



Scottish Government's Consultation on Disability Assistance

One Parent Families Scotland Submission

May 2019

Scottish Government Disability Assistance Consultation

One Parent Families Scotland

One Parent Families Scotland (OPFS) works with and for single parent families across Scotland. We provide information, advice and direct support as well as campaigning with parents to make their voices heard.

We provide expert information, advice & family support, along with training activities, employability programmes & flexible childcare, tailored to the needs of single parent families. Over 7,500 families received support from OPFS services in 2018.

OPFS model of transformational change has participation at its centre through the active involvement of single parents as volunteers, peer mentors and as members of the board.

Our approach enables single parents, the majority of whom are women, to build self-esteem, confidence and skills, increasing parent's access to employment, training and education.

Single Parent Families

One quarter of Scottish families are single parent households. The Poverty and Inequality Commission, whose main role is to provide independent advice to Scottish Ministers on reducing poverty and inequality, has highlighted that 37% of all children in Scotland living in poverty live in a single parent family¹ and 94% of these single parents are women. Furthermore, the most current government statistics show astonishingly that **49% of children in single parent families now live below the poverty line.**² A recent EHRC³ report highlights that by 2021 single parents and their children will lose a fifth of their income due to welfare reform - an average of £5,250 a year. The **predicted increase in the child poverty rate (after housing costs) for children in single parent households to over 62%** will have a devastating impact on the lives and prospects of so many children.

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Changing Lives, Challenging Poverty

¹ <https://povertyinequality.scot/wp-content/uploads/2018/02/Child-Poverty-Delivery-Plan-advice-Final-Version-23-February-2018.pdf>

² <https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201617>

³ <https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-assessment-report.pdf> p153

Key points

The key points in OPFS submission are:

- We support the Scottish Government in its commitment to ensure the delivery of disability benefits safely and securely and the continued payments of disability benefits with minimal disruption
- There should be a right to advocacy for all claimants of the new Disability Assistance
- Carers and single parents should not have to struggle financially because the person they care for is in hospital
- Specialist advisors should have expertise in mental health
- Face to face assessments should be reduced to a minimum and eradicated in the long term
- The descriptors and points system should be radically overhauled
- A shorter timescale for making decisions on redetermination requests – 28 days
- Scottish Government should work with disabled people, those affected by ill-health and the third sector to implement longer-term changes to Disability Assistance to a rights-based model.

OPFS Response

Delivering Disability Assistance is the next big step in creating a social security system in Scotland. The Social Security Act (Scotland) 2018 enables the Scottish Government to provide for non-means tested 'Disability Assistance', equivalent to that currently provided for through UK disability benefits. This includes: Disability Living Allowance; Child Disability Living Allowance (Child DLA); Personal Independence Payment and Attendance Allowance.

Scottish Government has set out their proposed policy approach to new benefits in these areas and has issued a consultation - [Social Security A Consultation on Disability Assistance in Scotland](#).

Single parents are more likely to have a disability than is average – around one in four (27 per cent) single parent households had a disabled adult, compared with around a fifth (21 per cent) of couple parent households in the UK. The difference is even more pronounced for children - 16 per cent of single parent households has at least one child with a disability, compared with 9 per cent of couple parent households.

The Scottish Government proposals on 'Disability Assistance' are therefore of great significance to single parent families. OPFS recognises the important role disabled parents, parents with disabled children and those affected by ill- health play in identifying solutions to their own challenges and that these solutions can be of benefit others. We used an on-line survey and workshops to ask single parents about their views on the consultation and to share some of their knowledge and experience to inform our response to the Scottish Government. We have used quotes from parents throughout our response.

General Comments

OPFS welcomes the recognition by the Scottish Government that some of the barriers faced by ill and disabled people have been caused by recent changes to UK disability benefits and that they will ensure that the system in Scotland is different. We are please they have committed to *“create a fair, transparent system which respects the needs of individuals and works for people, not against them.”*⁴

We support the Scottish Government in its commitment to ensure the delivery of disability benefits safely and securely and in responding to people’s concerns that they will ensure the continued payments of disability benefits with minimal disruption. The commitment that they will *“ensure people will be treated fairly, with dignity and respect..... and that the process is open and transparent and that communication from Social Security Scotland is clear and in accessible format”* will also be a welcome improvement.

