

The Scottish Women's Convention response to:

The Scottish Government:

Adult Disability Payment: Consultation

March 2021

Introduction

The Scottish Government is consulting on the draft regulations for Adult Disability Payment. Adult Disability Payment is a new Scottish benefit which will replace Personal Independence Payment and be delivered by Social Security Scotland. This form of assistance is provided to disabled individuals between the ages of 16 and state pension age to mitigate the additional costs of living with a disability or health condition.

The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to women's equality.

The SWC is currently engaging with women through digital roadshows, online surveys, asking women to comment by email and by telephoning those who want to talk. We are also using our wide network to ask women to collate views in their local communities and forward these to us on a regular basis. We are continuing to review innovative ways of engaging with women throughout Scotland using whichever medium is appropriate to them.

PART 1: INTRODUCTION AND INTERPRETATION

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here.

The SWC has heard from women about their personal experiences when applying for disability assistance. Oftentimes, conditions which are viewed as non-physical, such as mental health issues, are not taken as seriously. This may also be the case where a woman's health is impacted due to experiences relating to violence against women or other gendered inequalities. Given the disproportionate reliance on social security by women and the host of other barriers they may face, clear equality guidelines which set out such issues in a sensitive manner are crucial. Given the significant number of individuals that this will affect, this should include detailed guidance as to the application and determination process.

PART 2: DISABILITY ASSISTANCE FOR WORKING AGE PEOPLE OVERVIEW

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here

Women from across Scotland have continued over the years to voice to the SWC their experiences of navigating the welfare system and the detrimental effect this has had on them and their health. Overall, the move by the Scottish Government to change the societal narrative around social security, including disability assistance, has been viewed as welcome and positive. Going forward, the new regulations should seek to emphasise the following:

- A focus on service user experience as central to all regulations and related policies regarding the roll out of Adult Disability Payment.
- A needs-based approach that reflects Social Security Scotland's commitment to dignity and respect.
- Ensuring legislative frameworks in place are promoted to the wider public and raise awareness to those who need help most.

- Allowing for continual assessment of any legislative and policy impacts on women with lived experience of the social security system when in need of Adult Disability Payment.

Subsequent guidance as related to these regulations and the interpretation of them should also meet the following tests:

- Be developed in consultation with relevant organisations and those with direct lived experience.
- Take account of equality and intersectional characteristics within the decision-making process.
- Empower individuals to view social security as a human right that is enshrined within domestic legislation.
- Ensure equality mainstreaming, including equality impact assessments and robust training protocols, are highlighted throughout all guidance.

PART 3: ELIGIBILITY – DAILY LIVING COMPONENT AND MOBILITY COMPONENT

Do you agree the regulations reflect this policy intent?

Yes

If you have any further comments please provide them here.

A key issue for many women at present regarding eligibility criteria is that this can often be confusing, leading many to question exactly how a decision was made as to what they have been awarded. This is particularly the case with the standard and enhanced forms of assistance but is also an issue regarding the daily living and mobility component. Women noted that they often felt they had no support during this process and assessments carried out did not adequately explain how such decisions were made. Mental health conditions were often seen as being “downgraded” to give less support to the individual with little explanation as to why this happened.

We would therefore hope that subsequent to the regulations being made, detailed guidance and support is made available at every stage in the process for individuals to fully understand the differences between the eligibility criteria and the different rates as they are set and determined.

DETERMINATION OF ABILITY TO CARRY OUT ACTIVITIES (REGULATION 6)

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here.

Women overall agree with the Scottish Government's proposed intention in relation to the gathering of relevant information as well as the commitment to full transparency within this process. It is noted, however, that the policy objective of reducing the number of consultations needed is not defined within statutory regulations, meaning that there is a risk that this could be changed back to the current system in future.

Giving multiple options within the policy intent for consultations to be carried out in a variety of formats including over the phone was seen as beneficial, particularly for those in rural communities. This should be a key option for all claimants and take account of additional burdens women have, including multiple caring responsibilities, which may see them unable to attend in-person appointments. At all times, it should be highlighted to those needing assistance that decision makers will be sensitive and fully supportive through what is often a difficult and nerve-wracking process.

It is hoped that relevant guidance relating to this will underline the importance of allowing the individual to make a fully informed decision regarding these options and what works best for them. This should include consideration of privacy in relation to relaying sensitive medical information, particularly where a woman may not feel comfortable doing so within her own home for several reasons including the presence of an abusive or coercive partner.

There are a number of instances within the regulations that have been highlighted to reassure an individual whose application is being determined. For instance, with reference to an aid or appliance, that this is merely expected to be used rather than if it actually is, particularly in the case of multiple health conditions. Further guidance as communicated to individual's undergoing the process should also seek to include:

- An assurance to the individual that the process is not intended to catch them out or be detrimental to their health condition.
- Further emphasis that consultations are only in the last instance where no other information is available.
- A commitment that all relevant decision makers will act in a manner which fosters dignity and respect.

