

## **Social Justice and Social Security Committee**

**10th Meeting, 2022 (Session 6), Thursday,  
10 March**

### **DWP role in devolved Social Security**

#### **Introduction**

The Committee will hear from Chloe Smith, MP, Minister for disabled people, health and work. She is appearing to discuss how the DWP is supporting the Scottish Government in its implementation of the social security provisions of the Scotland Act 2016.

Aspects of her [portfolio](#) of particular relevance to this Committee are:

- Cross-government responsibility for disabled people
- ESA, PIP, DLA and Universal Credit disability premiums
- Carer's Allowance
- Disability benefit reform
- Devolution issues

Chloe Smith wrote to the Committee on [11 February](#) on issues including policy divergence and disability benefit reform. The letter is included with Committee papers (paper 2).

This paper suggests the following **five themes** for discussion:

1. UK disability benefit reform
2. Passported benefits
3. Case transfer of disability benefits

4. Scottish Child Payment data sharing
5. Fiscal framework review

## Theme 1: UK disability benefit reform

The UK Government consulted on a green paper '[Shaping future support: the health and disability green paper](#)' from July to October 2021. A white paper is expected mid-2022. The green paper asked for views on possible changes to DWP disability benefits, including:

- whether PIP activities and descriptors should change
- how best to collect supporting evidence and improve assessments in the current system
- how to improve the transition from child DLA to PIP
- changing the terminal illness rules, so it covers 12 months rather than six months
- creating a simpler process for people who have lifelong conditions that may not improve. A new category of 'severe disability group' will be tested. People in this group will not need to fill out long applications forms and submit evidence. Their award will be based on information from medical professionals. It would apply to conditions such as motor neuron disease.
- Consider, in the longer term whether more fundamental change is needed, looking at how to simplify the system for people applying for multiple health and disability benefits.
- While continuing to focus financial support on people who need it most, are there more effective ways to support disabled people with their extra costs and to live independently

In their [report on Adult Disability Payment](#), the Scottish Commission for Social Security (SCOSS) emphasised the importance any changes could have for Scottish social security.

"It will be important to remain alert to the implications of change to UK disability benefits, given the intricate interdependencies between the two systems."

SCOSS set out the following implications:

- Changing PIP descriptors could have implications for the safe and secure transition from PIP to ADP, given the need to maintain eligibility rules like-for-like during the case transfer period.

- Changing PIP descriptors would speed the divergence of case law between Scotland and the rest of the UK.
- In the longer term, the Green Paper proposes exploring the scope to combine working-age health and disability benefits (e.g. UC, ESA and PIP) into one benefit. SCOSS say: “There would be numerous policy and delivery challenges to combining devolved benefits with reserved benefits, and non-means-tested benefits with means tested benefits.”
- Changes to disability benefits could raise questions on how benefits are treated in passporting arrangements
- A significant restructuring of UK benefits and changes to passporting may well mean challenges to devolved benefit delivery systems, information exchange and IT systems.
- UK benefit policy choices affect how much the UK transfers to the Scottish Government through the Block Grant Adjustment.

The implications for passported benefits are discussed under theme 2. The fiscal framework review is considered under theme 5.

It’s possible that both PIP and ADP may undergo significant change at the same time – PIP following from the green paper and ADP following the 2023 independent review. The benefits could move ‘in-step’ with each other, or they could lead to greater divergence between PIP and ADP.

**Under Theme 1, UK disability benefit reform, members may wish to discuss:**

- 1. Detailed proposals aren’t yet available, but can the Minister explain the scale of change envisaged by UK ministers? Should we expect significant changes to PIP and DLA to the extent that it could have an impact on devolved disability benefits?**
- 2. To what extent is reducing spending on disability benefits a key aim of the reforms?**
- 3. To what extent is the devolution settlement being taken into account when considering reform of DWP disability benefits?**
- 4. How will the DWP involve the Scottish Government in developing proposals for changing PIP and DLA?**
- 5. Are any major reforms to PIP likely to be implemented before 2025? (By which time Scottish clients should all be moved over to ADP)**

## THEME 2: Passported benefits

As noted above, the design of PIP could change following the Green paper on disability. Equally, the design of ADP could change following the 2023 Independent Review. If the two benefits diverge, will they be treated in the same way for 'passporting'?

