidence from stakeholders and to report directly to the review.

We are joined by our colleague Carol Mochan. Good morning, Carol, and thank you for your patience. Do you have anything to contribute to the committee's thinking on the issue?

Carol Mochan (South Scotland) (Lab): Good morning, convener, and thank you very much for asking me to speak. I very much appreciate the opportunity.

The petitioners have asked the committee to continue to seek evidence with a view to producing a report for submission to the 2022 review on moving around descriptors within the adult disability payment. In that light, it is only fair that I give a little bit of background on the 20m rule.

Under that rule, which was introduced as part of the eligibility criteria for accessing the personal independence payment, a person who can walk a step over 20m will not qualify for the enhanced rate of mobility support. The rule does not consider the nature of fluctuating conditions or the impact of physical or mental fatigue, and it makes no allowance for people who might be required to go further distances and might have to stop and start in order to do so.

The relevant point here is that the Scottish Government is replacing the personal independence payment with the adult disability payment, but it is keeping the eligibility criteria the same. I know that the petitioner has tried to lobby the Government on that and continues to do so.

I have spoken with a number of people who have been affected by the rule—in particular, people who suffer from multiple sclerosis. It greatly affects that group of people. I have spoken to individuals and to the representative organisation.

Since the rule was introduced, the Multiple Sclerosis Society has done some research, and I think that the findings are relevant for this committee. One in three people with MS has had their support downgraded, and 2 per cent of people with MS have had to give up work altogether because they lost the enhanced rate of mobility support, which they needed to continue with their work. That work is really important not only for them as individuals but for the economy, and people should always be able to have that opportunity if they can. Around 611 people with MS gave up work altogether between 2020 and 2022 as a result of their loss of mobility. The MS Society believes, from speaking to people and from the evidence that it has gathered, that that has cost the Government in terms of support for people with MS, due to the additional cost to the national health service and the rise in claims on other forms of income support.

Having spoken to the MS Society, I felt that its points were very relevant and important.

What difference can the committee make by keeping the petition open? One consideration is that the committee is about engaging with people and ensuring that underrepresented voices are heard by giving them a platform.

The petitioner feels that keeping the petition open would offer that opportunity, certainly until the report on moving about is finalised. They also feel that people who are at the sharp end of the 20m rule want to be able to engage in meaningful debate and to continue that debate. Those people are a very marginalised group due to their disability, and they find it difficult to find avenues by which to participate in the discussion and debate. This committee has certainly allowed them to do that, and they would wish to continue. The committee has already had evidence, so it could continue that work relatively well. The MS Society feels that the Government is quite open to some of the evidence that the committee is collecting, so it would be relevant at that time.

It would seem premature to close the petition when the evidence has been supportive and the MS Society feels that the petition has been a very successful route for it and for its members. We hope that the committee will consider keeping it open, at least until the review is complete.

The Convener: Thank you for that.

The petition is an important one, and we have considered it in some detail. The Scottish Government has confirmed that it will include stakeholders in the review, and I propose that we keep the petition open at the current time.

I wonder whether colleagues would be happy for us to write to the Cabinet Secretary for Social Justice, Housing and Local Government to request information and more detail on the timescales, including the dates for completion of each stage of the review; to ask how the Government intends to report on stage 1 of the review so that we have an understanding of the thinking; and to ask how the Government intends to engage with the Scottish Parliament throughout the period of the review and on the proposals and recommendations for action.

Are there any other proposals from the committee? Are we content to proceed on that basis?

David Torrance: I whole-heartedly agree with your recommendations, convener, but I think that the committee should wait until we see the first stage of the review before we bring the petition back to the committee and take any further decisions on it.

Fergus Ewing: Carol Mochan MSP has provided very interesting information about the impact on people who have MS. I wonder whether it might be appropriate to write to the MS Society in order to elicit more information. Perhaps Carol Mochan could help the clerks by providing the information that she has. Given what she has informed the committee of today, I would be interested in digging a bit deeper to see whether there are people who have been casualties of the rule and have lost the ability to carry on working. That is a very serious matter, and I am very grateful that Carol Mochan has brought it to the committee today. I would be keen to see whether the MS Society could give us a more complete picture.

