



Disability Assistance for Older People (Scotland) Regulations

Introduction

The draft [Disability Assistance for Older People \(Scotland\) Regulations 2024](#) were laid on 17 April 2024.

This paper summarises the main provisions in these regulations, recommendations from the Scottish Commission on Social Security and the Scottish Government's response to these before suggesting possible themes for discussion with stakeholders.

The Committee will hear from:

- Marilyn Howard, Scottish Commission on Social Security
- Debbie Horne, Scotland Policy and Public Affairs Manager, Independent Age
- Adam Stachura, Associate Director for Policy, Communications and External Affairs, Age Scotland.

What the regulations do

The regulations create the Pension Age Disability Payment (PADP) which will be the Social Security Scotland's equivalent to the DWP's Attendance Allowance. It is the main non-means tested benefit for people who become disabled after pension age. Scottish Government policy is to keep almost all rules the same as Attendance Allowance but make improvements to administrative processes. The following gives a brief description of the main provisions in the regulations.

Part 1 gives definitions and references to relevant legislation and **Part 2** introduces the structure of the regulations.

To be entitled to PADP an individual must:

- Not be getting other disability benefits (Adult Disability Payment, armed forces independence payment, Attendance Allowance, Disability Living Allowance, or Personal Independence) (regulation 4)

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- Meet the residence and presence requirements
- Be of pension age
- Meet the 'day-time' and/or the 'night-time' condition.

Part 3 – Eligibility (regulations 5 to 7)

A lower rate is paid to those who meet either the day-time or the night-time condition (regulation 6), currently £72.65 per week.

A higher rate is paid for those who meet both the day-time and night-time conditions (regulation 6,) currently £108.55 per week.

The **day-time condition** is that a person requires frequent attention or continual supervision throughout the day.

The **night-time condition** is that a person requires either:

- prolonged or repeated attention at night, or
- requires another person to be awake for prolonged periods or frequent intervals to watch over them.

Entitlement can only start 26 weeks (6 months) after they first satisfy these conditions (regulation 5(6)).

A person who has help with regular renal dialysis can receive the lower rate (regulation 7).

Part 4 – PADP after an interval (regulation 8)

If a person had an award of either Attendance Allowance or PADP that ended less than two years previously, they don't have to wait another 26 weeks before qualifying again.

Part 5 – Residence and presence (regulations 9 to 16)

An individual must have been present in the 'common travel area' (UK, Jersey, Guernsey and Isle of Man) for at least 26 weeks out of the previous 52 (i.e. six months of the previous year) (regulation 9).

There are a number of exceptions, which include:

- Those with a terminal illness
- Refugees under specific schemes for Afghanistan, Ukraine, Sudan, Israel, Gaza, West Bank, Golan Heights, Lebanon
- Those habitually resident in Ireland, "with a genuine and sufficient link to Scotland"
- EU citizens in Scotland whose rights are protected by the Withdrawal Agreement and for whom the UK is the competent state for payment of sickness cash benefits
- UK citizens residing in the EU in some circumstances (e.g. posted to work abroad in the armed forces).

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A person can leave the common travel area for up to 13 weeks for any reason and for up to 26 weeks for medical treatment without losing benefit entitlement (regulation 10).

Part 6 – Age Requirement (regulation 17)

PADP can be claimed by those of pension age.

Part 7 – Terminal illness (regulation 18)

A person with a terminal illness will receive the higher rate of PADP:

“An individual is to be regarded as having a terminal illness for the purpose of determining entitlement to Pension Age Disability Payment if it is the clinical judgement of an appropriate healthcare professional that the individual has a progressive disease that can reasonably be expected to cause the individual’s death”.

Part 8 – Care homes, hospital, hospice and legal detention (regulations 19 – 24).

PADP is not paid after the first 28 days of residence in:

- a care home or hospital (unless they are self-funded, or in a hospice because they are terminally ill) (regulations 19 to 21)
- in prison (regulation 22).

