

Analysis of Written Responses to the Consultation on Social Security in Scotland

About This Analysis

This independent research was carried out by Research Scotland and involved the analysis of written responses to the Scottish Government's consultation on social security¹.

On 29 July the Scottish Government issued a public consultation to inform the content of the new Scottish Social Security Bill. The consultation set out a vision and five key principles for social security in Scotland. The consultation was in three parts, covering:

- A Principled Approach;
- The Devolved Benefits;
- Operational Policy.

The consultation contained a total of 234 key questions. The consultation was designed in a modular way, to allow people to focus on the areas of most interest or relevance to them. As such, there is a varying response rate across sections, and by question.

This Research Findings paper summarises the key themes emerging from the 521 responses (280 from individuals and 241 from organisations) received.

¹ A New Future for Social Security - Consultation on Social Security in Scotland:
<http://www.gov.scot/Publications/2016/07/9955>

A Principled Approach

About this part of the consultation

Part one of the consultation explored views around:

- Fixing the principles in legislation;
- Outcomes and the user experience;
- Delivering social security in Scotland;
- Equality and low income; and
- Independent advice and scrutiny.

Fixing the principles in legislation

Overall, respondents welcomed the principles and were generally in favour of embedding them in legislation and creating a Charter. Most respondents felt that the Charter should be drafted by both an advisory group and a wider group of people with experience of the social security system. There were mixed views on who should assume the duty to abide by the principle that claimants are treated with dignity and respect. The largest proportion of respondents felt that this duty should be placed on the Scottish Government. Throughout Part 1, respondents mentioned the need for all aspects of the Scottish social security system to be underpinned by these principles.

Outcomes and the user experience

Most respondents felt that the proposed outcomes were appropriate, with some also offering suggestions for additional outcomes. Dignity and respect were frequently discussed as principles lacking in the current system. Respondents indicated that people receiving benefits felt stigmatised and uncomfortable, rather than feeling entitled to support. Respondents hoped that establishing the principles (through legislation or a Charter) and working towards the outcomes outlined in the consultation would address the stigma and instigate wider cultural change. Respondents commented on the language used around social security, with most feeling that there were some words or phrases that were inappropriate and should not be used. A key point raised was the need for improved staff training and working conditions, which could help change the overall culture and improve the user experience.

Delivering social security in Scotland

In terms of delivery, the key issues raised by respondents were around accessibility and choice. Respondents felt that access to social security should be simple and easy. The idea of a local 'one stop shop' was often suggested as being beneficial. Respondents also referred to the practicality of the 'Tell Us Once' service, which allows users to report a death to most government agencies simultaneously. Most respondents felt that the new social security agency should administer all social security benefits in Scotland. Respondents said that information and communication should be clear, concise and available in the format most preferred by the individual.

Similarly, they said that people should have choice in how services and support are delivered. There was strong consensus that services should not be delivered through the private sector or profit making agencies, with the majority of respondents in agreement that social security should be delivered through existing public sector or third sector organisations.

Respondents wanted the new social security system to be fairer and more consistent, avoiding the current 'postcode lottery' that people said they experience at present. They advocated the use of existing infrastructure where possible to reduce costs and improve efficiency.

Respondents discussed the use of digital technology and felt that it should be used where possible, but not imposed, as many people do not have access to digital technology. Overwhelmingly, respondents felt that the new social security agency should make some provision for face to face contact. Respondents were generally in favour of consensual data sharing to improve efficiency and reduce the need for repetition in applications and assessments.

Equality and low income

Respondents felt that to improve the Equality Impact Assessment, the Scottish Government should:

- involve a wide range of stakeholders, including equality and human rights specialists, equality organisations and groups, and the public;
- consider the cumulative impacts, intersectional impacts and relationships between devolved and reserved benefits;
- use an approach which embeds human rights, and also considers other related impacts on child rights, health inequalities and the impact of rurality; and
- embed equality from the beginning, and use the impact assessment to explore how to address inequalities identified – for example, through adapting plans or using discretionary new or top up benefit powers.