OPFS shares these aspirations, and we recognise that progress towards them has been made in some areas of the new Disability Assistance proposals. In the medium to long term we would support developments to implement and embed a human rights-based approach.

We agree with the Scottish Human Rights Commission that *“human rights provide a legal and objective foundation to the concepts of 'dignity' and 'respect' to be built into the new Scottish social security system. Human rights also helps to reframe social protection as a right and entitlement to be realised in support of the realisation of all other human rights and broader social justice.”*⁵

We recognise that to ensure a safe transition of responsibility for such vital benefits from Westminster to Scottish Government that the Disability Assistance proposals are a continuation of the existing Westminster disability benefits model. However, we look forward to working closely with organisations who are members of the Scottish Campaign on Rights to Social Security (previously SCoWR) and Scottish Government to develop a model which includes medium to longer-term changes to ‘Disability Assistance’ payments which are based on a rights-based model.

- 1. Do you agree or disagree with the proposal to name Disability Assistance for clients aged 0-18 years old Disability Assistance for Children and Young People (DACYP)?**

Disagree.

⁴ [A Consultation on Disability Scottish Government March 2019](#)

⁵ <http://www.scottishhumanrights.com/economic-social-cultural-rights/social-security/>

2. If you disagreed, please could you explain why.

“Assistance” is not the right word as it has connotations of charity and it would be better if ‘Support’ or ‘Payment’ could be used. Not everyone is “Disabled” who applies for support and it would be worth considering an alternative. Those who may be entitled to the benefit may not see themselves as being disabled and therefore will not apply.

- ‘Ill-health & Disability Payment’ for e.g.

“The word disability should not be used. Can it be called Living assistance”?

3. Do you agree or disagree with the proposal to name Disability Assistance for clients aged 16 years old to state pension age Disability Assistance for Working-Age People (DAWAP)?

Disagree as above.

4. If you disagreed, please could you explain why. If you disagreed, please could you explain why:

As above.

5. Do you agree or disagree with the proposal to name Disability Assistance for clients who are state pension age or older Disability Assistance for Older People (DAOP)?

Disagree.

6. If you disagreed, please could you explain why:

Older people will be confused as they are used to the term ‘Attendance Allowance’.

7. Do you agree or disagree with the proposal to enable multiple application channels for Disability Assistance?

Agree.

8. If you disagreed, please could you explain why:

It will be important that Social Security Scotland agree to take any initial contact – by phone, letter, email or in person – as being the date of application for the new disability benefit. In addition to multiple application channels, it will be important that Social Security Scotland also uses multiple communication channels, using the claimant’s preferred channel consistently will be important to ensuring accessibility.

“I am a single parent on benefits and sometimes it is really isolating, and a face to face option would be welcome. But also, online/paper can be much more practical. I think it’s good to offer all three options.”

“Not everyone has access or the confidence to apply online and should be able to access other avenues allowing them to apply.”

9. Do you agree or disagree with the proposal to broadly replicate the current temporary absence rules?

Agree.

10. If you disagreed, please could you explain why?

N/A.

11. Do you agree or disagree with the proposal to implement a person-centred approach to making decisions about entitlement for Disability Assistance?

Agree.

12. If you disagreed, please could you explain why?

However, the criteria against which people are assessed must be set out in regulations in order to ensure transparency and consistent decision making.

Requiring supporting evidence in all cases is against the Scottish social security principles.

“As long as People who have already been assessed for these benefits are not going to have to go through more re-assessment. The process is stressful and puts more pressure on the most vulnerable people who are single handed trying to raise children while struggling with their own disability.”

“Cut down the amount of questions for people to answer. Your own GP assessment and diagnosis should be sufficient.”

A decision about entitlement that is made in line with the principle of respect for the dignity of individuals is one that trusts the individual to give an accurate account of their needs. Many of the concerns about the current disability benefits systems arise because of the lack of trust in the system. A system that trusts individuals will itself build trust in the system. The fact that an individual, or their appointee, has to sign the form should be sufficient evidence that the account is, to the best of their knowledge, accurate.

It is also important that decisions are being made on a balance of probability, rather than starting from a position of the individual having to prove their entitlement.

