

# Citizen Participation and Public Petitions Committee

3rd Meeting, 2022 (Session 6), Wednesday  
23 February 2022

PE1854: Review the adult disability payment  
eligibility criteria for people with mobility needs

## Note by the Clerk

**Lodged on** 17 March 2021

**Petitioner** Keith Park on behalf of MS Society

**Petition  
summary** Calling on the Scottish Parliament to urge the Scottish Government to  
remove the 20 metre rule from the proposed adult disability payment  
eligibility criteria or identify an alternative form of support for people  
with mobility needs.

**Webpage** <https://petitions.parliament.scot/petitions/PE1854>

## Introduction

1. The Committee last considered this petition at its meeting on [17 November 2021](#). At that meeting, the Committee agreed to write to Citizens Advice Scotland, Parkinson's UK Scotland, Neurological Alliance of Scotland and MS Society Scotland.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from the Petitioner, Citizens Advice Scotland, Parkinson's UK Scotland and Neurological Alliance of Scotland which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#). All written submissions received on the petition before May 2021 can be viewed on the [archive webpage](#)

5. Further background information about this petition can be found in the [SPICe briefing for this petition](#).
6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

## Action

The Committee is invited to consider what action it wishes to take.

**Clerk to the Committee**

**Annexe A**

# PE1854: Review the adult disability payment eligibility criteria for people with mobility needs

## Petitioner

Keith Park on behalf of MS Society

## Date Lodged

17/03/21

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to remove the 20 metre rule from the proposed adult disability payment eligibility criteria or identify an alternative form of support for people with mobility needs.

## Previous action

We have lobbied numerous MSPs. We have also extensively campaigned for the removal of the 20 metre rule from the assessment framework of PIP since its inception.

## Background information

The Adult disability payment (ADP) will replace Personal Independence Payment (PIP) in Scotland and will be delivered by Social Security Scotland.

The Scottish Government is currently consulting on the ADP and the draft Disability Assistance for Working Age People (Scotland) Regulations describe the detailed criteria, rules and processes for delivery of the payments.

We want the Scottish Government to remove the 20 metre rule from the proposed ADP framework for the highest rate of mobility support within the new disability assistance - a position which is supported by Citizens Advice Scotland.

For people living with MS, the biggest change in PIP has been the introduction of the 20 metre rule. This measure of mobility means that people who are able to walk even the smallest distance over 20 metres can no longer get the highest level of financial support under PIP.

Since PIP began to replace Disability Living Allowance in 2013, one in three people with MS moving over to this benefit have had their support downgraded, including one in ten who have lost support altogether. This is happening even though MS is a progressive condition where people's needs are only likely to increase.

The UK Government has never been able to produce any evidence that people who can walk over 20 metres have lower levels of need for mobility support. In June 2018 we produced our report 'PIP: A step too far' which looked at the impact of the changes on people living with MS. Further research was then carried out and published in our report of April 2019 'The cost of the PIP 20 metre rule.' We found that over the (then) spending review period of 2020-2023 "the total knock-on costs to the UK Government outweigh what it will save by reducing PIP support for people with MS via the 20 metre rule" Additional research was then published in November 2019 focussing on the application, assessment and decision making processes - 'PIP fails: how the PIP process betrays people with MS'.

The basis for the proposed ADP are the principles of dignity, fairness and respect. Throughout the consultation period stakeholders from across Scotland have highlighted concerns about the PIP assessment framework and how it is unfair. In fact the Scottish Government consultation document highlights this and says, "making changes to the mobility or 50% rules in isolation could further embed unfairness in to the framework". This admission that the framework is unfair goes against the principles that underpin the regulations associated with ADP.

Many aspects of our findings are reflected in the Scottish Government's 'Welfare Reform Report' which looked at the impact of welfare reforms on disabled people citing the Lived Experience Panels and comparing the differing approaches between the UK and Scottish Government. So it is disappointing that currently the Scottish Government is looking to retain such a discredited assessment criteria.

The Scottish Government should be thinking creatively as to how it can support people whom would otherwise have been in receipt of the higher level mobility payment if it feels it has to continue with the 20 metre rule. For example, how feasible would it be to introduce a mobility allowance in a manner similar to the Carers Allowance Supplement? A review and design exercise should be carried out with disabled people, charities and healthcare professionals to design an agreed appropriate alternative. In the meantime the 50 metre threshold should be reinstated.

