**A New Future for Social Security**

**Consultation on Social Security in Scotland**

**Answer Booklet**

**July 2016**



**Introduction to the Answer Booklet**

This is designed to accompany the Consultation on Social Security in Scotland which can be found here: <http://www.gov.scot/Publications/2016/07/9955> . This booklet should be used if you can not or do not wish to provide an online response. Please refer to the consultation document to give context to the questions.

Send your completed response to:

socialsecurityconsultation@gov.scot

or

Social Security Consultation

5th Floor

5 Atlantic Quay

150 Broomielaw

Glasgow

G2 8LU.

We need to know how you wish your response to be handled and, in particular,

whether you are happy for your response to be made public. Please complete and

return the **Respondent Information Form**. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the

provisions of the Freedom of Information (Scotland) Act 2002 and would therefore

have to consider any request made to it under the Act for information relating to

responses made to this consultation exercise.

**Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to:

Chris Boyland

5 Atlantic Quay, 5th floor

150 Broomielaw

Glasgow,

G2 8LU.

Or

E-mail: socialsecurityconsultation@gov.scot

**RESPONDENT INFORMATION FORM**

Consultation on Social Security in Scotland to determine how best to use the new social security powers which will be devolved by the Scotland Act 2016.

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organisation?

[ ]  Individual

☑ Organisation

Full name or organisation’s name

Scotland’s National Action Plan: Right to an Adequate Standard of Living Reference Group

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

☑ Publish response with name

[ ]  Publish response only (anonymous)

[ ]  Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

☑ Yes

[ ]  No

**About the SNAP Right to an Adequate Standard of Living Reference Group**

We are a group of people with lived experience of poverty. We have come together to act as a reference group on the right to an adequate standard of living (Article 11, International Covenant on Economic, Social and Cultural Rights), as part of Scotland’s National Action Plan on Human Rights. We are supported by the Scottish Human Rights Commission. We take a **human rights based approach** to tackling poverty in Scotland. We each have experience of using, or supporting others to use, the social security system.

Our collective experiences include (but are not limited to):

* disability and poverty
* mental health and poverty
* caring and poverty
* homelessness
* in-work poverty
* rural poverty
* poverty of opportunity
* food poverty; and
* fuel poverty.

We do not see poverty as only being a problem of money. Poverty is also about powerlessness to live your life as you want to. It is about not having the chance to make decisions or get the opportunities which you want and need. Poverty is about the inability to realise your human rights. All of these things mean that it is very important to take a human rights based approach to solving poverty.

A human rights based approach starts with the person and aims to ensure that their human rights are real. It is underpinned by a series of principles, known widely as the PANEL principles:

**Participation** – People affected by an issue have the right to participate, on an equal footing with politicians and decision makers, in decisions which will affect their human rights, such as policy making. Participation should be meaningful, non-tokenistic and should aim both at informing decisions, but also at holding ‘duty-bearers’ such as Government to account.

**Accountability** – Accountability requires effective monitoring of human rights standards as well as effective remedies for human rights breaches. For accountability to be effective there must be appropriate laws, policies, institutions, administrative procedures and mechanisms of redress in order to secure human rights.

**Non-discrimination** - A human rights based approach means that all forms of discrimination in the realisation of rights must be prohibited, prevented and eliminated. It also requires the prioritisation of those in the most marginalised situations who face the biggest barriers to realizing their rights.

**Empowerment** - A human rights based approach means that individuals and communities should know their rights. It also means that they should be fully supported to participate in the development of policy and practices which affect their lives and to claim rights where necessary.

**Legal/Law** - A human rights based approach requires the recognition of rights as legally enforceable entitlements and is linked in to national and international human rights law.

**CONSULTATION QUESTIONS**

**PART 1: A PRINCIPLED APPROACH**

We do not take a view as to whether the principles should be embedded in legislation or included in a Charter. However, we would like to draw the Scottish Government’s attention to the following comments on the principles as articulated in the consultation document:

* **Vision and Principles Section**

We have undertaken a discussion on the principles of the social security system as set out in the consultation document. We were disappointed to note that there is almost no discussion of human rights within either the proposed principles or outcomes of the new system. This is despite the fact that the right to social security is enshrined in several international human rights law treaties, which the United Kingdom has signed and ratified.