The Committee has discussed how disability benefits provide entitlement to additional amounts in other benefits and how maintaining these entitlements could constrain the possibilities for changing ADP.

Minister for Social Security and Local Government, Ben Macpherson told the Committee on 27 January that:

“throughout our engagement with the DWP it has been important for them that there were not significant changes to the eligibility criteria for ADP, in order for it to be considered on a like-for like basis for passporting.” ([Committee Official Report, col 7](#))

Similar points are made in the recent consultation on Scottish Carer's Assistance.

“We also know how important it is that any changes that we make don't do anything which would risk the other financial support carers already get from reserved benefits provided by the Department for Work and Pensions.” ([Scottish Carer's Assistance Consultation, Scottish Government, February 2022](#))

### *What are passported entitlements?*

There is a complex system of entitlements to other benefits, or additional amounts within other benefits that arise from disability benefits.

For example, receipt of PIP or ADP creates entitlement to premiums in other benefits including Housing Benefit, Income Support, Job Seekers Allowance and Pension Credit. It also gives entitlement to extra amounts in some devolved payments such as Council Tax Reduction.

Some entitlements are only available if the client gets a particular component of a benefit. For example, part of the qualifying criteria for the carer premium in Universal Credit is that the cared for person receives the daily living component of PIP or ADP.

Other entitlements are more detailed still and require the component to be awarded at a particular rate. For example, PIP/ADP daily living at the enhanced rate is part of the qualifying criteria for an 'enhanced disability premium' in Employment and Support Allowance, Income Support, Job Seeker's Allowance and Housing Benefit. There is a similar premium in the devolved Council Tax Reduction scheme.

### *Scottish Government's position on changes to CDP/ADP*

One of the Scottish Government's arguments against making changes to CDP and ADP was that they needed to be recognised as equivalent to DLA and PIP for the purposes of awarding premiums in other benefits. Cabinet Secretary for Social Justice, Housing and Local Government, Shona Robison wrote to Pam Duncan-Glancy in November last year saying:

“DWP have made clear that ‘passporting’ for ADP is subject to delivery of a “like for like” system. Whilst there is not a detailed definition of “like for like”, DWP have, for example, registered concerns about aspects of changes which one might consider to be relatively minor, such as, alterations to the “interpretations” section of the regulations. We have been able to reach agreement with the DWP that ADP will be treated as a qualifying benefit for reserved premiums and additional payments in the same way as PIP. While welcome, it is important to note this is an interim agreement and is based on the regulations as currently drafted.” ([Shona Robison, Cabinet Secretary, Social Justice, Housing and Local Government to Pam Duncan-Glancy, MSP, 5 November 2021](#)).

Ben Macpherson wrote to the Committee on 21 January making similar points and explaining that further changes to ADP would require re-negotiation with DWP:

“It is important to stress that detailed discussions over many years, have been had with the DWP to define the scope of safe and secure transfer. The changes to the PIP eligibility framework set out in these regulations are all those that we reached agreement on for the purposes of maintaining the access individuals have to passported entitlements. I must be clear with Members; no further changes are possible at this stage for Adult Disability Payment to proceed and access for reserved premiums to continue. Any changes would require both significant further design and development, and agreement to be reached again with DWP.” ([Letter Ben Macpherson to Committee dated 21 January 2022](#))

### *DWP Position*

The letter from Chloe Smith dated 11 February said the issue would be ‘kept under review’:

“Once PIP, DLA and AA have been replaced in Scotland, DWP will need to find an alternative way of identifying those with the relevant long-term health conditions or disabilities for the purposes of calculating entitlement in reserved benefits, which continue to use qualifying benefits as part of the overall criteria. In the immediate term, I have decided that receipt of the equivalent elements of ADP (and Child Disability Payment) will be the means of identifying these additional needs in order to satisfy the current eligibility criteria within reserved benefits. The way of identifying those needs will be kept under review as the disability and carer benefit landscapes evolve.”