The Convener: That would be very helpful. Mr Park lodged the petition on behalf of the MS Society. It would be interesting to drill down into the very specific complications arising from the condition itself.

Paul Sweeney: I concur with your and Ms Mochan's comments, convener. There is an important need to keep the petition open. It is one thing to have the Government carry out a review, but it is the Parliament's role to keep the Government under scrutiny, and the committee has an important function in that regard. The issue is clearly a live item of business that the committee has been attending to, and we are therefore well placed to perform that role. It would also be helpful to inform the lead committee that we intend to do that.

The Convener: Is the committee content with that?

Members *indicated agreement.*

Annexe C

Minister for Social Security and Local Government submission of 22 November 2022

PE1854/N: Review the adult disability payment eligibility criteria for people with mobility needs

Thank you for your letter of 1 November 2022 in which the Committee requested further information on several points in relation to the above petition.

Detailed information on the timescales and expected completion date for each stage of the review/Understand how the Scottish Government intends to report on stage 1 of the review.

I am pleased to confirm that stage 1 of the review is currently underway. We are undertaking engagement with disabled people through our Experience Panels in addition to academic and stakeholder organisations. This work will be used to develop a broad evidence base to inform a public consultation on the eligibility criteria for the mobility component in late January 2023 and conclude in late April 2023.

An independent analysis of the consultation findings will be published in mid-2023, in advance of stage 2 commencing. We will also publish individual responses, where participants have given their consent. The findings will be made available to the independent review for its consideration. Stage 2 will begin in line with our commitment to hold an independent review one year after the national launch of Adult Disability Payment.

I intend to set out further detail on the timing, scope and membership of the independent review in due course. The Scottish Government has consulted recently on the arrangements for policy advice and scrutiny as part of the [Enhanced Administration and Compensation Recovery consultation](#). As we begin to analyse the findings from the consultation, this will help to inform decisions on the membership of the independent review.

Understand how the Scottish Government intends to engage with the Scottish Parliament throughout the period of review and on the proposals and recommendations for action.

I am committed to keeping Parliament up to date and will undertake to keeping this Committee informed, in addition to the lead Committee, as we achieve key milestones.

I enclose a copy of my recent letter to Social Justice and Social Security Committee (**Annex A**).

I hope this information is helpful to the Committee in its further consideration of the petition.

Annex A: Letter from Ben Macpherson

Elena Whitham, MSP
Convener
Social Justice and Social Security Committee

28 October 2022

Dear Elena,

I am writing to provide an update on the review of Adult Disability Payment and forthcoming activity as part of the review.

Following the successful national launch of Adult Disability Payment on 29 August 2022, our immediate priority continues to be the safe and secure transition of people's payments from DWP to Social Security Scotland. I am confident that people will experience the many positive improvements we have made to the application and decision-making process compared to Personal Independence Payment (PIP).

Whilst Adult Disability Payment delivers a transformed and more positive client experience, it has been necessary at this stage for this new benefit to largely replicate the PIP eligibility rules while case transfer is undertaken, to avoid creating a two-tier system for disabled people.

We know from our extensive engagement with stakeholders that the eligibility criteria for the mobility component is a priority area for future consideration. As we begin to think beyond a safe and secure transition, it is therefore important that we develop a robust evidence base on the operation of the mobility component criteria and potential future options. This will include drawing upon experiences of the early operation of Adult Disability Payment more generally, as well as more detailed engagement.

Work will shortly commence with people with lived experience and stakeholders to explore our understanding of their views about the mobility component. We want to ensure that we develop a clear understanding of views on the mobility component and identify any gaps in the evidence. As part of that, we intend to work with disabled people and stakeholders to identify their priorities for change. It is also right that we reflect on what works well with the existing eligibility criteria and potential areas for future improvement.