“I find it degrading and feel that my anxiety and depression has got worse. They have no idea about the impact of domestic abuse or PTSD and it's knock on effects and how debilitating it is for everyday life, and I feel that is not taken into account when assessing benefits.”

13. Do you agree or disagree with our proposed approach to the involvement of Specialist Advisors in Decision Making?

Depends on several factors.

14. If you disagreed, please could you explain why:

The role of Specialist Advisors is listed but there are insufficient details as to training, skills and experience that they would need to have. While they should have medical experience, they should also receive training on specific vulnerabilities. For example, they should be given independent training on single parent awareness and the lack of support many single parents have dealing with their own ill health and that of their children. If an assessment is for mental ill health it should be done by an assessor with a background in this field as this is a specialist area. People with mental health conditions can often be unwilling to divulge details to people they do not know well, therefore it is imperative that the assessor is skilled in obtaining information from them.

“An assessor who is assessing mental health disabilities should be specialist mental health practitioner.”

We would like to see more detail about the proposed minimum qualifications and experience of Specialist Advisors before giving an opinion on whether they will be able to provide the sort of specialist advice outlined.

15. What factors should Case Managers take into account in deciding when a Specialist Advisor should be involved?

The range of situations outlined seems reasonable. Over time we would expect Case Managers to acquire more knowledge of variable and interacting conditions but at the outset of their work we believe that Specialist Advisors with the correct knowledge and skills base might be able to provide good advice.

16. Do you agree or disagree that the decision-making process for Disability Assistance for Children and Young People, and for Older People should use existing supporting information and not through face-to-face assessments?

Agree.

17. If you disagreed, please could you explain why. If you disagreed, please could you explain why:

Where there is enough information provided by the claimant, a face to face should not be the default position.

"I'm not sure that an assessor will be able to assess how an individual's disability or condition affects their abilities from a face to face assessment. This is a false situation which could and do cause extreme anxiety for many people with disabilities or conditions. Surely that is what individual specialist letters and reports are for."

"Young people can find appointments very stressful and may not understand the need to engage in these. Also, elderly people are often contending with multiple health issues and a face to face interview can cause excessive stress on the applicant. Therefore, using supporting evidence would alleviate some of the pressure."

18. What types of supporting information would be relevant in assessing an application for Disability Assistance e.g. social work report, medical report?

The following might all provide useful information/evidence (the list is illustrative and not exhaustive) - Medical reports for consultants, support workers, nurses etc who are dealing with application during the period before claim and during claim. Third sector support workers who are providing support i.e. counsellors and family support workers who may have a greater insight into the day to day experience of dealing with their illness. For children's assistance reports by paediatricians, child psychologists and CAMHS teams would also be strong evidence although due to waiting times for example the SPECTRUM test any supporting evidence that shows the support needs would be useful.

"Doctors note by a GP that has seen you consecutively for at least 3 months and has prescribed any medication to you for that period of time and can state that they know the person well enough to give a written letter of support. Written letters from any other health professionals who strongly believe the person is entitled to the benefits claimed for and any information on their health assessments that they've had and the results of said assessments.".....
"Claimants shouldn't be charged for Dr. letters etc."

In order to build trust in the system and its processes, individuals should also have a right to see and comment on both 'supporting information' and the result of a face-to-face assessment. How this is done should be consulted on with service users and experts. Where sufficient evidence is available, the fact that there is even a slight chance that a face to face can happen will cause many families real concern.

19. Do you agree or disagree with the proposal to have no set award durations but to set an award review date when a decision on a Disability Assistance application is made?

Agree but see 20.

20. If you disagreed, please could you explain why.

Scotgov should look at lifetime awards of the new benefit - People who should not have to reapply, because their disabilities or ill-health are not expected to improve.

More detail is needed regarding how rolling awards would allow for the Mobility Scheme which has restrictions on the number of years of award i.e. three years is the minimum for the scheme. As the Mobility Scheme is a U.K. system something would need to be agreed. A proposed review date could be used to set an award timetable to quantify the award.

"It would save me feeling like Oliver Twist with the begging bowl saying, "please sir, can I have some more" that the UK government have us doing."