Part 9 – Applications, payments and duration of eligibility (regulations 25 – 39)

Payments can be made to a third party (e.g. an appointee) (regulation 25).

The weekly rate is £68.10 or £101.75 (regulation 26). It is paid four-weekly in arrears, except in cases of terminal illness, when it is paid weekly in advance (regulation 29).

Applications are treated as made on the day received or up to 26 weeks later if they would not be eligible until then (regulation 27).

Applications are made in two parts. If part 2 is submitted within 8 weeks of the claim being registered, then entitlement starts from the date the initial information was provided (regulation 27).

PADP can be paid for a fixed or an indefinite period (regulation 30).

Benefit can be suspended (regulation 30) if:

- [s.54\(1A\) of the 2018 Act](#) applies (failure to provide information needed to decide entitlement) or
- payment is being made to a third party and either financial abuse is suspected or that person is unable to continue to act.

Financial circumstances must be considered before suspending the benefit (regulation 32). There is a right to review a suspension decision (regulation 34).

Deductions can be made “at a reasonable level” from PADP to repay any overpaid Social Security Scotland benefits (regulation 37).

When increases and decreases take effect (regulations 37, 38)

These provisions cover various scenarios in which a benefit award can be changed. This includes, for example, the date from which a change of circumstances applies.

If the change would increase the amount of PADP paid, and is reported within a month (or, with good reason, up to 13 months), then PADP is increased from the date the change occurred. Otherwise, PADP is increased from the date the change is reported. Ministers have discretion to apply an earlier date (regulation 37).

In contrast, when a change of circumstances is reported that *decreases* the level of award, the change applies from the date the decision to decrease the award was made, or (if the individual fails to report a change) the date when that change ought to have been reported. Ministers have discretion to apply a later date (regulation 38).

Part 10 – Determinations Without Application (regulations 40 – 44)

Part 10 sets out when PADP can be awarded or changed without the recipient making a new application. This includes, for example, changes to the amount of benefit:

- due to a change of circumstances
- on death
- due to a change to Attendance Allowance that applies immediately prior to transfer to PADP
- to rectify an underpayment
- to rectify an overpayment
- to apply a deduction to repay an overpayment of a Social Security Scotland benefit.

Part 11: Movement between Scotland and rUK (regulations 44, 45)

When someone who gets Attendance Allowance moves to Scotland, PADP becomes payable when their Attendance Allowance ends. When someone getting PADP moves to rUK, their PADP can continue for 13 weeks.

Part 12: Redetermination requests (regulation 46)

An individual has 42 days to request a redetermination and Social Security Scotland have 56 days to complete it.

Part 13: Short Term Assistance (regulation 47 and Part 1 of the Schedule)

An individual can apply for Short Term Assistance (STA) if they are challenging the reduction or removal of an award of PADP.

The value of STA is the difference between the initial award and the reduced award. (Schedule 1 para 2). If the challenge results in backdated PADP being paid, then that backdated amount is reduced by the amount of STA that was paid for the same period (Schedule 1 para 4).

Part 14 and 16: Initial Period for Applications/Transitory Provision (regulations 48, 50 and 51 and Part 2 of Schedule)

From 21 October 2024 to 23 March 2025, PADP is only available in Argyll and Bute, Highland, Orkney Islands, City of Aberdeen and Shetland.

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From 24 March 2025 to 21 April 2025 PADP is also available in Moray, Aberdeenshire, East Ayrshire, North Ayrshire, South Ayrshire, Western Isles, Stirling, Clackmannanshire, Falkirk, Fife, Angus, Dundee and Perth and Kinross.

The 'initial period' ends on 21 April 2025, after which PADP will be available in all local authorities.

Part 15 – Transfer from Attendance Allowance (regulation 49, Part 3 of the Schedule) Ministers must notify an individual that they will be transferred from Attendance Allowance to PADP, and the time period in which the transfer will take place (para 8). At point of transfer, the amount of PADP awarded will be the same as what was received under Attendance Allowance (para 9), except in cases of terminal illness, when the higher rate will be paid (para 11).