This work will help to inform a formal public consultation on the mobility component eligibility criteria in late January 2023. An external analysis of the consultation findings will be published in the interests of transparency, with the findings and analysis to be considered as part of the independent review later in 2023.

Whilst I appreciate that there is considerable interest in the review, I believe it is fundamentally important that we take appropriate time to ensure that we make the right decisions. The independent review will consider affordability and deliverability in making its recommendations. We will also need to carefully consider the impact of any recommendations on entitlement to passported benefits, and engage with UK Government counterparts on these matters. I intend to set out further detail on the scope, timing and membership of the independent review in due course.

As you know, Adult Disability Payment is the most complex form of social security assistance we have delivered so far, with links to many other areas and detailed decision-making processes. I believe that giving people time to experience these improvements remains the right thing to do, whilst we focus on building up the capacity and experience within Social Security Scotland.

I hope the Committee find this letter useful. I remain grateful to Members for the way in which they engage constructively with the Scottish Government on this matter.

Petitioner submission of 16 December 2022

PE1854/O: Review the adult disability payment eligibility criteria for people with mobility needs

We were grateful to receive further correspondence from the Citizen Participation and Public Petitions committee, stating:

“...The Committee was interested to receive more information about the specifics of conditions such as MS and any other information you consider to be relevant.”

In MS, the body’s immune system attacks myelin, the protective cover around nerve fibres. Damage, which can occur anywhere in the central nervous system, interferes with messages travelling from the brain and spinal cord to other parts of the body. Symptoms are many and varied, physical and cognitive, and unique to each person. They can include problems with balance, vision, the bladder, bowel, speech, memory, debilitating fatigue and painful muscle spasms, among many other things. These symptoms can fluctuate from one day to the next. Some people with MS live with Relapsing Remitting MS, where relapses will occur and potentially have a devastating impact on their wellbeing, before they make a gradual recovery. Others live with Progressive MS where relapses generally do not occur but instead disability gradually worsens over time. Over 15,000 people in Scotland are currently living with MS, one of the highest rates of MS anywhere in the world.

Most people living with MS started to experience MS symptoms in their 20s and 30s, their prime working years. For people with MS the rate of employment is 41%, compared to 81% for non-disabled people.¹ As a result many in our community are reliant on support from social security to afford basic day to day items and meet general living costs.

General living costs are higher than they are for people who do not live with a disability. Life is more expensive if you are living with MS. On average the extra costs associated with living with MS total around £337

¹ MS Society – Employment without Barriers

per month.² If you have MS your mobility may be limited so you may not move around as much and as such you will be colder, so you will need to have your heating on longer and at a higher temperature, leading to more expensive energy bills. You may have an electric wheelchair or other life enhancing equipment that must be kept on charge, leading to higher electricity bills. You may have to follow a specialist diet leading to higher food bills. Adaptations to transport, treatments and therapies to cope with living with MS – all can be a significant financial burden that people who do not have a disability will not face.

All of this means that our MS community can be particularly vulnerable to rises in the cost of living and that their wellbeing can be dependent on having a social security system that meets their needs. As noted, paying for adaptations to transport can present a significant financial strain for our community. Qualifying for the Motability scheme and accessing a vehicle built to meet their needs can be the difference between them being able to have their independence and being confined to their home.

The MS Society 2018 Report “PIP: A step too far” found that 2% of respondents gave up work altogether because they lost out on the higher rate of mobility support and had to give up their Motability vehicle. This loss meant that they were unable to physically get to their workplace. It estimated that 611 people with MS will have had to give up work because of this between 2020 and 2022.³ This is why we believe it is so important that the mobility criteria in Adult Disability Payment (ADP) is in line with the underlying principles of Social Security Scotland of dignity, fairness and respect. Our report contends that the 20-metre rule was the reason for many members of our community losing out on this support under Personal Independence Payment (PIP) and that since its introduction as part of PIP, the rule has acted as a barrier to people living with MS getting the support they need.