"I think this would be very helpful and would very much help those who rely on their benefits to help them remain as independent as they can."

21. Do you agree or disagree with the proposal to set an award review date 5-10 years in the future for a person with a condition unlikely to change?

Disagree.

22. If you disagreed, please could you explain why.

If a condition is unlikely to change a minimum of 10 years would be more suitable but with the proviso that the applicant can request a review if there is a significant change to their care needs.

"Lifelong conditions should be exempt from reviews. Some disabilities don't 'go away'. If lifelong why the need to put the individual and family members through the stress of a review?"

"It would be excellent, saves me A LOT of stress!"

23. Do you agree or disagree with the proposal that a change of circumstances should be defined as a change which has an impact on the level of assistance a person receives?

Agree.

24. If you disagreed, please could you explain why.

Not Applicable.

25. Do you agree or disagree with the proposal that clients have 31 days to request a redetermination?

Disagree.

26. If you disagreed, please could you explain why.

Given the time that it can take to obtain advice and support from third sector organisations 31 days is not appropriate. We believe that 8 weeks would be a more reasonable cut-off point for re-determination requests.

"I think redetermination should be allowed at any point. It is not something people would enter into lightly as it is a stressful and lengthy process, however if there have been relevant changes that would change the current award they should be able to submit evidence, and have it considered."

"At least 2 months, am a single parent with child which has disability, so hard to keep up with all paperwork when unexpected things keep happening etc."

27. We have proposed that Social Security Scotland have a period of between 40 and 60 days to consider a redetermination of Disability Assistance. Do you agree or disagree with this proposal?

Disagree.

28. If you disagreed, please explain why.

Between 28 and 42 days would be preferable. we think that all the available information should be collectable in such a time frame. During any appeal process many clients will experience increased levels of stress and anxiety therefore 40-60 days is far too long.

"Much too long a time, needs to be shorter."

"Only if the benefit continues to be paid until the reconsideration is made."

29. Do you agree or disagree that STA should not be paid to people who are not living or present in Scotland?

Agree

30. If you disagreed, please could you explain why.

N/A

31. Do you agree or disagree that STA should not be recoverable except where it is later established that the principal assistance type was claimed fraudulently when STA was awarded?

Agree.

“Very sensible and humane.”

32. If you disagreed, please could you explain why.

N/A

33. Do you agree or disagree that STA should not be available where an investigation by Social Security Scotland has determined that the original payment was claimed fraudulently?

Agree.

34. If you disagreed, please could you explain why.

Comments: This should only be the case when it has been proved that it was a fraudulent claim and any appeal process has been exhausted. It should not be the case if error or where hardship would result.

35. Do you agree or disagree that any deductions being made from an on-going assistance type to service an overpayment liability should also be applied to STA?

Disagree.

36. If you disagreed, please could you explain why.

We disagree in principle with the Agency's ability to determine that a repayable overpayment exists without there also being a simple right of appeal against such a determination. Until this imbalance is addressed, we cannot agree with the servicing of overpayment liabilities from STA.

37. Do you agree or disagree that for successful process decision appeals where the tribunal has overturned Social Security Scotland's decision, STA should become available at the point the decision is overturned rather than the date of the original request?

Disagree.

38. If you disagreed, please could you explain why.

We believe that STA should be payable from the date of the original request.

39. Do you agree or disagree with the proposed approach that, generally, where there is a break in a client's eligibility to receive the benefit, e.g. due to being in residential care, they will cease to receive the benefit?

Disagree.

40. If you disagreed, please could you explain why.

There is inconsistency as to when eligibility has been broken for different age groups. This may amount to discrimination based on age. There is also an issue about the impact of loss of eligibility due to a short term residential/in-patient need against longer term arrangements for care and support packages – e.g. motability, housing costs, leasing of adaptive equipment - which may be being met in part from Disability Assistance. This is a particular concern where a person is forced to stay in hospital because a care package is not available when the loss of disability assistance may actually exacerbate this situation. We would propose that any attached cost be maintained as a minimum.

41. Please outline any comments or experience you would like to share with us about overpayment recovery and the current DWP approach to deductions?