A DWP appointee will be recognised by Social Security Scotland, but Social Security Scotland must make their own checks as soon as reasonably practicable (para 13).

Part 17 and 18: Consequential and Miscellaneous Amendments (Parts 4 and 5 of the Schedule)

Part 5 of the Schedule makes technical changes to the calculation of STA for Child Disability Payment and Adult Disability Payment. These are to ensure that the amount of STA provided is equivalent to the initial benefit award, rather than any subsequent award decided at review, redetermination or appeal.

Differences from Attendance Allowance

All the Social Security Scotland disability benefits, including PADP, have the following provisions which are different from DWP disability benefits. These are:

- Using the 'Scottish' definition of terminal illness which does not refer to a time period
- Shorter 'past presence' requirement', i.e. the time a person needs to be present in the common travel area before they can claim benefits.
- Longer deadline to request a re-determination (42 calendar days compared to one month for Attendance Allowance)
- Provision of 'Short Term Assistance' (topping up benefit while a decision to reduce or remove it is being redetermined or appealed)
- On-going awards which means that there is no need to re-apply when the benefit is reviewed. (Although the Scottish Fiscal Commission (SFC) note that most awards for Attendance Allowance are indefinite awards rather than fixed term ([SFC forecasts, December 2023, para A.56](#))).

In addition, the following operational differences are highlighted in the [Equality Impact Assessment \(EQIA\)](#) and [news release from 17 April 2024](#):

- A choice to make applications online, by phone or in writing
- A local delivery service to assist filling in applications
- Independent advocacy provided by Voiceability

- Helping clients to collect supporting information
- “A streamlined process for people to nominate a third-party representative”. <https://www.gov.scot/news/new-disability-benefit-for-pensioners/>

Phased introduction and transfer

PADP will launch on 21 October in Argyll and Bute, Highland, Orkney, Aberdeen and Shetland. A further 13 local authorities will be added on 24 March 2025 with the remaining local authorities starting from 22 April 2025. People in Scotland currently in receipt of Attendance Allowance will be moved over to PADP. They do not have to do anything.

The [Policy Note to the regulations](#) states that: “We will complete case transfer as soon as possible.” In September 2023, the [Fairer Scotland assessment for Carer Support Payment](#) stated that: “we remain on track to complete case transfer for all disability and carer benefits by the end of 2025.” The December 2023 [Scottish Fiscal Commission costings](#) assume case transfer will be completed by the end of 2025.

Scope for changes after transfer

The Scottish Government’s response to the Scottish Commission on Social Security (SCoSS) states that—

“Of course what we deliver on day one will not be the limit of our aspirations and we will review the benefit over time to make such improvements as are practicable and affordable in line with the Principles.”

As with other benefits, significant change to eligibility is ruled out until case transfer is complete.

The Disability and Carer Benefits Expert Advisory Group (DACBEAG) agreed that, until transfer is complete, PADP and Attendance Allowance should remain similar but “that should not inhibit consideration of improvements to Pension Age Disability Payment soon after.”

As noted above, transfer of carer and disability benefits is expected to be complete by December 2025.

However, even after transfer is completed, constraints remain, in particular:

- Cost
- Risk that DWP would not recognise Scottish benefits for ‘passporting’ to additional entitlements in reserved benefits. (Although, on [10 March 2022](#) Andrew Latto (DWP) gave evidence to this Committee, saying that DWP would find a solution if Scottish benefits ‘veered away’ from their DWP equivalents).

The major change recommended by stakeholders is adding a mobility component. The Scottish Government has said it will not do so in the foreseeable future.

Costing

The SFC has estimated that, by 2027-28, PADP will cost £87 million more per year than continuing with Attendance Allowance. This is mainly due to the cumulative effect of increased take-up. The SFC describe their costing as 'highly uncertain.' The table below sets out the costing from December 2023.