That landscape could evolve through changes to PIP following the Green Paper as well as any changes to ADP made following the Independent Review.

**PIP/ADP and Universal Credit roll-out**

This issue is also affected by the roll-out of Universal Credit. This is because many of the premiums linked to PIP/ADP exist in legacy benefits but not in Universal Credit. In particular, there are no disability premiums for adults in Universal Credit. This means that, by the time Universal Credit is fully rolled out, there will be far fewer people eligible for disability premiums in reserved benefits. Transition to Universal Credit is expected to be complete by September 2024. Housing benefit for pensioners also includes additional amounts passported from disability benefits and this is expected to become part of Pension Credit in 2025. (See [budget October 2021](#))

The Scottish Government expects to complete transfer of all devolved benefits by 2025. Therefore, assuming significant changes to ADP aren't likely to be implemented until after transfer is complete, this is likely to coincide with a time when fewer people will be eligible for disability premiums in DWP benefits.

**Under Theme 2: passported benefits, members may wish to discuss:**

- 1. To what extent does entitlement to premiums in reserved benefits constrain the policy options for Scottish disability benefits?**
- 2. In particular would changing the '20m rule' in the mobility component of ADP mean ADP would not be considered a qualifying benefit for premiums in reserved benefits?**
- 3. The letter from Chloe Smith said: "DWP will need to find an alternative way of identifying those with the relevant long-term health conditions or disabilities for the purposes of calculating entitlement in reserved benefits". Can the Minister set out what some of the options might be?**
- 4. Will 'passported entitlements' need to be considered on a 'case by case' basis or should governments work towards an 'in principle' agreement that DWP and Social Security Scotland disability benefits would be recognised as equivalent to each other.**
- 5. In Universal Credit there is a child disability premium and a carer premium but no adult disability premiums. To what extent will the problem of passported benefits reduce once the roll-out of Universal Credit is completed? Is this still expected to be complete by September 2024?**
- 6. How would the DWP want to be involved in any Scottish Government proposals for changes to ADP and CDP?**

**THEME 3: Case Transfer**

The Committee has approved regulations for transferring people from [DLA to CDP](#) and from [PIP to ADP](#). Further regulations will be laid to allow transfer from working

age DLA to ADP. At a future meeting the Committee is due to hear from the Scottish Government on their arrangements for case transfer.

Over the next three years around 300,000 people will be transferred from PIP to ADP. Ben Macpherson told the Committee on 27 January that:

“We intend to begin the case transfer of PIP awards to the adult disability payment when it launches nationally in August. The case transfer of approximately 300,000 disability benefit awards from the Department for Work and Pensions to Social Security Scotland is an unprecedented exercise both in scale and complexity.” ([Committee Official Report, 27 January, col 5](#))

Transfer to CDP is expected to be completed by spring 2023. (Ben Macpherson, [Committee Official Report, 20 January, col 11](#)) and transfer for all benefits, is expected to be completed by 2025 ([Committee Official Report, 27 January, col 24](#)).

The latest published [minutes of the Joint Ministerial Working Group are from November 2021](#). They raised the issue of case transfer to CDP:

“The Minister for Social Security and Local Government [...] requested assurances from DWP that the managed transfer for the remaining Disability Living Allowance for Children caseload could begin in March 2022. Officials discussed the complexities involved with the managed transfer process and the timetable for the work.”

### Phased approach

In a [letter dated 26 January 2022](#), Ben MacPherson explained that:

- A phased approach to case transfer was needed to ensure Social Security Scotland staff are not overwhelmed.
- For CDP - transfer of those between 15 ½ and 18 years old will be prioritised. “To ensure clients have their award safely moved across in good time for us to support them in their transition to ADP”.
- For CDP – transfer of those who are terminally ill will also be prioritised.
- For ADP – clients due to have their PIP award reviewed will be prioritised. This is “to ensure as far as possible that no-one in Scotland will undergo a DWP reassessment for disability benefits after national launch.”
- For ADP – if a client on PIP notifies a change of circumstance, this will trigger their move to ADP.