Under Universal Credit up to 40% of Personal Entitlement can currently be taken. This leads to hardship for single parents and their families. The whole process of reclaiming overpayments currently used by the DWP is unfair and relies on presumed guilt.

“I have been in a situation where I received an overpayment from Tax Credits despite giving them the correct information. I then had this removed from my tax credits which caused severe hardship as the overpayment had already been used on bills etc.”

“The current system is very flawed. Letters are always sent at end of week, so arrive at weekend when no help is available to understand the letter. In my experience, the wording is very poor, the letters are generated from templates which have sentences replaced to ‘personalise’ it, but this often means the content is pretty unintelligible and confusing. Even welfare rights officers are confused on reading them. Letters should be very clear and concise.”

“The onus is always on the client to prove no overpayment has occurred and this is very stressful. Information is very difficult to convey to DWP as you never know if letters have been received and you can spend hours in a queue waiting on the phone only to be told your query can’t be dealt with by phone! Offices need to be more accessible to contact.”

“I have spent 45 minutes sitting in a welfare rights office with a WRO officer waiting in a phone queue- waste of resources when appointments are so hard to come by- need to bring back direct lines for CAB, and Local council WR teams. Effort and stress of it all causes relapses for me so make my condition worse.”

Section 2 – Disability Assistance for Children and Young People (DACYP)

42. Do you agree or disagree with our proposal to provide entitlement to Disability Assistance for Children and Young People to clients aged 0-18 years?

Agree.

43. If you disagreed, please could you explain why.

“Given children start nursery at 2 or 3 then the mobility assistance should start then, not at age 5.”

44. Do you agree or disagree with our proposal to extending eligibility, for those in receipt of Disability Assistance for Children and Young People before the age of 16, to age 18?

Agree.

45. If you disagreed, please could you explain why.

N/A.

46. Do you agree or disagree with our approach to the eligibility rules for the different components of Disability Assistance for Children and Young People?

Disagree.

47. If you disagreed, please could you explain why.

We believe in general that on the grounds of consistency and continuity it would be best if similar eligibility criteria were adopted as those that currently apply to Children's DLA. However, the criteria should be regularly reviewed and should be able to take into account the effect of the illness and disability on the child and any other children within the household, who are often involved in the care needs or are affected by the child's disability. i.e. Where a disabled child disturbs the sleep of their siblings. In addition, in cases of severe impairment it was thought that the 2-year rule should not apply but that assistance should be available from birth or shortly afterwards.

48. Do you agree or disagree with the proposal to make a £200 Winter Heating Assistance payment to families in receipt of the highest rate care component of Disability Assistance for Children and Young People?

Disagree.

49. If you disagreed, please could you explain why.

We believe that this payment should also be available to those children on middle rate care. Many children who have asthma and bronchitis are on the middle rate

of care but the cost of keeping the house warm can cause severe hardship for single parents especially young parents due to the fixed level of state benefit.

Section 3 - Disability Assistance for Working Age People (DAWAP)

50. Do you agree or disagree with our proposal to use a points-based system to assess eligibility in relation to Disability Assistance for Working-Age People?

Both Agree and Disagree.

51. If you disagreed, please could you explain why.

While it would make sense to use the current points system at the start for the transition from U.K. Disability Benefits to the new devolved system it would not be appropriate long term. The points system currently in use is harsh and too narrowly defined. In particular some believed that the points system was harsher and less "agile" than the DLA criteria in that you either "passed" or "failed" rather than having the way your impairment(s) affected you judged in a holistic way. It was pointed out that not everyone fits into the existing PIP categories and that in some instances qualitative questions (For example "Tell us how this affects you?") rather than the binary type questions posed by PIP (i.e. "Can you or can you not do this?") would be better at eliciting information. PIP also penalises someone for adapting to the way that their condition or impairment impacts on them. There is also little consideration given to variances in condition. Many illnesses affect people differently at different times i.e. someone with a by-polar disorder. Similarly, people with mental health issues can lose their driving licences for long periods after they have "recovered" from the worst impacts of their condition. Currently decision makers work to a manual with an impairment list - like a bible for non-medical professionals. If this approach is to be replicated (and there is some merit to it) then the guidance needs to be accurate. Therefore, disabled people should be involved in designing and testing the text.