Table 1: Policy costing for PADP

£ million	2024-25	2025-26	2026-27	2027-28	2028-29
Baseline	749	791	805	819	831
Additional spend	6	34	56	79	87
<i>Of which:</i>					
<i>Increase in approved applications</i>	2	26	35	45	52
<i>Average award increase</i>	4	8	12	16	17
<i>Terminal illness different</i>	0	0	8	18	19
Total PADP spend	755	824	861	897	918

Source: Scottish Fiscal Commission, Economic and Fiscal Forecasts December 2023.

Current caseload

In August 2023, there were 136,252 people in Scotland in receipt of Attendance Allowance. Of these:

- 48,908 were on the lower rate
- 87,344 were on the higher rate.

A [more detailed breakdown](#) for February 2023 shows that:

- Most claims are long-standing – 40% of people had been receiving Attendance Allowance for five years or more.
- The most common qualifying condition is arthritis, with 29% of people receiving Attendance Allowance for this reason.
- Only 19% of people receiving Attendance Allowance were under 75 years of age.

The number of people in receipt of Attendance Allowance (136,252) is similar to the number of people of pension age in receipt of other disability benefits. Although Personal Independence Payment (PIP), Adult Disability Payment (ADP) and Disability Living Allowance (DLA) are all technically 'working age' benefits, there is a significant number of people of pension age receiving them. This is because an existing claim can continue after pension age. There are around 125,000 people of pension age in receipt of other disability benefits made up of:

- 51,090 getting DLA (August 2023)
- 47,624 getting PIP (Jan 2024)
- 26,215 getting ADP (Jan 2024)

SCoSS Report and Scottish Government response

SCoSS reported on 30 October 2023 on the main regulations and the Scottish Government responded on 8 March 2024, a few months in advance of laying the draft regulations. The Scottish Government then referred further technical amendments on 8 March 2024 to which SCoSS responded on 22 March 2024.

In their [main report](#), SCoSS made six recommendations and two observations. These and the [Scottish Government's response](#) are summarised below.

Table 2: SCoSS recommendations and Scottish Government response

	SCoSS Recommendation	Scottish Government response
1	In the longer term, review the aims of PADP for consistency with the social security principles.	Accept. "We will review the benefit over time to make such improvements as are practicable and affordable in line with the principles."
2	Consider bringing forward the 2026 take-up strategy to integrate the most recent benefits into the strategy as a whole.	Partially accept. Do not plan to update the strategy earlier, but benefit take-up estimates, summaries of progress and future direction will be published annually.
3	Information on STA should include the possibility of not regaining passported benefits in full.	Reject. "The amount of backdated assistance received would not be affected by receipt of STA".
4	Consider other forms of transport assistance for older disabled people with mobility needs.	Partially accept. "We will always be open to working with stakeholders to explore feasible and financially viable options."
5	Revise the definition of 'supervision' in line with established case law principles.	Accept
6	Provisions relating to the 'required period' and 'required period condition' should be revised to ensure they meet the policy intention.	Accept
Obv 1	Older people needing help with renal dialysis day and night have access to a lower automatic rate of benefit than young people. The introduction of Pension Age Disability Payment is an opportunity for the Scottish Government to consider whether this is the best policy.	Do not currently plan to change, but guidance will set out how other needs could be considered, which increase the benefit rate.
Obv 2	EQIA could address data gaps, explore further justifications and mitigations related to mobility component.	EQIA will include section on mobility.

Short Term Assistance amendments

In March, the Scottish Government provided technical amendments to STA, noting that similar amendments would also be made for STA for Child Disability Payment and Adult Disability Payment.

STA is paid when a person is challenging a decision to remove or reduce their benefit. It is available for disability benefits only. The amendments ensure that STA is ‘topped up’ to the amount of benefit paid before the decision that is being challenged. SCoSS point out that, in rare cases, this could leave people worse off.