- Ensuring individuals are given all information beforehand to quell any anxiety, including details regarding the scoring system for Adult Disability Payment.
- An emphasis that mental health is treated the same as physical illnesses within the determination process.

SCORING

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here.

The SWC has heard from many women about the detriments of using scoring systems to quantitatively assess a person's condition, particularly in relation to mental health. It is hoped that this will be revised in future, particularly around the continued use of the 20-metre and "50% rule". This was noted as being detrimental to women's health and has been described as an undignified experience. For instance, the SWC have heard from women regarding the toll that such assessments have taken on their mental health or where they have been left in physical pain due to distance tests, etc. Such practices were seen to be demeaning and reduced claimants to "begging".

Other comments regarding this area included:

- Scoring regulations and subsequent guidance must clearly account for barriers women face which may impact on their award, including the effect of intersectional discrimination.
- Help and support to be clearly signposted and widely available in a range of languages and to accommodate differing support needs in reference to scoring criteria.
- Developing further guidance for claimants and their support networks as to how scoring will be quantified under the new system. For instance, measuring how to cook food or prepare a meal unaided as well as the impact of mental health conditions on carrying out physical tasks.

PART 4: THE QUALIFYING PERIOD CONDITIONS

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here.

Women have particularly welcomed the intention that disapplies the 13-week qualifying period under Part 4 where there has been an interval in assistance of up to 2 years. This was seen as being beneficial for individuals and saving time and administrative effort on the part of Social Security Scotland.

A number have commented, however, that qualifying period conditions can sometimes place unnecessary stress and financial burdens on women as they wait to meet the qualifying conditions. As mentioned previously, support around this area, including what relevant information is needed to illustrate the criteria is met should be made widely available.

PART 6: ENTITLEMENT UNDER SPECIAL RULES RELATING TO AGE

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here.

Women have noted that regulations under Part 6 relating to age may be quite confusing, particularly where a new determination must be made, and an individual is entitled to a greater rate of award but will now have to claim it under a different form of assistance. Given the negative perception of reassessments under the current system, it is hoped that such determinations can be highlighted as an opportunity for a person to claim all they are entitled to, rather than trying to catch them out. Ensuring that individuals, particularly those who have experience of the past system, are made fully aware of their rights and what they can claim is crucial.

ENTITLEMENT UNDER SPECIAL RULES RELATED TO TERMINAL ILLNESS

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here

Women have highlighted the positives of the proposal for clients whose condition is likely to never change, particularly the suspension of criteria including qualifying periods and entitlement to the enhanced rate of both components, regardless of how long they have been ascertained as terminally ill. This was also welcomed for needing no further clinical judgement when an individual makes the transition from Child Disability to Adult Disability Payment.

It was noted regarding any illness, but especially for individuals who are terminally ill, that all safeguards are undertaken to ensure the experience is as comfortable as possible for the individual and their family. This was particularly the case in reference to a judgement for those diagnosed with a terminal illness by a healthcare professional where the previous judgement is dated more than 26 weeks previously.

PART 10 – MAKING OF APPLICATIONS AND PAYMENTS

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here

The SWC have spoken for a number of years as to the detrimental nature of benefit freezes at a reserved level. Committing to a yearly uprating within the proposed Adult Disability Payment to account for the rising cost of living as well as inflation is seen as a welcome move forward.

This is a particular issue at present given the current unpredictable nature of the COVID-19 pandemic and the subsequent effect on those presenting with disabilities who often require distinct forms of additional support. Women had voiced these worries before the onset of the current pandemic, but this has now been more sharply exacerbated as a result of COVID-19 and lockdown restrictions.

PART II – QUALIFICATIONS AND EXPERIENCE NECESSARY TO CARRY OUT ASSESSMENTS

Do you agree the regulations reflect this policy intent?

YES

If you have any further comments please provide them here

Women are overall in agreement with the regulations detailing the standard that a health or social care practitioner must be at in order to carry out an assessment where this is needed. As mentioned previously, the current system is felt to be demeaning to individuals and often fails to recognise the severity of their condition. The commitment to ensuring this is administered by a professional employed to understand and treat such conditions was seen as one of the most positive moves forward with Adult Disability Payment, particularly where a consideration is required of a mental health condition.

Conclusion

The SWC is grateful for the opportunity to respond to the Scottish Government's Consultation on Adult Disability Payment. As an organisation, we will continue to work with women from across Scotland to gather voices and experiences relating to equality at both a reserved and devolved level.

For further information, please contact
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