

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.