For example: ADP’s initial award of £72 is increased at review to £108. On redetermination it is reduced to £0. The amount of STA would, following these regulations, be £72 rather than, as now, £108.

[SCoSS report](#) that—

“The amendments are technical in the sense of restoring the regulations to how they already operate in practice. Nonetheless, they do materially change how the law is expressed and, at least in theory, could lead to some people losing out financially.”

DACBEAG’s recommendations and Scottish Government’s response

The Disability and Carer Benefit Expert Advisory Group (DACBEAG, disbanded in February 2023) provided [advice on PADP in August 2022](#), making 12 recommendations. The [Scottish Government responded in March 2023](#). These are summarised in table 3.

Table 3: DACBEAG recommendations and Scottish Government response

	DACBEAG Recommendation	Scottish Government response
1	Consider improvements soon after case transfer complete	Partially accept. “What we deliver on day one is not the limit of our ambitions”.
2	Further explore the feasibility of a mobility component.	Reject – not feasible in the foreseeable future.
3	The EQIA should reflect the equalities impact of not providing a mobility component.	Accept. “EQIAs will be at the centre of all policy and regulatory developments for PADP.
4	The financial analysis should consider the potential savings e.g. to social care and health.	Partially accept. A financial analysis was done in 2020. Further broad analysis requires significant resources.
5	The application form should be part of a larger ‘holistic’ assessment with referral to and from appropriate services.	Partially accept – re: signposting and referral, but broader assessment is outwith remit.
6	Provide clear information on other social security payments.	Accept.
7	Consider the need for tailored support for individuals in mutually supportive caring roles.	Partially accept.
8	Re-consider the 6-month qualifying period.	Reject.
9	Provide for indefinite awards.	Accept in principle.

10	Claims awarded at the lower rate should be regularly reviewed.	Accept.
11	Remove the 28-day rule for non-permanent arrangements (benefit stops after 28 days in care homes).	Partially accept – paying PADP while in publicly funded care home is duplication of public expenditure.
12	Robust equalities and human rights impact assessments should be completed early in the process.	Accept.

Themes for discussion

Theme 1: Social Security Principles

The [SCoSS report](#) gives a short history of Attendance Allowance (AA). It was introduced in 1971 for severely disabled people and replaced for working age people first by DLA in 1992 which was itself replaced by PIP in 2013. In their report, SCoSS note that—

“Given its history and the different time and context in which it was designed, AA and its aims and language sit uneasily alongside the Scottish social security principles and Charter expectations of a system based on dignity, fairness and respect”.

They recommend that, following case transfer, PADP’s aims should be reviewed for consistency with the social security principles.

Members may wish to discuss:

- 1. In what ways do the aims and language of Attendance Allowance “sit uneasily alongside the Social Security Principles”?**

Theme 2: Mobility Component

Like Attendance Allowance, PADP doesn’t have a mobility component. Working age disability benefits have both a care and mobility component. The higher rate mobility gives access to Motability vehicles.

The Scottish Government has been very clear that it will not consider a mobility component “in the foreseeable future.”

“Scottish Ministers are not introducing a mobility component as part of Pension Age Disability payment, and do not intend to review this position in the foreseeable future.” ([EQIA p.14](#)).

DACBEAG recommended that the EQIA “reflects the equalities impact of not providing a mobility component.” Similarly, SCoSS observed that the EQIA could “engage stakeholders to explore further justifications and mitigations related to a mobility component.” (Observation 2).

[In reply](#), the Scottish Government said that—

“This final version [of the EQIA] will of course include any further insights considered in the more recent development of PADP as well as any learning that may come from further engagement with stakeholders around the mitigations related to the mobility component.”