**Annexe B****Extract from Official Report of last consideration of PE1854 on 17<sup>th</sup> November 2021**

**The Convener:** PE1854, which was lodged by Keith Park on behalf of the MS Society, is on reviewing payment eligibility criteria for people with mobility needs. It calls on the Scottish Parliament to urge the Scottish Government to remove the 20m rule from the proposed adult disability payment eligibility criteria or identify an alternative form of support for people with mobility needs. At its previous consideration of the petition in September, the committee agreed to write to the Department for Work and Pensions and the Scottish Government. Specifically, we asked for clarity on the issue of delivering adult disability payments on a “like for like basis” with personal independence payments. In his response, the Minister for Social Security and Local Government acknowledges that respondents to a recent Scottish Government consultation on ADP raised a number of key concerns, including that existing eligibility and payments should be protected with the introduction of any new benefit; that benefit recipients should not have to reapply for benefits to maintain their current entitlements; and that existing eligibility criteria on mobility do not adequately reflect the impact of certain disabilities and health conditions, with many responses focusing specifically on the 20m rule. The minister states that an agreement has been reached with DWP that passporting to reserved benefits for ADP clients will be assured in the immediate term. However, the minister notes that any significant change to the eligibility criteria for adult disability payments could risk undermining that agreement. The DWP response provides an example of when receipt of enhanced devolved benefits can result in an additional payment from a reserved benefit. However, the petitioner states that the example provided by the DWP supports the position that an enhanced rate of mobility payment does not entitle an individual to any additional reserved benefits and therefore would not be negatively impacted by a change to the eligibility criteria for the ADP. The petitioner requests that the petition is kept open to allow stakeholders and the committee to examine the Scottish Government’s response to the ADP consultation, and to take evidence from stakeholders. That was quite a long summation, but I am sure that we all recall our discussion of the 20m rule and our writing to the various parties in relation to it. Would any member like to comment?

**Bill Kidd:** I have known people who have gone through the whole process. I believe that the 20m rule is a degrading and inhumane approach, particularly when it is repeated on more than one occasion. That rule should not be there in the first place. I would be perfectly happy to continue the petition and look for further routes to try to achieve elements of what the petitioner is seeking.

**Paul Sweeney:** I agree with Bill Kidd. The principle has broad agreement across Parliament and there is a desire to do something. It is a question of legality and the potential unintended consequences that might affect DWP qualification. It is a grey

area that needs to be dealt with sooner rather than later. We need to firm up the devolution of social security and how interactions between DWP and Social Security Scotland perform. The petition presents an extremely opportune way of doing that. With that in mind, it would be helpful to invite further submissions from, for example, the MS Society, Citizens Advice Scotland, the alliance, the Neurological Alliance of Scotland and Parkinson's UK. I highlight those groups as an indication of those who made submissions on the petition in the first instance or that indicated support for it. We need to chip away to get the issue sorted out. Although it is a technical issue, given the severe harm that is potentially caused to people, getting the matter resolved sooner rather than later would be more helpful than deferring it. We should try to get the system designed and fixed quicker than would perhaps otherwise happen.

**David Torrence:** I agree with colleagues. We should keep the petition open and seek advice from stakeholders.

**Alexander Stewart:** I agree. We need to continue to seek advice and find out people's views. Those organisations have a strong commitment to the issue and have already given some strong views, but it is vital that we get the views of stakeholders and those who have to progress through the system. Continuing the petition and taking further evidence will enhance our opportunity to try to find a solution.

**The Convener:** Are we agreed that we will keep the petition open, that we will seek the views of the various bodies that we referred to and that we will seek the views of some of those who contributed the original submissions to which the Scottish Government and the DWP subsequently responded?

**Members:** *indicated agreement.*

## Annexe C

# Petitioner submission of 17 February 2022

## PE1854/K - Review the adult disability payment eligibility criteria for people with mobility needs

### Our Ask

- **We ask the Committee to continue to seek evidence on PE1854, with a view to producing a report to submit to the promised 2022 review on “moving around” descriptors within Adult Disability Payment.**

On the 17<sup>th</sup> of December 2021 the Minister for Social Security and Local Government wrote to the Social Justice and Social Security Committee, informing them the Disability Assistance for Working Age People (Scotland) Amendment Regulations 2022 had been laid in Parliament.

In the letter the Minister confirmed that in addition to the 2023 ADP review, the Government would bring forward an early review, focusing on eligibility criteria to begin in 2022, stating:

*“Our intention is that the review should begin in 2022, once the ADP regulations are in place, and that we start with an initial review of the “moving around” descriptors and the potential for alternative criteria for considering an individual’s mobility, and to agree the scope of a more strategic review.”*

This was confirmed by the Minister during an appearance before the same Committee on the 27<sup>th</sup> of January 2022.