We would further remind the Scottish Government that the First Minister has recently made commitments towards securing economic, social and cultural rights, including exploring possible inclusion of international treaties in our domestic law.[[1]](#footnote-1) We consider the new social security powers a key opportunity to make economic, social and cultural rights real - and thus tackle poverty - for many people living in Scotland. As the UN Committee on Economic, Social and Cultural rights has said: “The right to social security is of central importance in guaranteeing human dignity for all persons when they are faced with circumstances that deprive them of their capacity to fully realise their Covenant rights.”[[2]](#footnote-2)

**Rights to Social Security**

Rights to social security are included within the following treaties:

**Universal Declaration of Rights (UDHR)**

Article 22: “Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

**International Covenant on Economic, Social and Cultural Rights (ICESCR)**

Article 9 : “The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”

The Committee on the International Covenant on Economic, Social and Cultural Rights has also issued a General Comment on the right to social security[[3]](#footnote-3) which notes the following essential elements of any social security system:

* Availability – a social security system should be in place to ensure that benefits are provided. It should be established under law, administered effectively by public authorities and must be sustainable.
* Coverage for a variety of social risks and contingencies, including health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability and survivors and orphans.
* Adequacy – benefits must be adequate in amount and duration. The adequacy of benefits should be monitored regularly and increased to enable beneficiaries to afford the goods and services they need to realise other Covenant rights.
* Accessibility – all persons should be covered, without discrimination. Qualifying conditions must be reasonable, proportionate and transparent.

**Convention on the Rights of Persons with Disabilities (CRPD)**

While we were pleased to see that the consultation document referenced the requirement for accessibility as enshrined in CRPD, it is unclear why it failed to reference Article 28, the right of disabled people to an adequate standard of living and social protection, including covering the additional costs incurred by disability.

Article 28: 1. “States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of disability.”

2. “States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realisation of this right, including measures:

a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

d) To ensure access by persons with disabilities to public housing programmes;

e) To ensure equal access by persons with disabilities to retirement benefits and programmes.”

**Convention on the Rights of the Child (CRC)**

Articles 26 and 27 of the Convention on the Rights of the Child:

Article 26: 1. “States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.”

Article 27: 1. “States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

**Convention on the Elimination of all forms of Discrimination against Women (CEDAW)**

Article 11: 1. “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;”

Article 14: “2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(c) To benefit directly from social security programme.”

**European Social Charter**

The Revised European Social Charter is a Council of Europe treaty that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights:

“The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

Article 12: All workers and their dependents have the right to social security.”

**The Right to an Adequate Standard of Living (ICESCR)**

We note that the right to an adequate standard of living, as set out in the International Covenant on Economic, Social and Cultural Rights is of particular relevance to this consultation:

Article 11:1. “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

We note that human rights are interdependent and that if one right is not realised, many others may also fail to be realised. If people in Scotland are not able to realise their right to an adequate standard of living, for example through receiving adequate social security payments, this may impact on their right to the highest attainable standard of health, their right to work and employment and their rights to participate more widely in society. Reforms to social security payments are a critical opportunity to ensure that this does not take place.

**Our Vision: A human rights based approach to the new Scottish Social Security System**

Under a human rights based approach to social security, government and other public bodies have obligations to realise the human rights we have set out above, and to do so in a way which respects the PANEL principles we described at the beginning of this document.

We believe that taking a rights based approach inherently changes the nature of people’s relationship with the social security system; rather than being an act of charity or welfare, social security payments are an entitlement of the people of Scotland to support the realisation of their rights. This will in turn help to end the stigma and discrimination which people who receive social security payments can sometimes face, and which has been exacerbated through negative media coverage[[4]](#footnote-4) and restrictions on rights to social security by successive governments.

We would also draw the Scottish Government’s attention to the core principles of economic, social and cultural rights. These are:

**Maximisation of resources** – this is the concept that governments should spend the maximum of available resources to realise economic, social and cultural rights.

**Progressive realisation** – this is the concept that although immediate realisation of economic, social and cultural rights might not be possible, fulfilment of these rights should continue to improve and should not go backwards (non-regression).

When considered alongside PANEL principles, the principles of maximisation of resources and progressive realisation and non-regression provide a powerful tool for considering the adequacy of many social security payments in a changing social and political context. Setting out the eligibility criteria to meet the needs of the most vulnerable groups, so that social security payments are distributed proportionately according to need will be a key challenge. However, the Scottish Government should also recognise that a preventative approach can be highly beneficial in supporting people to take an active part in society and avoid poor health and isolation, following the recommendations of the Christie Commission.[[5]](#footnote-5)

We have undertaken some discussion of the principles suggested for the system in the consultation and have found the following aspects concerning:

* The absence of discussion on how the international human rights legal framework can underpin the new social security system;
* The absence of the principles of a human rights based approach, such as strong participatory and inclusive approaches, although we acknowledge that there is scope to address this in other sections of the consultation;
* The ambiguity in some of the language; and
* The fact that key principles such as accessibility and non-discrimination are missing.