Independent advice and scrutiny

Respondents repeatedly discussed the importance of a social security system that is transparent and accountable. Respondents welcomed the involvement of people with experience of social security services and relevant third sector organisations to support the design and on-going improvement of a new system. They were in favour of an independent scrutiny body as well as regular monitoring, evaluation and reporting. Most felt that decision making standards should be conducted through a statutory body. There were mixed views on whether this should be a separate body or if it could be incorporated into another group or organisation, such as the scrutiny body.

Wider issues

Respondents noted that the consultation did not address the adequacy of the current benefits, the powers to create new benefits and the powers to top up benefits.

The Devolved Benefits - Disability Benefits

About this part of the consultation

Part two of the consultation explored the devolved benefits in detail. Many of the questions related to disability benefits. These questions covered:

- the current benefits of Disability Living Allowance, Personal Independence Payment and Attendance Allowance;
- how the new Scottish social security system should operate in terms of disability related benefits;
- proposals for eligibility;
- terminal illnesses and a 'whole of life' approach;
- proposals for assessments;
- proposals for awards;
- alternatives to cash;
- mobility;
- additional support;
- alignment with other devolved services;
- Industrial Injuries Disablement Benefit; and
- Severe Disablement Allowance.

Scope to modernise and simplify the approach

Respondents highlighted the positive aspects of DLA, PIP, AA and IIDB, including that the approach was holistic and fair, and the benefits were non-means tested. They also identified a number of weaknesses of the current approach, which related mainly to the complex and stressful application and assessment processes - particularly for DLA and PIP, and also the perception that the eligibility criteria for DLA, PIP and AA discriminated against certain groups.

Accessible, person-centred and flexible approach

Overall, respondents felt that the new Scottish social security system should be more flexible, accessible and person-centred. It was felt that applicants should be able to decide how to engage with the system, choosing from a range of options that suited them best, whether paper-based, online, by telephone, face to face, or using other types of technology. Others underlined the importance of applicants being treated with dignity and respect throughout their dealings with the new social security agency. There was support for better joint working and communication between agencies. In relation to data sharing, there was some concern about potential breaches of security, and respondents emphasised the importance of securing consent.

The importance of advice and advocacy

Respondents highlighted the importance of having access to advice and advocacy support, to help applicants through the application, assessment and appeals processes, as and when required, and that this should be clearly signposted.

The importance of transparency and fairness

Overall, respondents were keen to ensure that the eligibility criteria was transparent and fair. A large number of respondents felt that the current approach to determining eligibility, based on assessing the impact of a condition or illness on an individual's daily life was appropriate and fair. However, respondents underlined the importance of ensuring that the eligibility criteria took account of a wide range of conditions or illnesses, including mental health, other fluctuating conditions, and also learning disabilities. In addition, there was strong support for the 'special rules' that currently apply to terminally ill people, to be extended to a wider range of conditions and illness.

Responsive, streamlined and fair

In relation to supporting people with terminal illnesses, most respondents felt that the current UK-wide PIP and AA process was responsive and appropriate. Respondents felt that people were treated in a compassionate way, with their claims being processed quickly to minimise stress and anxiety. Some respondents highlighted that there might be a role for the new Scottish social security agency to raise greater awareness amongst health professionals about the benefit support available to people with terminal illnesses. Most respondents agreed that the Scottish Government should explore a consistent approach to eligibility across all ages.

Simplified approach based on evidence

Respondents felt that the current assessment processes for disability benefits could be improved, and called for a simplified approach that relied primarily on evidence from a range of key stakeholders. Some of these respondents also noted that the new Health and Social Care Partnerships should allow a more joined up approach to be adopted, making better use of data sharing where consent has been given. There was strong agreement that face to face assessments should be the exception rather than the rule, and if required, should be undertaken by suitably qualified health professionals, and held in convenient locations.