The EQIA sets out the Scottish Government’s arguments against a mobility component. In summary these are:

- **Cost** - A cost estimate of £580m per year in 2020 is likely now significantly higher due to inflation and would increase further in future due to ageing population. “Due to the highly challenging fiscal environment and the principle to deliver social security with efficiency and value for money, Scottish Ministers are not in a position to reconsider the introduction of a mobility component.” (EQIA p.16)
- **Risk to passported entitlements** - “There is no guarantee that the DWP would continue to recognise PADP as ‘like for like’ with Attendance Allowance for passporting purposes.” (EQIA p.16)
- **Less disadvantage compared to working age** - “The ageing process leading to an individual developing mobility needs would not have caused the same disadvantage as a long-term disability or health condition during an individual’s working life.” (EQIA p.16)
- **PIP/ADP claims continue** - People who get a mobility component with their disability benefits when they are of working age will continue to receive it after pension age.
- **Other benefits are available** - People of pension age may be entitled to pension credit, state pension, winter fuel payment and over 60s bus pass. “This means [their] circumstances are meaningfully different to those of working age....” (EQIA p.17)

The EQIA sets out three policies in mitigation (p.24 – 26). These are:

- **Bus pass** for over 60s and disabled people
- **Blue Badge Scheme** – criteria is being unable or virtually unable to walk
- **Free personal care** – can include support with immobility needs both at home and within a care home.

The EQIA concludes that:

“Although the Scottish Government is not in a position to review this position on a mobility component, Pension Age Disability Payment continues to align with the social security principles by taking a human rights approach and providing respect for the dignity of the individual.” (EQIA, p.17)

Age Scotland, together with 15 other organisations, [published a paper](#) in November 2023 arguing for a mobility component. Their main arguments were that a mobility component would:

- Increase independence and participation
- Relieve pressure on other public services

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- Support health and well-being
- Tackle social isolation and loneliness
- Create equity with CDP and ADP
- Recognise higher poverty levels among disabled people.

On the cost, [Age Scotland's paper](#) argues that a mobility component would be preventative spend which “may mitigate the need for more serious and costly health and social care interventions.”

The paper argues that free bus passes are not a mitigation as “local bus services are simply not available in many areas.”

It sets out alternatives to a mobility component:

- Access to the Motability scheme
- Automatic passport to the Blue Badge scheme
- Encouraging Motability to scope whether they could have a wider range of price points for those unable to access the scheme
- Allowing people on PADP to opt-in to Motability using their own money.

In their [submission](#), Independent Age recommend that: “the Scottish Government commit to undertaking a review of PADP within two years of rollout with a focus on introducing a mobility component and adequacy of the payment.”

Members may wish to discuss:

- 2. To what extent has the Scottish Government provided a reasonable justification for not introducing a mobility component?**
- 3. To what extent do the three mitigations described – free bus travel, blue badge scheme and free personal care – provide an alternative to a mobility component?**
- 4. Age Scotland set out various alternatives – such as access to the Motability scheme. What discussions have they had with the Scottish Government about these alternatives?**

Theme 3: Differences from Attendance Allowance

In some areas, the rules for PADP depart from Attendance Allowance and mirror changes introduced for other Social Security Scotland disability benefits – CDP and ADP. These are set out in table 4 below.

The Business and Regulatory Impact Assessment (BRIA) sets out that:

“Where possible, regulations for Pension Age Disability Payment and associated policies have been aligned with those of Child Disability Payment and Adult Disability Payment. This will provide a consistent approach for both applicants

and external organisations who will support them, while paying due regard to the specific needs of people of State Pension Age” ([BRIA p.6](#)).