Please find our detailed commentary on the principles below:

**1. Social Security is an investment in the people of Scotland**

We suggest rewording to something like “Social security is an investment in everyone in Scotland, without discrimination, incorporating strategies to overcome barriers to employment and accessing appropriate benefits to match and support people’s needs. Social security payments are enabling; payments to one individual create wider benefits which positively affect the whole of society.”

**2. Respect for the dignity of individuals is at the heart of everything we do.**

We feel that this principle should be the first of all the principles. While we do not disagree with this statement, the concept of dignity is difficult to define. We feel that it should include reference to human rights legislation, for example Article 3 of the Human Rights Act 1998. In our experience of using, or supporting others to use, the social security system people are often put in the position of having to relate highly sensitive and traumatic information, with significant risk of retraumatisation and in an effort to ‘prove’ their eligibility for certain benefits. This is both cruel and degrading for people trying to access support.

We suggest rewording this principle to:

“Respect for the dignity of individuals is at the heart of everything we do and requires an approach that protects claimants from stigma and discrimination, recognising the systemic and institutional forms of discrimination that many people face on account of their gender, race, disability, age, pregnancy and maternity, sexual orientation, faith or belief and socio-economic status.”

**3. Our processes and services will be evidence-based and designed with the people of Scotland.**

This principle needs to consider who provides the evidence and who monitors the delivery. Will the lived experience of people using the service be taken into account? Will people with experience of the benefits system be empowered to form part of the monitoring?

We suggest rewording to:

“Our processes and services will be evidence-based and designed with the people of Scotland. The lived experience of people who use the social security system is a primary source of evidence and will be used as such. We will be accountable to the people who use the social security system, by enabling them to monitor and assess performance. Their feedback will be acted on.”

**4. We will strive for continuous improvement in all our policies, processes and systems, putting the user experience first.**

We suggest rewording this principle to “We will continuously improve all our policies, processes and systems, putting the user experience first.”

**5. We will demonstrate that all our services are efficient and value for money.**

As a group, we are concerned that this principle might provide a pretext for withdrawing social security payments from people who require them at a later date. We also feel that these last two principles are more connected to processes and would be better expressed as operational outcomes, rather than principles.

**We urge the Scottish Government to adopt a human rights based approach to the design, delivery, monitoring and review of the new Scottish Social Security System. To achieve this, the Scottish Government should:**

* **Make the realisation of the right to social security and the right to an adequate standard of living the cornerstone of any new social security system;**
* **Ensure that any system demonstrates the elements set out within the United Nations Committee on Economic Social and Cultural Rights General Comment No.19; and**
* **Adopt and implement the PANEL principles in the design, delivery, monitoring and review of the new Scottish Social Security System**

**1. Fixing the principles in legislation**

**Q: Which way do you think principles should be embedded in the legislation?**

(please tick the option/s you prefer)

|  |  |
| --- | --- |
| 1. As a ‘Claimant Charter’?
 |  |
| 1. Placing principles in legislation?
 |  |
| 1. Some other way, please specify
 |  |

Why do you favour this/these option/s?

Please explain your answer

If you think option A, ‘ a Claimant Charter’ is the best way to embed principles in the legislation please advise:

**Q: What should be in the Charter?**

Please explain your answer

**Q: Should the Charter be drafted by:**

(please tick the option/s you prefer)

|  |  |
| --- | --- |
| 1. An advisory group?
 |  |
| 1. A wider group of potential users and other groups or organisations?
 |  |
| 1. Both
 |  |
| 1. Some other way, please specify
 |  |

Why do you favour this/these option/s?

Please explain your answer

**Q: We are considering whether or not to adopt the name, “Claimant Charter”. Can you think of another name that would suit this proposal better? If so, what other name would you choose?**

Please specify below

**Q: Do you have any further comments on the ‘Claimant Charter’?**

Please specify below

If you think option B ‘placing the principles in legislation’ is the best way to embed principles in the legislation, please advise:

**Q: On whom would you place a duty to abide by the principle that claimants should be treated with dignity and respect?** (please tick the option you prefer)

|  |  |
| --- | --- |
| 1. The Scottish Government
 |  |
| 1. The Scottish Ministers
 |  |
| 1. The Chief Executive of the Social Security Agency
 |  |
| 1. Someone else, please specify
 |  |

Please specify below

 Governments are responsible for protecting, respecting and promoting human rights. As social security is a human right under international law, governments are responsible for implementation.