The letter stated that:

“If during the process we find that it is possible to accelerate the rate of case transfer, whilst meeting the requirement that is safe and secure then we will.”

Some benefits may be more challenging to transfer than others. In particular, the records for Industrial Injuries benefits might create problems as they are largely

paper-based. (See [Social Security FAQs 2019](#)). (Following the ‘re-set’ of the social security programme timetable in November 2020, there is no specific timetable for creation of Scottish Employment Injury Assistance, although as noted above, all benefits are expected to be launched and clients transferred by 2025.)

**Under Theme 3, case transfer, members may wish to discuss:**

- 1. Are there outstanding issues to be resolved between Social Security Scotland and DWP to ensure the smooth progress of case transfer to CDP and ADP?**
- 2. Does the Minister consider the Scottish Government’s transfer timetable to be easily achievable? (CDP by spring 2023 and ADP by 2025)**
- 3. The Scottish Government is prioritising case transfer of: older children, terminally ill clients, clients due for a PIP review and clients notifying a change of circumstance. Do these priorities create any complexities for DWP?**
- 4. The ‘Scottish versions’ of Carer’s Allowance, Attendance Allowance and Industrial Injuries benefits have still to be developed. Does the Minister consider that these will pose any greater challenge for case transfer than CDP and ADP?**
- 5. How does the complexity of case transfer to Scottish benefits compare to the complexity of other major benefit reforms – such as the move from DLA to PIP? i.e is this an exercise of unprecedented complexity for the DWP or is it similar in scale to previous benefit changes?**
- 6. What scale of resource is the DWP committing to the case transfer process?**

## **THEME 4: Scottish Child Payment data sharing**

In a [letter to the Scottish Affairs Committee on 27 January](#) Chloe Smith confirmed that work was on track to meet the delivery timetable for Scottish Child Payment:

“through successful joint working the data set that Scottish Government needs has been agreed. Development of the technical solution is underway. The delivery plan is being jointly monitored by officials from both organisations and is currently on track to meet the Scottish Government’s delivery timetable.”

The letter also restated the UK Government’s position that the Scottish Government should have discussed data sharing with them before announcing the policy:

“Both my predecessor and I have made it clear to our Scottish Government counterparts that public announcements and commitments should not be



made before there is clarity on what support DWP can provide. It does not serve the people of Scotland well for one Government to commit to doing something which is dependent on the other without having first reached agreement on whether that dependency can be met. Failure to do so increases the risk to timely and successful delivery.”

Cabinet Secretary, Shona Robison told the Committee on 13 January that the Scottish Government would have preferred a different approach. She described how;

“The Scottish Government’s preferred solution has not been agreed and, therefore, we had quite reluctantly to agree to the DWP’s preferred solution, which carries a higher risk. That is why the Scottish Government sought a letter of comfort from the DWP acknowledging that to be the case.

Our preference has consistently been to extend the existing systems that we have in place for the Scottish child payment, but the DWP’s position is that we should build on the DWP’s new strategic solution ([Committee Official Report, 13 January 2022, col 5](#))

She also set out her view that the Scottish Government’s requirements had been set out in good time:

“we signalled to the DWP back in the summer of 2019 our intention to double the Scottish child payment, so there has been no lack of preparation on behalf of the Scottish Government. We have had a lack of agreement with the DWP about the data transfer. I explained in some detail in my initial answer to the convener why that is, which is that we put forward a proposal that we thought was less risky and more straightforward. The DWP has not agreed that and wants to use its new system, which carries higher risk because it is a new system, and, therefore, that needs to be built in.” ([Committee Official report 13 January 2022, col 18](#))

The letter from Chloe Smith to the Scottish Affairs Committee also commented on that Committee’s recommendation that Social Security Scotland look at alternative ways of getting eligibility data, saying:

“The Committee’s recommendation that Social Security Scotland consider all mechanisms for acquiring its own data where possible is particularly welcome, since avoidable interdependencies – on data, but in other areas such as IT infrastructure as well – increase risk for both Governments and for the citizens to whom they provide services.” ([Chloe Smith, MP to Scottish Affairs Committee, letter dated 27 January 2022](#))

**Under Theme 4, Scottish Child Payment members may wish to discuss:**

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| <p><b>1. Is data sharing on-track to meet the Scottish Government’s deadline for extending the SCP?</b></p> |
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2. **Can the Minister give more detail about how their solution to data sharing differs from the Scottish Government’s preferred approach?**
3. **Shona Robison told this Committee that the DWP’s preferred approach carried more risk than the approach suggested by the Scottish Government. Can the Minister comment on this?**
4. **The time taken to resolve issues around data sharing has created uncertainty over the full roll-out of Scottish Child Payment. How can this kind of problem be avoided in future?**
5. **The Minister’s letter referred to ‘avoidable interdependencies’. Can she elaborate on where there is scope to reduce interdependencies between reserved and devolved social security?**

## **THEME 5: Fiscal framework review**

Theme 1 referred to how changes to PIP could have implications for the block grant adjustment (BGA). If less money is spent per head on PIP in England and Wales then this will result in less money being transferred to Scotland under the BGA. Similarly, if more is spent per head in England and Wales, then more transfers to Scotland.

The way the BGA works is governed by the fiscal framework agreed in 2019. That framework is being reviewed. The Scottish and UK Governments agreed to jointly commission an independent report that will inform the fiscal framework review. The original timetable was that that the independent report would be presented by the end of 2021 or soon thereafter so that the fiscal framework review could start in early 2022.

In October 2020, the then Finance and Constitution Committee, Social Security Committee and Scottish Government provided a joint report to the Chief Secretary of the Treasury setting out a combined view on the scope and terms of reference for the independent report and review of the fiscal framework. ([Letter to Stephen Barclay, MP, Chief Secretary to the Treasury, dated 28 October 2020.](#))

The following recommendations for the scope of the review are of particular relevance to social security. The report recommended that the review cover:

- the impact of demographic divergence on income tax and social security (para 19)
- the reconciliation process (para 39)
- borrowing powers (para 65)
- implementation costs (para 78). (The fiscal framework included a one-off transfer of £200m to implement all Scotland Act 2016 powers) and a baselined £66m per year for administration. (para 78)

- policy ‘spill-overs’ (para 85) (A ‘spill-over’ is where a policy decision by one government affects the spending of the other. This has been raised in terms of benefit take-up campaigns but may also be an issue with ‘passport’ benefits issue discussed in this paper).

A [further letter was sent on 7 October 2021](#) from the Social Justice and Social Security Committee asking for a response to the report.

In October 2021, the UK and Scottish Governments agreed in principle the scope of the independent report that will inform the review of the fiscal framework. The independent report will focus on the Block Grant Adjustment, but the review itself will be wider in scope and involve input from parliamentary committees and wider stakeholders. ([HM Treasury and Scottish Government news release dated 15 October 2021](#)). [The new Chief Secretary to the Treasury replied to the Social Justice and Social Security Committee on 4 November](#) making the same points.

Further detail and background is available from the [Fraser of Allander Institute](#) blog from November 2021. They comment that:

“It is also very welcome that the review itself will consider a wider range of fiscal framework issues than just the BGAs. Some aspects of the current fiscal framework were thrown together rather hastily in 2016, often based on speculative judgements about the sorts of budget management tools might be needed. The opportunity to review these provisions based on actual experience to-date is essential.”

**Under Theme 5, the fiscal framework review, members may wish to discuss;**

- 1. Can the Minister provide an update on progress with the independent report and the latest timetable for the review?**
- 2. What is the UK Government view on the implications of considering borrowing powers as part of the review?**
- 3. How should potential policy divergence in social security be addressed in the Fiscal Framework Review?**

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01 March 2022