Minimise stress and anxiety

Most respondents thought that people should not have to be re-assessed where their condition or circumstances were unlikely to change, as this caused great stress and anxiety. Some respondents felt that there was scope for the new Scottish social security agency to develop a more flexible approach. Others said that indefinite or lifetime awards should be awarded to

people whose conditions will not get better. Respondents identified specific instances where the system seems unfair – such as individuals losing their right to a Motability vehicle before an appeal has been heard in relation to their disability benefits.

Increased choice and flexibility

A large number of respondents thought that people should be offered the choice of spending their benefit on alternative support. Many felt that this would offer increased choice to individuals and enable them to take control of managing their care and support needs. This was seen to be important in maintaining an individual's dignity and respect. Others highlighted the importance of providing clear information about the range of options that might be available to applicants. In addition, views were fairly evenly split about whether getting a one-off lump sum payment, would be more appropriate than getting regular payments in certain situations. Many respondents called for flexibility on this, stating that the individual should have the right to choose what suited their circumstances best.

The Devolved Benefits - Other Benefits

About this part of the consultation

The second half of Part two of the consultation focused on a range of other benefits:

- Carers' Allowance;
- Winter Fuel and Cold Weather Payments;
- Funeral Payments;
- Best Start Grant;
- Discretionary Housing Payment;
- Job Grant; and
- Universal Credit Flexibilities.

Continuing or expanding eligibility

In general, respondents supported a broad continuation of current eligibility, with support for the expansion of some benefits – such as Carer's Benefit, Winter Fuel or Cold Weather Payments, Funeral Payments, and Best Start.

A few respondents cautioned against more generous approaches where there was not a strong case for this, or called for a more targeted approach to some benefits.

Improved awareness and access

Across a range of benefits, respondents called for improved awareness raising and information provision. There was concern that benefits are often not well known or understood, and that take up is low as a result. Respondents called for work to improve general awareness amongst the public. There was also support for more targeted promotion through existing

advice or support services, and public sector agencies in contact with eligible groups. Respondents highlighted the stigma attached to receiving certain benefits, and asked for this to be considered when raising awareness or considering the alignment of different benefits.

In general, respondents asked for simpler, clearer information and application forms. At times, there was concern that changes might introduce greater complexity.

Respondents said that some benefits currently take too long to access. For example, respondents criticised the waiting time to receive first payments of Universal Credit, Funeral Payments, Discretionary Housing Payment, Cold Weather and Winter Fuel Payments. These delays were leading to crisis situations in some cases, or preventing people taking forward key processes – such as securing a property, or paying for a funeral. Respondents supported longer application windows for Best Start and Funeral Payments.

Person-centred services and choice

There was a strong focus on ensuring benefits responded to needs and individual circumstances. Respondents often supported greater choice – for example in relation to payment frequency, between goods and services, direct payments to landlords, or on issues such as split payments for Universal Credit. At times there was concern that some proposals might be demeaning or stigmatising (such as offering goods instead of cash) or that recipients might be put under pressure to make certain choices (such as having housing element payments paid directly to their landlord).

Simple processes

Respondents emphasised the importance of ensuring that systems are simple and straightforward. There was support for streamlining eligibility and assessment processes, with respondents looking for specific opportunities to build on existing activity or systems. This was seen as being important to improve access, and limit administrative costs. A few respondents suggested the Scottish Government needs to carefully consider the administrative complexities of some proposals – such as additional payment points, or increasing choice on issues such as splitting or changing payment frequency of Universal Credit.

Improving fairness

Respondents wanted to see the system operate in as fair a way as possible. At times, they identified aspects of existing benefit processes they felt were unfair to some groups. For example, current restrictions on Carers Allowance mean that people can only receive payments for caring for one individual, and overlapping rules mean that people receiving other income-replacement benefits at a higher amount than Carers Allowance will not receive any additional amount.

There was concern that recent welfare reform has had negative consequences for some groups, and particularly in relation to Universal Credit. For example, there was widespread concern about usually making one payment per household, and reductions or limitations on the housing element. There was also concern that using Discretionary Housing Payments to mitigate the impact of the bedroom tax has reduced the resources going towards people in housing crisis situations.