**Q: Do you have any further comments on placing principles in legislation?**

Please specify below

**Q: Do you have any further comments or suggestions in relation to our overall approach, to fix our principles in legislation? For example, do you feel that there is no need to fix principles in legislation?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

Please explain your answer

**2. Outcomes and the user experience**

**Q: Are the outcomes (shown in the table on page 17 of the consultation) the right high level outcomes to develop and measure social security in Scotland?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

Please explain your answer

**Q: Are there any other outcomes that you think we should also include (and if so, why?)**

Please specify below

**Q: How can the Scottish social security system ensure all social security communications are designed with dignity and respect at their core?**

Please specify below

By respecting the principles of a human rights based approach.

By drafting and testing communications with people who use the system and who have a variety of different needs.

By ensuring that each person who uses the system is able to get information in the way that works best for them.

**Q: With whom should the Scottish Government consult, in order to ensure that the use of language for social security in Scotland is accessible and appropriate?**

Please specify below

With a range of people with lived experience of the social security system and with a range of accessibility needs.

**Q: Are there any particular words or phrases that should not be used when delivering social security in Scotland?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  **🗸** |
| **No**  |  |

Please state below which words or phrases should not be used

‘Customers’. The term ‘customers’ suggests a market and a relationship of equals, when the reality is that it is not. People do not choose to be poor. Customers in any other arena are people with choices which they can freely exercise. People using the social security system have no alternatives.

‘Value for money’.   This is because this terminology can be used to do as little as required to meet some imaginary standard of support as far as financial aspects of service provision is concerned.   It can also be used when commissioning services to take the cheapest option, rather than what may be the most effective solution.

‘Benefits’.   Whilst it is true that social security can provide benefits, the term ‘benefits’ has been seen as a negative term because it infers that people in receipt of social security payments are somehow obtaining something extra, rather than it being a right as a citizen of Scotland.   The media in particular are keen to use ‘benefits’ as a derogatory term – ‘Benefits Street’ is an example.   We very often hear the term ‘on benefits’, as if this is somehow something to be despised and only adds to stigmatisation of recipients.

**Q: What else could be done to enhance the user experience, when considering the following?**

* When people first get in touch
* When they are in the processes of applying for a benefit
* When a decision is made (for example, about whether they receive a benefit)
* When they are in receipt of a benefit

Please specify below

People should have the right to the kind of support that they need at all stages of the process, for example in attending appointments, in completing forms, in understanding decisions. This should apply to anyone using the system, as barriers to using and understanding the system are diverse. It will be important to understand what people find hard about using the system, in order to improve it.

**Q: How should the Scottish social security system communicate with service users? (For example, text messaging or social media)?**

Please specify below

In the way that best meets the individual person’s needs, identified in conjunction with the person.

**Q: What are your views on how the Scottish Government can ensure that a Scottish social security system is designed with users using a co-production and co-design approach?**

Please specify below

We welcome the proposal to co-design a new Scottish Social Security system alongside people with lived experience of using social security systems.    Having past and present claimants assist with the establishment of the new system will greatly benefit everyone concerned.

Taking a human rights based approach will be a good guide to undertaking this process meaningfully and inclusively. We have set the principles of this approach out in our introduction. We would add the following:

Participation - for participation to work, it must be accessible and inclusive, well-resourced, with adequate time-frames and providing support to people in the way that they need it. People with experience of using the social security system may require practical, financial, technological and physical assistance to enable participation in co-production. The views and experiences of people must be accepted to be of equal value to those of policy makers, academics and Ministers. Good participation recognises that there is an imbalance in power relations between the different people around the table and tries to address this. In addition, participation can often be challenging and difficult, but this should not mean that it should not be continued. Communication between the people organising the process must be timely, accessible and regular. There should be explanations as to why specific decisions have been made, even if these are unpopular.

Please specify below

(cont’d) Accountability – people with lived experience of the social security system should be able to hold accountable those in positions of power who are making decisions.

Non-discrimination – the right to social security should be realizable to all, without discrimination. It will be important for the co-production process to represent people with all the equality characteristics, alongside others who find it hard to realize their right to social security, for example people who struggle to read and write, people in rural areas, people with mental health needs, people with drug and alcohol addictions, people who have experienced homelessness and people in poverty.

Empowerment – Any co-production process should empower and enable people to know and understand their rights to social security and seek to develop a system which empowers the people who use it.

Legal obligations – the basis of any new system developed in partnership with people should be acknowledgement of the legal rights to social security as detailed abover and General Comment No 19 of the United Nations Committee on Economic, Social and Cultural Rights.