Table 4: Differences between PADP and Attendance Allowance

Pension Age Disability Payment	Attendance Allowance
Terminal illness	
Clinical judgement that someone has a progressive disease likely to cause their death	Clinical judgement that life expectancy is not more than 12 months
On-going award	
On-going award, with fixed point for ‘light touch’ review	Fixed term or indefinite awards
Short Term Assistance	
Benefit ‘topped-up’ during redetermination and appeal, to the amount before the decision to reduce or remove it	Not available
Past presence	
26 weeks out of the previous 52 (six months out of the previous year)	104 weeks out of the previous 156 (2 out of the last 3 years)
Deadline to challenge a decision	
42 days to request a re-determination, up to a year with good reason	One month to request revision/reconsideration or later with good reason

Short term assistance

One aspect that is different in Scottish disability benefits is the availability of Short Term Assistance (STA). In their report, SCoSS raise concerns about its interaction with reserved benefits—

“SCoSS is concerned about the potential for financial detriment that could be experienced by people who have received STA during a redetermination or appeal period, won their award back and, because of the STA, lose out on passported benefits for that period. The Scottish Government has told us that people should tell the DWP if they win an appeal so that passported benefits can be reinstated, and that they are not aware of any cases where STA has blocked access to passported benefits. However, the law is clear that STA is not a qualifying benefit, so the problem is likely to arise.

It is unfortunate to leave people in the position of choosing between some money now or later. It should be possible to design a system that offers financial support while challenging a decision without this trade off. In the meantime, it is important that people are told this so they can make an informed decision before claiming STA.” (SCoSS report, p.13).

The Committee has heard similar concerns from Richard Gass (Welfare Rights Scotland) at [its meeting on 7 March 2024](#) and Jon Shaw (CPAG) who [wrote to the Committee on 21 March 2024](#) describing how this issue can also affect entitlement to carer benefits, as these require a qualifying disability benefit to be in payment. A [blog by CPAG in December 2023](#) explains the ‘pros and cons’ of STA.

In reply to SCoSS, the Scottish Government challenged their interpretation, saying—

“If an individual is successful in challenging a decision that lowers or stops their devolved disability benefit, passported benefits that are due may be backdated by DWP, regardless of whether the individual accessed short-term assistance (STA) during the challenge. The amount of backdated assistance received would not be affected by receipt of STA.” ([Scottish Government’s response to SCoSS recommendation 4](#)).

Members may wish to discuss:

- 5. What are witnesses views of the ways in which PADP differs from Attendance Allowance? In what ways do they expect the experience of applying for and getting PADP to differ?**
- 6. One of the differences is provision of Short Term Assistance. In their report SCoSS say they have concerns about its interaction with other benefits. Do they still have those concerns?**

Theme 4: Differences from ADP and CDP

Table 4 above highlighted rules where PADP departs from Attendance Allowance and aligns with the other Scottish disability benefits.

SCoSS raise two areas where further alignment could be explored. These are:

- Higher rate for night-time renal dialysis
- Shorter qualifying period.

Renal Dialysis

People who get help with renal dialysis automatically qualify for the lower rate of Attendance Allowance and PADP. However, if that support continues through the night, they do not qualify for the higher rate (despite receiving support during both day and night). SCoSS state that—

“We note that the Scottish Government did take the opportunity to make it easier to access the highest rate of Child Disability Payment for families of children dialysing both day and night when it replaced Disability Living Allowance for children. It would be timely to consider whether older people would also benefit from easier access.” (SCoSS report p.17)

The Scottish Government will not change the regulations, but will set out an approach in guidance—

“Guidance prepared for Social Security Scotland officials will set out how a case manager should consider an individual’s needs from another disability or health condition listed in their application form when they have satisfied the rules for renal dialysis. This also includes seeking advice from a Social Security Scotland practitioner on the impact that other disabilities or health conditions might have on an individual receiving renal dialysis. This approach within PADP guidance will ensure that where an individual receives dialysis and has other needs, an

appropriate determination of entitlement will be made using our person-centred approach to decision making.” ([Scottish Government’s response to SCoSS Observation 1](#))

Qualifying period

In both Attendance Allowance and PADP, a person must have been disabled for six months before becoming eligible.

In contrast, working age and child disability benefits (CDP, DLA, PIP, ADP) require a person to have met the criteria for 13 weeks (3 months) before becoming eligible and be expected to meet the criteria for at least 39 weeks (9 months) in future.