We were grateful for the opportunity to meet with the Minister, the Cabinet Secretary for Social Justice, Housing and Local Government and their civil servants on the 12<sup>th</sup> of January. At the meeting the Government were clear that they would value and consider contributions to the 2022 review from all stakeholders.

The MS Society Scotland believes this review presents an opportunity for the Public Petitions and Citizen Participation Committee to take forward the work it has already began through its inquiries with this petition. With the evidence the Committee has gathered from a range of stakeholders including Citizens Advice Scotland, the Neurological Alliance of Scotland



and the Department of Work & Pensions, we consider the committee is well placed to make a valuable contribution.

We would suggest the Committee seeks further evidence from stakeholders including but not limited to those they have already spoken to. Focusing on both the need for a move away from arbitrary and degrading measures like the 20-metre rule at the earliest opportunity and how we can move towards criteria based in human rights, dignity and respect. We would welcome the opportunity to appear before the committee to offer our input.

We appreciate the Committee's consideration of our petition and would be interested in any other ways members believe the committee can investigate and take forward the petition.

## Background on the 20-metre rule

The 20-metre rule was introduced as part of the eligibility criteria to access Personal Independence Payment (PIP). It means if you can walk one step over 20 metres you do not qualify for the enhanced rate of mobility support.

The rule does not take into account the nature of fluctuating conditions or the impact of physical and mental fatigue. It does not make allowances for those who live further than 20 metres away from services or shops.

The Scottish Government are replacing PIP with ADP. ADP replicates the eligibility criteria as it currently exists in PIP, retaining the 20-metre rule as part of the assessment criteria for accessing the enhanced rate of mobility support.

Throughout the policy process disabled people and their organisations identified the need to remove the 20 metre rule. However, the Government decided to retain the rule, stating their concern that any changes risk the security of passported benefits and a "safe and secure" transition.

The Committee has received evidence from the MS Society and other stakeholders that do disagree with this position. However, we are encouraged by the Government's willingness to engage constructively and by their announcement of an early review on the moving around component of eligibility criteria.

We note that while all parties voted for the ADP regulations when they appeared before the Social Security committee, opposition MSPs spoke strongly about their concerns with the regulations and noted that they felt they were a missed opportunity to get rid of the 20-metre rule.

We are pleased that representatives from all parties represented in parliament have publicly supported removing the 20-metre rule and note that the Government have stated that ADP as it is delivered on “day one” will not be “the limit of the Scottish ministers’ aspirations.”

### **Impact of the 20-metre rule (PIP: A step too far, Cost of the 20m rule)**

- Since its introduction one in three people with MS have had their support downgraded.
- 2% of people with MS gave up work altogether because they lost out on the enhanced rate of mobility support.
- Around 611 people with MS gave up work due to a loss of mobility support between 2020 and 2022.
- The rule has increased the cost to government of supporting people to live with MS due to additional costs to the NHS and a rise in claims for other income support.

## **Citizens Advice Scotland submission of 3 December 2021**

### **PE1854/H - Review the adult disability payment eligibility criteria for people with mobility needs**

Scotland’s Citizens Advice Network empowers people in every corner of Scotland through our local bureaux and national services by providing free, confidential, and independent advice. We use people’s real-life experiences to influence policy and drive positive change. We are on the side of people in Scotland who need help, and we change lives for the better.

#### **Removal of the 20m rule**

Citizens Advice Scotland (CAS) has long called for the removal of the 20m rule assessment, firstly in Personal Independence Payment (PIP), and now in Adult Disability Payment (ADP). We believe the Scottish

Government should reconsider how it assesses an individual's entitlement to the enhanced rate of the mobility component of ADP.

Our position is that the criteria for entitlement to the enhanced mobility component should be increased from 20 metres to at least 50 metres, while criteria more fitting with the social model of disability is developed. In a recent survey, carried out over February 2021, the majority of CAB advisers surveyed agreed that the 20m rule should be increased to 50m to qualify for enhanced mobility.

While we acknowledge the Scottish Government's position that amending the 20m rule now, rather than following the planned review of disability benefits in 2023 carries a risk that there will be a two-tier system – PIP claimants assessed at 20m and ADP claimants assessed using a longer range – this risk is likely to happen at the point of review. With the review taking place so soon after ADP is implemented, there will be many claimants still on PIP at the time of the review.