The latest figures from the Department of Work and Pensions (DWP) show that from across the UK of 1455 people living with MS who submitted a new claim for PIP between August and October 2022, only 52% of them received an award. Of those who were reassessed when moving from Disability Living Allowance (DLA) to PIP, 15% of those who were on the top rate of DLA saw their award decreased from the enhanced mobility rate to the standard mobility rate, while 10% lost their award entirely.⁴ These stats in and of themselves are startling, but they

² MS Society – Reduced to Breaking Point

³ MS Society – PIP: A step too far

⁴ DWP – Stat-Xplore

believe a real human tragedy for 25% of those who under DLA had qualified for the enhanced rate of mobility support and a Motability vehicle, but who under the 20 metre eligibility criteria have now lost that support and with it their independence. Our research has found that since PIP began to replace DLA in 2013, one in three people with MS moving over to this benefit have had their support downgraded, including one in ten who have lost support altogether.⁵

The MS community believe that because MS is a fluctuating condition, where the severity of symptoms can vary from day to day that the “20 metre rule” is particularly discriminatory towards them. One day a person with MS may be capable of walking 20 metres with limited difficulty, but they may have to spend the next day or even week in bed recuperating from it such is the severity of fatigue many will experience. Nor does the rule take into account what a disabled person who can walk this distance is supposed to do if shops or public transport are further away than 20 metres, which they almost certainly will be. The number of people with MS having their awards stopped or downgraded should not be at the rate we have seen under the 20 metre rule, as MS is a lifelong progressive condition where an individual’s needs are only ever likely to increase.

Furthermore in “The Cost of the PIP 20 metre rule” report, we found those who had their mobility support reduced or removed altogether had been forced to increase their use of GP services, and reduce spending on food and therapies. The report concluded that the rule increased, rather than reduced, the cost to government due to additional costs to the NHS and a rise in those claiming other income support. Demonstrating that the 20 metre rule is also a financial drain on services.⁶

Opposition to the 20 metre rule is widespread among civil society. Many bodies including the Health and Social Care ALLIANCE, Parkinson’s UK Scotland and the Neurological Alliance of Scotland have given evidence to the committee in support of removing the 20 metre rule from Adult Disability Payment. So too have Citizens Advice Scotland (CAS), who in a survey in 2021 found that a majority of Bureaux advisers working to help people with disabilities navigate the social security system agreed that the 20 metre rule should be extended to 50 metres.⁷

⁵ MS Society – PIP: A step too far

⁶ MS Society – Cost of the 20 metre rule

⁷ CAS – ADP Consultation response, March 2021

We are grateful for the Committee's continued interest in our petition and hope they view the Scottish Government's promised Consultation on mobility criteria, scheduled to begin in late January 2023 as an opportunity for them to help amplify the views of disabled people by gathering further evidence and making a submission to it.

Minister for Social Security and Local Government submission of 31 January 2023 PE1854/P: Review the adult disability payment eligibility criteria for people with mobility needs

I am pleased to inform you that I have today published a public consultation on the Adult Disability Payment mobility component eligibility criteria. I have attached a copy of the consultation with this letter for further information. The consultation is also accessible at: <https://consult.gov.scot/social-security/adult-disability-payment-review>.

This consultation is part of the first stage of the review of Adult Disability Payment. We have been engaging with disabled people, stakeholders and academics in order to build a broad evidence base for people to consider within the consultation.

This consultation does not advocate a Scottish Government position on mobility component eligibility criteria. It is an opportunity for disabled people and stakeholders to consider the evidence we have gathered and to present their own views in response. It is also an opportunity to make comments and set out views on what works well, to challenge and to suggest creative approaches. In particular, we are seeking views on:

- whether the eligibility criteria for the mobility component is clear and easy to understand;
- any gaps there may be in our understanding of the existing evidence base on the application of the eligibility criteria for the mobility component;
- the impact of changes already introduced by the Scottish Government to address issues identified with the application and

decision-making processes for Personal Independence Payment (PIP); and

- whether there are any further changes that respondents would propose and the potential impact of making these changes to the eligibility criteria for the mobility component.