Some respondents highlighted the variability in administration of some payments in different local authority areas.

Operational Policy

About this part of the consultation

Part three of the consultation explored views around:

- Advice, representation and advocacy;
- Complaints, reviews and appeals;
- Residency and cross-border issues;
- Managing overpayments and debt;
- Fraud;
- Protecting your information; and
- Uprating.

Advice and advocacy

Respondents were clear that both advice and advocacy should be an important part of the new social security system. Many felt that demand for advice and advocacy would increase in the short to medium term in the transition to the new system. Respondents felt that this would involve:

- close working with advice and advocacy organisations in developing the new system;
- research and evidence gathering to understand current and future demand;
- promotion of joint working across sectors;
- resourcing of advice and advocacy services and ongoing work to drive quality and standards within the sector.

Many also highlighted the importance of specialist advice for people with particular needs, and equality of access to advice. Some felt that a right to advocacy should be set out in legislation, to ensure that additional support was available and that people were empowered.

Complaints, reviews and appeals

Respondents broadly supported the use of the Scottish Public Services Ombudsman's 'Statement of Complaints Handling Principles', believing these to be fair, simple and good practice. There was a clear desire to introduce a

different review process from that used by DWP, with many particularly requesting that mandatory reconsideration should not be used and that clear timescales are set for reviews.

There was support for a tribunal system for dispute resolution, with respondents believing it to be proportionate and independent. Respondents emphasised the importance of embedding the principles and values of the new system throughout the complaint, review and appeals process, with a strong focus on a person-centred approach based on rights, equality and fairness. Clear and accessible communication was seen as a key part of this approach, as well as staff training to ensure consistency.

Residency and cross-border issues

Most respondents felt that Scottish benefits should only be payable to individuals resident in Scotland, but some felt that there needed to be flexibility – particularly for EU residents who are currently receiving Disability Living Allowance, Personal Independence Payment and Attendance Allowance. Some highlighted cross-border issues such as someone living in Scotland and caring for someone in England (or vice versa). While some respondents felt that the ‘habitual residence’ test used by DWP was fine, others had significant concerns that it was restrictive, complex and unfair, and hard to reconcile with the principles of the new social security system.

Respondents felt that there was a need to have clear links with the UK Government, and to share data to ensure that people don’t double claim or fall through the gaps. However, respondents were also keen to see a different system in Scotland, with different values at its core – including a presumption of honesty and trust. Respondents also felt that it was important that any disputes over residency didn’t result in disadvantage for individuals, and that payments continued on an interim basis.

Managing overpayments

Most respondents felt that the current system for recovering overpayments could be improved by:

- considering the impact on individuals and families of the level of benefit deductions to recover overpayments;
- requiring all appeals processes to be exhausted before any repayment was required;
- considering whether some types of repayment should not be recovered; and
- offering financial advice.

Fraud

Most respondents were content with the approach to fraud, supporting the distinction between errors and fraud. Some wanted to see the existing ‘zero tolerance’ approach softened, feeling it was unduly harsh and needed to be

based on an understanding of how a range of equality issues affected fraud. Respondents thought that, while neither fraud nor errors could be completely designed out, these could be reduced through more verification of identity and circumstance and cross checking data – and by having a simpler system.

While most felt that the DWP's existing code of practice for investigators should be adopted, many did not – believing there should be a Scottish specific code focused on trust, dignity and respect. Some felt that the existing powers for investigators were too great, others felt that they required further development. While most respondents were content with retaining the current list of offences and penalties, many were not. There was some concern about the use of 'administrative penalties'.

Safeguarding information

Most respondents agreed with the Scottish Government's Identity Management and Privacy Principles, but a range of detailed suggestions were made to enhance these. Most supported strictly controlled sharing of information between public sector bodies, where legislation allowed, to make the process easier for claimants. Organisations were more supportive of this than individuals.

Uprating

While there was clear agreement that devolved benefits needed to keep pace with the cost of living, there were varied views on how this should happen.



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