[The Scottish Government's intention](#) is that:

*“Adult Disability Payment is intended to be person centred, taking into account the specific needs of each client. This should bring about a marked improvement in the experience of disabled people in interacting with the social security system.”*

In addition, the [Scottish Government's response](#) to the ADP consultation states that:

*“We intend to move away from a medical model of disability.”*

This move away from a medical model in the way decisions are made is welcome, however, this approach should also be applied to the 20m rule. A functional assessment, such as of walking limitation over a set distance, assesses the claimant's inability to perform a function as a result of their impairment and is therefore a medical model approach to assessment. In *Beyond a Safe and Secure Transition – A Long-term Vision for Disability Assistance in Scotland*, the Scottish Campaign on Rights to Social Security, of which CAS is a member, called for disability assistance to better reflect social and human rights models of disability.

Having distance criteria for the mobility component for ADP jars with the mobility component for the Child Disability Payment and could result in young people losing a key benefit, integral to their independence, at a key point in their lives. The Child Disability Payment requires a child or young person to be virtually “unable to walk”, a different test to the ADP and one potentially difficult for families to navigate seamlessly.

### **Risk to reserved/passported benefits**

The CAS position is that there would be no known disadvantages to people claiming ADP or PIP from removing the 20m rule. Increasing the assessed distance (or use of another criteria) will increase entitlement for people on the standard rate, but as it is not an entitlement to other DWP benefits should not have a negative impact in terms of claims to other benefits.

While we acknowledge increasing the distance reviewed before developing a social model assessment will bring additional people onto enhanced mobility ADP resulting in an additional cost to Social Security Scotland, the cost of the previous reduction across DLA and PIP to 20m was significant for both the claimant and other public bodies. The financial costs included loss of Motability vehicles and loss of exemption from Vehicle Excise Duty, but that this in turn led to wider societal costs through job losses and strain on family members having to provide additional support. In *The Cost of the PIP 20 metre rule*, the MS Society assessed that disabled people were more likely to access NHS support and other benefits as a result of this lost income.

### **Summary**

- CAS is calling for the removal of the 20m rule.
- This view is supported by the majority of CAB advisers.
- Any distance criteria does not meet the Government’s intention of a person centred, non-medical model approach to assessment.
- The 20m rule makes transitioning from child to adult disability benefits potentially difficult.
- There would be no known disadvantages to people claiming ADP or PIP from removing the 20m rule.

# Neurological Alliance of Scotland submission of 9 December 2021

## PE1854/I - Review the adult disability payment eligibility criteria for people with mobility needs

Thank you for your letter of 19 November 2021 regarding Petition PE1854 for which we have previously submitted evidence.

We are pleased to have been asked for our views on whether we believe changes to the eligibility criteria for new disability benefits in Scotland, would a) risk other reserved/passported benefits being withdrawn and b) if so when this might happen.

The situation with passporting to reserved benefits is very complex and individual – and the Neurological Alliance of Scotland does not have specific expertise on benefits beyond drawing on our member charities, some of which provide income and benefits advice. We would recommend that the committee seek expert independent advice from an organisation specialising in benefits legislation.

Our understanding, in line with that held by the MS Society and other members, is that a PIP award can provide a passport to certain reserved benefits administered by DWP, including disability premiums. However, in almost all cases, passporting happens only on the basis that the PIP award includes the daily living component. The 20m rule does not relate to the daily living component of PIP, but enables claimants to access the enhanced rate of the moving around / mobility component. Adult Disability Payment retains this distinction. In addition, benefits such as Job Seekers Allowance, Income Support, Working Tax Credit and disability premiums are all legacy benefits which will be lost as people transfer to Universal Credit.

**Given all of this, we do not believe that changes to the 20m rule would impact on passporting to reserved benefits.**

We would also draw attention to the impact that an enhanced rate PIP mobility award makes in terms of passporting to devolved benefits.

These are the Motability Scheme (which will be replaced by a similar scheme in Scotland as ADP is introduced) and the blue badge scheme (which is run by local councils, but is an area of devolved competence). In this respect, the impact of the 20m rule has not just been financial. People with neurological conditions who were deemed to be able to walk more than 20m lost out on access to a vehicle, including adapted vehicles – and potentially their ability to access work, family and social activities and essential services like medical appointments, prescriptions and shopping. A blue badge can be the thing that makes everyday services accessible to someone with mobility issues. Getting a blue badge becomes much more complicated without passporting to it, and the lengthy form and prospect of an assessment interview can stop people applying.