The consultation will run for 12 weeks and will close on 25 April 2023. I would like to request that you share this consultation with others so that interested people and stakeholders are aware and can contribute. I am keen to ensure that as many people as possible have the opportunity to contribute, whether through responding directly to the consultation or by attending a consultation event.

The analysis and responses to the consultation will be passed to the independent review to consider later in 2023 and, in the interests of transparency, they will also be published. Further information on the remit of the independent review and how it will be conducted will be published in the coming months.

Whilst it would be premature to speculate on the outcomes of the independent review itself, it is important that we are realistic about the practical and financial implications of any proposed changes.

The financial situation facing the Scottish Government is, by far, the most challenging since devolution. This will require difficult decisions about how to prioritise spending across all our public services. Any significant changes which result in new, additional spending will therefore not be deliverable within this parliamentary term. Substantive changes will require policy development, consultation and detailed implementation planning, and it is crucial we do not risk the delivery of other social security benefits that are yet to be launched.

We have therefore asked that respondents consider any cost or operational delivery challenges, together with wider related issues, such as the implications of changes for people also in receipt of UK Government benefits, as part of their consultation response.

I appreciate that there is considerable interest in how we deliver Adult Disability Payment and a desire to see changes and for these to be made quickly. However, I believe it remains vital that we get decisions

right. That includes reflecting carefully on evidence, and not taking decisions in isolation on the mobility component alone.

Allowing the independent review the opportunity to consider all of the evidence, including experience from the initial operation of Adult Disability Payment, and the eligibility criteria holistically, will ensure consistency and coherence. It will also ensure we remain focused on our commitment to delivering a safe and secure transition of people's payments, which the vast majority of disabled people and stakeholders have told us should be our key priority.

I look forward to working with the Committee throughout the review. I am grateful to the Committee members for their continued interest and constructive engagement on this matter.

Cabinet Secretary for Social Justice submission of 14 August 2023

PE1854/Q: Review the adult disability payment eligibility criteria for people with mobility needs

We have today published the independent analysis of responses to the consultation on the eligibility criteria for the mobility component of Adult Disability Payment. I enclose a copy of the consultation analysis for your awareness and information.

As you will be aware, the Scottish Government undertook a public consultation on the eligibility criteria for the mobility component of Adult Disability Payment. The consultation ran from 31 January 2023 to 25 April 2023 and received 210 responses from individuals and stakeholder organisations. Of these, 108 responses were received via a survey tool created, launched and promoted by MS Society Scotland. People with lived experience of Multiple Sclerosis were asked six questions, and their responses were automatically entered into Citizen Space. The tool automatically answered 'yes' to two further questions on behalf of respondents. Whilst some of these questions were different to the consultation questions, we have considered the responses as part of the consultation analysis.

We commissioned an independent research company, The Lines Between, to conduct the analysis of the consultation responses and we have published the analysis report as well as an Easy Read version of the report on the Scottish Government website. The report presents the findings of the consultation and explains the methodology used to analyse the responses. We have published the consultation responses, where permission has been given to do this, on Citizen Space.

This consultation did not set out or advocate a preferred Scottish Government position or policy. Instead, this consultation was an opportunity for the people of Scotland and our stakeholders to provide views on the evidence presented on the mobility component.

As set out in the consultation, our priority remains delivering the safe and secure transition of people's payments, before making any changes to the eligibility criteria.

To avoid the creation of a two-tier system, we have not introduced significant changes to the eligibility criteria at launch. It is our intention that any changes to the eligibility criteria should not be made before the case transfer process is complete.

However, as you will be aware, whilst the eligibility criteria have not been significantly changed, the Scottish Government has delivered a transformed and more positive experience for Adult Disability Payment.