52. Do you have any suggestions about the most appropriate way to assess eligibility in relation to mobility for Disability Assistance for Working-Age People?

The 50 metre DLA qualifying criteria for Higher Rate Mobility would be fairer than the current PIP 20 metre rule. This would show consistency and be a fairer distance if considered over a period of time as most conditions change from day to day.

53. Do you have any comments on the full list of descriptors (provided at page 36) currently used to assess claims for Personal Independence Payments?

We believe that intensive work should be done on both the descriptors and points system to make it more fit for purpose. It would be advantages if a consultation was carried out with users and advisers who currently use the system when designing the points system.

“This checklist approach is where the DWP have failed many disabled working people.”

“Needs to be flexible to incorporate individual’s situation. And more importantly reflect positively for fluctuating conditions.”

54. What types of observations, as part of a face to face assessment, do you believe are inappropriate?

Best of all would be "none". However, if this is not accepted that we would ask that no observations are made that are not communicated to the disabled person (or the carer/advocate/person that accompanies them).

Nothing should form part of the assessment report that the disabled person is unaware of. That is the assessment should be completely transparent and disabled people should be informed of observations impacting on the number of points they are going to be awarded.

Informal observations should not form any part of the assessment for example “the applicant appeared well dressed”. Secondly, observations as to the disabled person’s physical appearance such as “well dressed”; “wearing make-up” or “hair neatly combed” have nothing to do with a person’s mental state or ability to perform functions and may be the result of considerable effort on their and others part.

Even observations such as “smiled or appeared happy throughout the assessment” tell us virtually nothing about a person’s mental state as depression can manifest itself in various forms other than a black cloud hovering over someone’s head! People suffering from depression can be unable to articulate how they feel especially on a very short contact. It is imperative that any observations are given through appropriate training and preferably experience in the field.

Even observations that a person managed to walk 20 metres unaided on their way into the assessment do not give a full picture of how their impairments impact on them - that is they might only have walked that distance in considerable pain, or they might not be able to do it again in a short period or do it safely on more than one occasion.

“Claimants should have a right to take a representative with them to face-to-face interviews.... Absolutely, I was so ill I could barely speak, and my friend wasn’t allowed in the room to help me- I was turned down for PIP as the assessor steam rolled over me and refused to even try to understand what I was trying to say- every answer was shrugged off flippantly. I was so ill I couldn’t go to tribunal and the stress of the assessment put me in bed for months, resulting in my daughters care being neglected.”

“They should not just take people by the way they look.”

“Observing people coming into the building for their face to face observation. Watching them in the waiting room. Asking them to walk to the furthest consultation rooms.

“I was refused DLA one of the reasons on the list ... was I was smartly dressed, do I need to look like a tramp to get benefit?”

“Allare inappropriate as they are based on subjective judgement. Mine actually said that as I was a lone parent and I was looking after my daughter I could look after myself!”

55. In relation to assessments, what are your views on acceptable distances to travel?

The distance travelled should be as little as possible and within an applicant's local area. As a rule, travel expenses should be given as of right rather than on request. House visits to do the assessment should be offered where possible rather than only in exceptional cases.

“It depends on each individual, the local infrastructure and how much stress each individual is subjected too. Making individuals with disabilities jump through hoops to fit a criterion is cruel.”

“It can't be based on distance. There are so many other factors to take into account based on each person and their disability. This new benefit can't be a one size fits all because that is not how our medical conditions behave.”

Conclusion

OPFS agrees with CPAG that any changes to current entitlement to social security should be made in light of the UN Covenant on Economic, Social and Cultural Rights that states 'there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under the Covenant'. Therefore, the Scottish Government's commitments and their international obligations suggest that individuals in Scotland should have the same, or greater, rights as they currently have under the UK social security system.

We believe the Scottish Government should ensure that at the very least the legal rights claimants currently have will continue for individuals who claim disability assistance in Scotland. This can be done during the transition period by including the current legislation and the meaning of important words as established by caselaw in the Scottish disability assistance regulations. This gives clarity around who will be entitled to disability assistance in Scotland in a way that guidance does not. If conditions of entitlement, definitions of terms and processes for determining entitlement are only included in guidance, individuals in Scotland will have fewer rights than claimants currently enjoy.

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