



## **Social Justice & Social Security Committee Adult Disability Payment Evidence Session - 16 December 2021: SAMH Briefing**

### **Introduction**

SAMH is Scotland's largest mental health charity. Around since 1923, SAMH currently operates over 60 services in communities across Scotland providing mental health social care support, primary care, addictions and employment services, among others. These services together with our national programme work in See Me, respectme, suicide prevention, sport and physical activity, inform our public affairs work to influence positive social change

We welcome the opportunity to provide evidence to the committee to aid its scrutiny of the Adult Disability Payment (ADP) regulations. The introduction of Adult Disability Payment (ADP) represents the most significant expansion of the Scottish Social Security System to date, particularly in regards to adults living with mental health problems. People living with mental health problems make up the largest cohort of people receiving Personal Independence Payment (PIP) in Scotland (37.5% of all Scottish PIP cases),<sup>1</sup> so it is essential that ADP works for people with mental health problems. Our detailed response to the Scottish Government's consultation on draft ADP regulations can be found [here](#).<sup>2</sup>

### **ADP Regulations General Points**

The draft ADP regulations in large part replicate PIP's legal framework, including in relation to eligibility criteria (including the '50% rule') and payment rates. While we are very keen to see a more fundamental change to ADP in the future, we recognise that in order to ensure a safe and secure transfer of PIP claimants to ADP and to ensure no loss of UK passported benefits the regulatory framework of PIP has broadly been retained. This rationale is supported by the Scottish Commission on Social Security (SCoSS).<sup>3</sup>

While accepting the need to broadly retain PIP's legal framework in the short term, we are clear we have ongoing concerns about fundamental aspects of ADP, which need addressed after safe and secure transfer. These include: the retention of a points based system; the broad retention of PIP descriptors (albeit with minor amendment); and the 50% rule – this being the need for applicants to demonstrate they qualify against a descriptor at least 50% of the time during the qualifying period. These issues, particularly the descriptors and 50% rule can be very challenging for people living with mental health problems as the descriptors are largely related to physical functionality, with little scope to demonstrate the impact of a mental health

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<sup>1</sup> Data accessed from StatXplore [PIP Cases With Entitlement July 21](#)

<sup>2</sup> SAMH [Adult Disability Payment: Consultation \(Draft Regulations\) SAMH Response](#) 2021

<sup>3</sup> SCoSS [Scrutiny report on draft regulations: Disability Assistance for Working Age People \(Scotland\) Regulations](#) 2021



for Scotland's mental health

problem on someone's daily living and mobility. The often fluctuating nature (and impact) of mental health problems also provides significant challenges in demonstrating applicants meet the 50% rule.

As called for in our consultation response to the draft ADP regulations we believe that an interim measure to address the physical bias of the descriptors should include amending the Daily Living Activities descriptors to include direct reference to psychological distress. For example, an 'inability to take nutrition due to psychological distress' descriptor should be added to the taking nutrition daily activity. This would recognise the effect an eating disorder or history of psychosis has on someone's ability to safely and reliably take nutrition.

Despite the concerns outlined above, SAMH believes that proposed changes to the administration and processes of ADP in comparison to PIP have potential to make real improvements for people living with mental health problems. These include:

- Rolling entitlement with 5-10 year review periods (draft regulation 37), replacing award periods. We know that for people with mental health problems, frequent reassessments and short PIP award periods are often distressing and detrimental to people's mental health recovery.<sup>4</sup>
- Commitments from the Government to consider introducing indefinite awards with no reviews (i.e. lifelong awards). We believe that people with chronic lifelong mental health problems should be considered for indefinite awards without review, even if there are moderate fluctuations in their conditions.
- SAMH played a significant role in shaping the 'Suitably Qualified Assessors' provision of the Social Security (Scotland) Act 2018. We believe their application in regards to the draft ADP regulations is positive. We particularly welcomed provision in the draft regulation 38 (2)(b) that, where an assessment for entitlement for ADP involves consideration of the individual's mental health condition the assessor (case manager / specialist advisor) must have health or social care employment experience directly supporting individuals with mental health conditions. We do believe that these proposals could be further strengthened by amending the regulations to ensure practitioners should have previously been working in the health or social care role within the five years prior to becoming a case manager/specialist advisor – this to ensure skills and knowledge are still relevant.
- We strongly welcome the commitment from the Scottish Government to reduce face to face assessments and move to a system of client consultations (including by phone), with onus on the Scottish Social Security Agency to gather supporting evidence for someone's ADP application. Assessments under PIP did not work for people with mental health problems and are consistently the most significant problem with PIP reported to us by people SAMH support.<sup>5</sup>