The findings from the consultation will help to inform the independent review when it commences later this year. It remains vital that we get any decisions right for the people of Scotland. That includes reflecting carefully on the evidence and not taking decisions in isolation on the mobility component alone. Given the very real challenges facing us, it is right that we consider how affordable changes might be within the context of a largely fixed Scottish budget. I believe allowing the independent review the opportunity to consider all of the evidence holistically will ensure consistency and coherence in any recommendations for future improvements to Adult Disability Payment.

We are continuing to work through the details of the independent review and are taking the time needed to get decisions right. I will provide further details as soon as I am in a position to do so.

Lastly, I would like to take this opportunity to thank all of those who participated in the consultation and welcome the continued input of disabled people and stakeholders as part of the review.

<https://www.gov.scot/publications/adult-disability-payment-consultation-mobility-component-analysis-responses/>

Shirley-Anne Somerville MSP

MS Society submission of 18 September 2023 PE1854/R: Review the adult disability payment eligibility criteria for people with mobility needs

We are making this submission in response to the submission made to the committee by the Cabinet Secretary for Social Justice on the 14th of August 2023.

Background

The Cabinet Secretary's submission outlines that the Scottish Government had conducted a consultation on the eligibility criteria for the mobility component of Adult Disability Payment. The independent analysis of this consultation was submitted as part of this submission.

In the submission, the Cabinet Secretary highlights that the consultation did not set out or advocate a preferred Scottish Government position or policy and set out that their priority remained the safe and secure transition of people's payments.

The submission further highlights that the Scottish Government has chosen not to make changes to the eligibility criteria before case transfer is complete to avoid the creation of a two tier system.

The Consultation

The Scottish Government has stated that the consultation did not advocate a preferred position or policy. We agree that no policy position was expressed in the consultation document, however, the purpose and scope of the consultation was very much limited with repeated mentions relating to the affordability and deliverability of any proposals. To incorporate the concept of deliverability and affordability into the review, at the consultation phase, was incredibly disappointing. The purpose of the independent review should not be to make recommendations based on what is deliverable or affordable but to analyse the responses and make recommendations based purely on these responses.

The Scottish Government has asked people to complete the consultation without a detailed understanding of what is affordable and deliverable. In adopting these caveats, they are asking for an independent analysis to interpret information and make recommendations based on what is affordable without a full understanding of where this sits in terms of government priorities.

To remedy this the Scottish Government needs to ask itself the following questions.

- Does it want to develop and deliver disability assistance that is an investment in society?
- Does it want to develop disability assistance that is intended to serve the needs of disabled people now and in the future?
- Does it want a social security system that is grounded in the principles of dignity, fairness and respect?
- Is it committed to ensuring that the approach of Social Security Scotland is holistic and person centred?

It is imperative that affordability and deliverability considerations do not limit the scope of the wider independent review of ADP and any recommendations relating to eligibility criteria.

Two Tier System

The Cabinet Secretary's submission explains that the Scottish Government have not made significant changes to the eligibility criteria to avoid the creation of a two tier system prior to the completion of case

transfer. The submission also highlights that the Scottish Government have delivered a transformed and more positive experience of ADP.

The majority of the differences between ADP and PIP have been adopted in the assessment and decision making processes. The rationale for making these changes was to improve the overall experience of applicants and ensure that people were more likely to receive the correct level of award.

If this rationale is extrapolated then there is already a two tier system in place. ADP applicants are completing a different application form which is being assessed differently, albeit against the same eligibility criteria, when compared with people that have previously applied for and been awarded PIP.

Further to this is the fact that there is still a cohort of people in Scotland in receipt of DLA. The eligibility criteria for DLA are significantly different to those that are in place for both PIP and ADP. This is apparent in how the needs for mobility support are assessed; ADP and PIP utilise the “20 metre rule” whereas DLA applicants were considered virtually unable to walk if they could walk less than 50 metres.

This demonstrates that there is further inconsistency in the benefit system in Scotland. This is highlighted further when you consider that during case transfer people who currently receive DLA will not be reassessed using ADP eligibility criteria when their case is transferred to Social Security Scotland. They will continue to receive the same level of award from Social Security Scotland as they did under the DLA eligibility criteria for a further 12 months.