All of this is happening in the context of the UK Government's recent Green Paper - Shaping Future Support, with a white paper expected in mid-2022 which could see big changes to disability payments. One of the proposals under consideration is merging current working age disability payments into a single benefit – which would merge PIP and ESA / Universal Credit. How this would impact on disabled people in Scotland who have eligibility for both benefits is currently very unclear.

The Green Paper states that the UK Government is looking for a “more affordable” system of disability benefits overall – if it implements this, it is likely to mean further reductions in eligibility and / or reduced awards in England and Wales. It is therefore, of concern to us that the Scottish Government believes it must maintain like-for-like criteria for ADP and PIP. We are concerned that this position essentially ties Scottish Government to acting in line with UK Government on disability benefits moving forwards, which will be very problematic if further changes to disability benefits in the rest of the UK are made. When the proposed independent review of ADP takes place in 2023, it is likely that there will be even greater disparities as the UK Government's proposals for disability benefits will be known in more detail.

With all of this in mind, we would reiterate our call for the Scottish Government to use its powers to drop the 20m rule in the spirit of dignity, fairness and respect.

# Parkinson's UK Scotland submission of 10 December 2021

## PE1854/J - Review the adult disability payment eligibility criteria for people with mobility needs

Parkinson's UK Scotland welcomes the opportunity to contribute to the Committee's continuing deliberations on this petition. The 20m rule is an extremely important issue for people with Parkinson's and their partners, families and friends.

Between them, our community-based advisers in Scotland and expert benefits and employment advisers support hundreds of people with Parkinson's, unpaid carers and family members in Scotland to secure the social security benefits to which they are entitled every year. Our work is based on the unique situations of each individual and household we work with.

**Overall, Parkinson's UK Scotland does not believe that the changes to the eligibility criteria for new disability benefits in Scotland proposed in PE01854 would risk other reserved/passported benefits being withdrawn.**

Our answer is based on the proposed change to the 20m rule, which is used to assess whether a person qualifies for a PIP mobility award at the enhanced rate.

The enhanced rate award makes a difference of £3,252 a year to household income. It is the only way to access the Motability scheme. And it provides a passport to the Scottish Government's Blue Badge parking scheme, to a disabled person's bus pass and to local transport schemes.

According to [Citizens Advice Scotland](#), some low income recipients of PIP can access disability premiums to top up certain legacy benefits, which are being replaced with Universal Credit.

Universal Credit claimants cannot claim disability premiums. There are some transitional protections for those who receive disability premiums when they transfer to Universal Credit, but they diminish over time.

In most cases, PIP is **only** a passporting benefit if the person receives an award under the daily living component of PIP. In a small number of cases, people may qualify for a basic disability premium solely on the basis of a PIP mobility award. Very few people who receive a mobility award do so without also receiving an award in the daily living component - the [latest DWP statistics](#) show only 4% of PIP claimants are in this category.

Changes to PIP income will not reduce the amount of money that a claimant receives from means-tested benefits because PIP income is exempt.

**We conclude that removing the 20m rule in ADP will not have an impact on passporting to reserved benefits.**

Parkinson's UK Scotland argued that the Scottish Government needed legislative powers over social security when certain benefits were devolved. We believed that this would enable Scottish Government to address major problems in the terms of disability benefits. The UK Government will publish a white paper in 2022. We expect this to outline cost-saving reforms to social security for disabled people. Will Scottish Government continue to tie its devolved benefits to reserved ones as the systems continue to overlap?

Parkinson's UK Scotland is disappointed that Scottish Government believes that scrapping the 20m rule will create a "two tier system" between new ADP claimants and existing claimants transferring from PIP. Scottish Government's changes to the assessment process should lead to fairer assessments, and more appropriate decisions being made about the support people receive. This already creates a two-tier system with some of those transferred from PIP to ADP in a worse position than they would have been as new claimants

The Minister for Social Security also argues that there are risks if eligibility criteria change and people who have previously lost out seek reassessment under the new criteria, putting the transition programme at



risk. While this will be an important process for the Social Security Agency and Scottish Government to manage properly, we believe that this aspect could be achieved through a managed process of reapplication for transferring claimants who wish to be reassessed against fairer criteria.

The Parkinson's community wants to know how long people will have to wait for a fairer way of assessing mobility to be introduced, and when the administrative burden of rectifying the injustice of the 20m rule will be deemed manageable. By the time that the planned Independent Inquiry reports, the transition process will still be underway. The system will still be under pressure. And people with conditions like Parkinson's will still be missing out on the mobility support that they need.