<sup>4</sup> SAMH [Personal independence Payment: What's the Problem?](#) 2016

<sup>5</sup> SAMH [Personal independence Payment: What's the Problem?](#) 2016



## Involvement in development of Regulations

The ongoing development of the Scottish Social Security system, in particular ADP, has been a key priority for SAMH. In general, we have been pleased with the Government's approach, including ongoing engagement with the third sector and people with lived experience of mental health problems and other disabilities. For example, we believe the creation of the Experience Panels – bringing together people with experience of social security and disability – to help shape and test the new system has been very beneficial.

Staff from SAMH have also regularly been invited to take part in testing and research sessions with Scottish Government officials and researchers on aspects of ADP. For example, sessions SAMH have attended have included testing of proposals for ADP client consultations (which will replace PIP face to face assessments) as well as sessions exploring the support clients may need when applying for ADP. These have been useful and allowed us to share the needs and challenges faced by people living with mental health problems when engaging with the social security system.

We welcome and have previously had SAMH staff represented on the Scottish Government's Disability and Carers Benefits Expert Advisory Group (DACBEAG).<sup>6</sup> This group, bringing together disability benefit experts and academics provides recommendations to Scottish Ministers on all aspects of the devolved disability and carers social security powers. We believe this approach has been invaluable in evaluating and informing Scottish Government proposals for ADP – including in areas such as implementing the legal requirement for 'suitably qualified assessors, client applications and consultations and the incorporation of PIP case law. We would like to see DACBEG retained as ADP is implemented.

## Independent Review of ADP 2023

SAMH welcomes the commitment to an independent review of ADP, starting in summer 2023. As member of the Scottish Campaign on Rights to Social Security (SCoRSS) we fully endorse their publication "Beyond a Safe and Secure Transition" outlining a long term vision for Disability Assistance.<sup>7</sup> We believe that vision should provide the basis for the review.

Specifically, we believe the review must be wide ranging, covering all aspects of ADP from the legislative and regulatory framework to the administration of the payment. Importantly the review should consider issues including the financial adequacy of the payment; its purpose; the use of a points based system, issues such as the 50% rule – and alternatives. The review should also explore the relationship ADP has to wider UK and Scottish social security systems, including the impact of fundamental change to ADP may have on 'passporting' to UK benefits. We

<sup>6</sup> [Disability and Carers Benefits Expert Advisory Group - gov.scot \(www.gov.scot\)](https://www.gov.scot/disability-and-carers-benefits-expert-advisory-group)

<sup>7</sup> SCoRSS [Beyond a Safe and Secure Transition](#) 2020



believe the review should be independent from government and led by people with experience of disability.

### **ADP Implementation**

Due to the Coronavirus pandemic the opening of ADP new claimants was delayed from 2021 to summer 2022. While we understand the Coronavirus pandemic has impacted on the original timescale, we believe there should be mitigations for those impacted by the delay.

The Scottish Government made a welcome commitment that once ADP was open to new applications, no one with an existing PIP award would be reassessed under the UK system. Instead once their award was due for renewal they would automatically transfer to the Scottish ADP system and avoid a UK face to face assessment. We estimate that the delay by a year in ADP will mean that at least 141,000 people in Scotland will now remain on PIP or enter the PIP system who would otherwise have been eligible for ADP. Around 55,000 of whom will have a mental health problem with a large proportion likely to have to go through a PIP face to face assessment.

To mitigate this, we are calling for the rapid transfer of people to ADP from PIP who successfully made a PIP claim during the delay period. Following the introduction of ADP, we believe there should be a rapid review of failed PIP applications made during the delay period and a publicity campaign encouraging people in that situation to re-apply.

For further information, contact:

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