

# Citizen Participation and Public Petitions Committee

14<sup>th</sup> Meeting, 2022 (Session 6), Wednesday  
26 October 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 [23 February 2022](#). At that meeting, the Committee agreed to write to the Scottish Government.
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 Scottish Government and the Petitioner 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 23<sup>rd</sup> February 2022

**The Deputy Convener:** Our second continued petition is PE1854, on a review of the adult disability payment eligibility criteria for people with mobility needs, which has been lodged by Keith Park on behalf of the MS Society. The petition 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.

The committee last considered the petition at its meeting on 17 November 2021 and agreed to write to Citizens Advice Scotland, Parkinson's UK Scotland, the Neurological Alliance of Scotland and MS Society Scotland. The committee was keen to understand whether stakeholders believe that changes to the eligibility criteria for new disability benefits in Scotland would risk other reserved benefits being withdrawn.

Responses to the committee's correspondence largely stated that stakeholders do not believe that changes to the 20m rule would impact on the passporting of reserved benefits. Stakeholders also challenged the Scottish Government's concern about creating a two-tiered system as a result of differing eligibility criteria for the personal independence payment and adult disability payments.

The Scottish Government has previously stated that there will be an independent review of adult disability payments, which will report in 2023. I understand that work on the review will begin later this year.

Do colleagues have any suggestions?

**Paul Sweeney:** I am impressed by the body of evidence that the committee has gathered already. We hear a consistent refrain from stakeholders that the change would not necessarily impinge on reserved benefits and that there is a mechanism that can achieve the reform that the petitioner is advocating for.

Having corresponded with some of the stakeholders, I think that although they welcome that the review will take place, there is still concern about its pace. There is also a question about what role this committee should take in the review. Should the committee continue to seek evidence? Should the review refer to that evidence? Should the committee itself make a submission to the review, based on the evidence that we have gathered?

I suppose that the question is not whether the review will take place—it will, and that is a welcome development—but whether the committee has a role or locus in it, whether we should make a submission and whether we are required to keep the petition open in order to do so. That is what we need to consider.

**Alexander Stewart:** I agree. We need to get that clarity, so that we understand the implications. We already had some of that from the Scottish Government, in what it is suggesting. The petitioner and his organisation also need to think about the way forward and how what they are calling for could be used. I would support trying to see whether that could be achieved.

**The Deputy Convener:** Ruth, do you have any comments?

**Ruth Maguire:** I had a bit of trouble with my microphone there. I concur with my colleagues.

**The Deputy Convener:** Thank you. If the committee agrees, we will ask the Scottish Government to engage with stakeholders on the review. If we can get the Scottish Government's commitment that it will do that, we will then decide what to do with the committee. Do members agree to that?

**Members** *indicated agreement.*

## Annexe C

### Scottish Government submission of 10 June 2022

#### PE1854/L – Review the adult disability payment eligibility criteria for people with mobility needs

Thank you for your e-mail of 16 May asking how the Petitioner and the Committee can input to the Adult Disability Payment Review and the likely timescales for this.

The e-mail includes a small typo stating that the review of Adult Disability Payment is due to be completed in 2023. The Scottish Government has committed to a two stage review of Adult Disability Payment with stage one running from 2022 until 2023 and stage two will commence in Summer 2023, a year after the national roll out of Adult Disability Payment. Stage two of the review will be undertaken by an independent group.

As the Committee rightly points out, work will begin later this year on the first stage of the Review. This will provide an opportunity for stakeholders to consider the “moving around” descriptors and propose alternative criteria. Ministers are currently considering how this will be conducted and the Scottish Government will update the Committee when decisions have been taken regarding this. The Committee and Petitioner can be assured that engaging relevant stakeholders will be included in the remit for both stages of the review. The Scottish Government welcomes the input of MS Scotland and other stakeholders in continuing to build a benefits system in Scotland that best meets the needs of disabled people.

## Petitioner submission of 28 June 2022

### PE1854/M – 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. This was confirmed by the Minister during an appearance before the same Committee on the 27<sup>th</sup> of January 2022.

We have met the Government since then and they have been 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 begun 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 consider the response from the Scottish Government on 10<sup>th</sup> June 2022 to reaffirm their earlier stated position that they welcome input and engagement from all stakeholders with respect to the review. We believe this indicates that the Government would welcome the input of the Committee.

As a marginalised group disabled people and their organisations have often found it difficult to have their voices heard within parliament. We consider that the committee, with a remit to encourage participative engagement is well placed to amplify these underrepresented voices.

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 note that at the time of writing on the 29<sup>th</sup> of June 2022 the Government have not yet published or brought their plans for the 2022 review to parliament and this is another reason why we believe it would be premature to close the petition and shut down a potential avenue for engagement with disabled people.

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**

- Since its introduction one in three people with MS have had their support downgraded.<sup>1</sup>
- 2% of people with MS gave up work altogether because they lost out on the enhanced rate of mobility support.<sup>2</sup>
- Around 611 people with MS gave up work due to a loss of mobility support between 2020 and 2022.<sup>3</sup>
- 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.<sup>4</sup>

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<sup>1</sup> MS Society – PIP: A step too far, June 2018

<sup>2</sup> MS Society – PIP: A step too far, June 2018

<sup>3</sup> MS Society – PIP: A step too far, June 2018

<sup>4</sup> MS Society – Cost of the 20m rule, April 2019