These rules reflect the intention to provide support for long term needs.

The [Scottish Government estimated in 2019](#) that shortening the PADP qualifying period to three months would cost in the region of £21 million.

Independent Age recommend aligning the qualifying period with CDP and ADP and the SCoSS report refers to the view of Alzheimer Scotland that—

“The retention of this rule reinforces a long standing inequity and that there will be a small number of people who ‘make a claim because of needs due to disability which arises from an acute or sudden onset of illness, or injury.’ Anyone in the position would need to wait six months from the development of any impairment to receive PADP.”

The Scottish Government rejected DACBEAG’s recommendation that the six month qualifying period be shortened saying—

“Removal of the six month qualifying period would lead to people with very short-term conditions becoming eligible, substantively changing both the nature and purpose of Pension Age Disability Payment.” ([Scottish Government response to DACBEAG recommendation 8, March 2023](#))

The response also referred to cost (£21m), and the risk that DWP would not recognise PADP as equivalent to Attendance Allowance.

Members may wish to discuss:

- 7. The Scottish Government suggest that guidance will enable decision makers to make an “appropriate determination of entitlement” for those who receive dialysis. Do witnesses think this is sufficient?**
- 8. The Scottish Government will not shorten the six month qualifying period for PADP as “this would lead to people with very short-term conditions becoming eligible”. They also refer to the cost and the risk to passported benefits. What are witnesses’ views of these justifications?**
- 9. What scope is there for further alignment across all three disability benefits – CDP, ADP and PADP? Are there further changes that could be made that would not add significant cost or risk passported entitlements?**

Theme 5: Improving take-up

Most of the additional cost of PADP is due to assumptions that take-up will be higher. The SFC assume:

- **A short term ‘spike’** in applications due to the pilot and promotional campaigns at launch – together assumed to add £20 million in 2025-26.
- **A 10 percent long-term increase** in in-flows. This is based on Attendance Allowance take-up campaigns in the 2000s. This is forecast to add £6 million to benefit spend in 2025-26 rising to £40 million in 2028-29.

The SFC note that their costing is ‘highly uncertain’—

“Our assumptions were informed by the introduction of Child Disability Payment and Adult Disability Payment, evidence from the launching of other policies, and our assumption on the effect of media campaigns on take up.”

The Business and Regulatory Impact Assessment ([BRIA](#)) sets out measures relevant to take-up including:

- Stakeholder resources in accessible formats
- Communication materials in ten languages as standard, and others on request
- Engagement through Stakeholder Engagement and Local Delivery teams
- Benefit Take-up Stakeholder Reference Group established under the [Benefit take-up strategy](#) (2021).

A Parliamentary Question answered 19 January 2023, stated that: “Social Security Scotland’s Local Delivery teams are undertaking extensive engagement across the country – including providing drop in advice in venues where older people may meet.” ([S6W-13411](#))

Independent Age recommend that “the Scottish Government update the 2026 take-up strategy to integrate Pension Age Disability Payment.” Similarly, SCoSS recommended that the next take-up strategy, due in 2026, should be brought forward so that PADP and other new benefits could be incorporated earlier. (The [current strategy was published in 2021](#)).

The Scottish Government rejected this, saying that—

“Due to the continuing relevance and broad application of the principles set out there, we do not currently plan to bring forward publication of the third Benefit Take-Up Strategy.”

They refer to the annual publication of take-up estimates in November and that—

“We are committed to maximising the take-up of all Scottish benefits and would be happy to discuss the possibility of any further interim publications of value with Commissioners.”

Members may wish to discuss:

- 10. What more should Social Security Scotland and Scottish Government do to encourage take-up of PADP?**
- 11. What type of measures could further simplify and streamline the application process?**
- 12. To what extent do existing Social Security Scotland processes need be adapted to take into account the needs of a much older client group?**

**Camilla Kidner
SPICe
May 2024**