As a result of this it could be argued that there are three levels of disparity in the system that is currently being adopted by the Scottish Government in relation to ADP.

- New ADP applicants- utilising the improved application and assessment process
- People in receipt of PIP- assessed under a flawed DWP application and assessment process
- People in receipt of DLA- assessed utilising different eligibility criteria to PIP and ADP.

The Scottish Government and Social Security Scotland have, admirably set out their stated vision for disability assistance benefits;

‘Our vision for disability assistance is to create a compassionate, person centred approach...’

There is also an expressed desire for the Scottish social security system to be grounded in the *principles of fairness, dignity and respect*.

The inconsistencies highlighted above do not adhere to this vision or these principles.

MS Society submission of 15 November 2023 PE1854/S: Review the adult disability payment eligibility criteria for people with mobility needs

In our previous submission to the committee, of the 18th of September 2023, we responded to the issues that had been raised as part of the Cabinet Secretary’s submission that detailed how the Government had consulted on the Mobility Component of ADP. As we noted in our previous submission, we believe that limitations were placed on this consultation as it asked people to complete it with a view of what is affordable and deliverable rather than what would be the best approach for disability assistance benefits in Scotland.

Since our last submission, the Scottish Government has started the process to recruit the person responsible for delivering the Independent Review of ADP. Within the recruitment pack, that has been published, the Government has set out what will be included and what will not be included within the scope of the review.

While we welcome the commitment to include in full, the mobility component consultation responses, we have a number of concerns that we believe should be addressed prior to the review beginning. The following have been ruled as being out with the scope of the review.

- The purpose of Adult Disability Payment and the adequacy of payments.

- The exclusion of discussions on alternative forms of mobility support, including grants, cost reductions of mobility equipment and vehicles and associated expenses.

In ruling these areas out with the scope of the review the Scottish Government have chosen an approach that will fail to deliver a disability assistance benefit that will meet the needs of disabled people and chosen to make minor amendments to the Personal Independence Payment system that they acknowledge has failed disabled people.

As well as ruling these areas to be out with the scope of the review, the recruitment pack highlights that the independent review will need to take into consideration what is affordable and deliverable; placing the same limitations on the independent review as they did with the mobility component consultation.

If this is to be an independent review, then the Chair will not have a detailed understanding of what is affordable and deliverable; they will not have a detailed understanding of the financial situation or policy priorities of the Scottish Government. Therefore, they are asking the review to undertake an independent analysis and make recommendations based on its interpretation of what is affordable and deliverable when the purpose of this review should be to make recommendations that would enable the Scottish Government to design a disability assistance benefit that will meet the needs of disabled people.

The caveats and limitations being placed on this independent review are also in conflict with the stated aims of Social Security Scotland and the Scottish Government. The Scottish Government say that they believe social security is an investment in society and in conjunction with Social Security Scotland they have a very clear vision for disability assistance benefits;

Our vision for disability assistance is to create a compassionate, person centred approach...

We believe that limiting the scope of the review in the manner in which the Government are proposing is contrary to this vision and the stated goal of having a system grounded in fairness, dignity and respect.

To remedy this the Scottish Government needs to ask itself the following questions.

- Does it want to develop and deliver disability assistance that is an investment in society?
- Does it want to develop disability assistance that is intended to serve the needs of disabled people now and in the future?
- Does it want a social security system that is grounded in the principles of dignity, fairness and respect?
- Is it committed to ensuring that the approach of Social Security Scotland is holistic and person centred?

It is imperative that affordability and deliverability considerations do not limit the scope of the wider independent review of ADP. We are therefore requesting that the Committee consider our requests outlined below.

- We ask that the Committee hold an evidence session to gather the views of disabled people on the limitations being placed upon the Independent Review so that these can be shared with the Scottish Government.
- We ask that the Committee engage with the Cabinet Secretary for Social Justice and Social Security so they can explain the rationale for placing limitations on the scope of the independent review.