**Q: We are considering whether or not to adopt the name “User Panels”. Can you think of another name that would better suit the groups of existing social security claimants which we will set up?**

Please specify below

In general we would prefer names which refer to people, rather than users. However, the name matters less than the approach which is taken.

**3. Delivering social security in Scotland**

**Q: Should the social security agency administer all social security benefits in Scotland?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

Please explain you answer

In general, it matters less who delivers the service than that the organisations which are responsible for delivery fully understand the intent of the Scottish Government. It will also be important that the people who use the service are treated equally and fairly, and not arbitrarily.

There may be advantages to a single agency as this will be simpler for people using the service and there is less likelihood of people being treated differently by different organisations or in different areas.

**Q: Should the social security agency in Scotland be responsible for providing benefits in cash only or offer a choice of goods and cash?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

Please explain you answer

It will be more important that people get the kind of support that they need and this should be agreed with the person. Some people will find benefits in kind to be more useful, but there should be a choice available to people.

**Q: How best can we harness digital services for social security delivery in Scotland?**

Please specify below

While digital services can be a powerful tool for finding information and making applications, it is important to recognise that they can also exclude many people, and especially people in poverty, who may not have access to computers or have broadband at home.

Research by Citizens’ Advice Scotland shows that almost a fifth (18%) of people on low incomes did not use internet, landlines or cable/satellite television (see Footnote 7).

There are also accessibility issues to bear in mind with respect to digital services. People who struggle with IT, literacy and numeracy, people with visual impairments and people with learning disabilities may be disadvantaged by any approach which demands digital application processes. In general, following the principles set out in the Convention on the Rights of Persons with Disabilities, people should be able to access information and application processes in a the way which is most accessible to them.

**Q: Should social security in Scotland make some provision for face to face**

**contact?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** | **🗸** |
| **No**  |  |

Please explain you answer

In general, people should be able to access information and application processes in a the way which is most accessible to them. Face to face contact also enables the new system to be more person-centred.

**Q: Who should deliver social security medical assessments for disability related benefits?**

Please specify below

We do not have a view on who should deliver medical assessments, but we note that the approach taken by organisations such as ATOS and MAXIMUS has been widely criticized. We would add that these assessments have not supported disabled people to realize their rights under the Convention on the Rights of Persons with Disabilities.

**Q: Should we, as much as possible, aim to deliver social security through already available public sector services and organisations?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

Please explain you answer

**Q: Should any aspect of social security be delivered by others such as the 3rd sector, not for profit organisations, social enterprises or the private sector?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

If yes, which aspects?

**4. Equality and low income**

**Q: How can the Scottish Government improve its partial EqIA so as to produce a full EqIA to support the Bill?**

These prompts could be helpful in framing your answer:

* What does the Scottish Government need to do, as it develops a Scottish social security system, to ensure that equality implications are fully taken into account?
* What does the Scottish Government need to do, as it develops a Scottish social security system, to ensure that any implications for those on low incomes are fully taken into account?
* Are there equality considerations for individual benefits that you would like to draw to our attention?
* Are there considerations about individual benefits for those on low incomes that you would like to draw to our attention?
* What are your views on how we can best gather equality information for the new Scottish benefits?
* What does the Scottish Government need to do to ensure that its social security legislation (including secondary legislation and guidance) aligns its vision and principles with equality for all those who need assistance through Social Security support?
* What does the Scottish Government need to do to ensure that a Scottish social security system provides the right level of support for those who need it, and what are the possible equality impacts of this?

Please specify below

We believe the Scottish Government should seek to embed human rights into any new social security system.

Following the PANEL principle of non-discrimination, those groups who are furthest away from being able to realize their rights to an adequate standard of living and to social security should be prioritized and should also be consulted meaningfully to outline the potential impacts of changes to policy.

In the group we have spoken about the issues facing Gypsy/Travellers, including the very high levels of unemployment and low income. Any new social security system should be alive to cultural differences so that members of this and other communities are not subject to discrimination in the realization of their rights.

Please specify below

(cont’d) For example, members of the Gypsy/Traveller community have described difficulties in accessing Community Care or Crisis Grants as well as Discretionary Housing Payments, partly because they did not live in typical housing. Furthermore, while job grants may be of some value to some young Gypsy/Travellers, the barriers to employment faced by Gypsy/Travellers are multiple and it is essential that the new social security system is able to recognise this and dovetail effectively with other supports to employment which are also in need of development.

We feel that it is critical that any new system be designed and delivered alongside people who use it, but in addition, that all staff, whether strategic or operational, have received meaningful and appropriate training in equality and human rights issues.

**5. Independent advice and scrutiny**

**Q: Do you think that there is a need for an independent body to be set up to scrutinise Scottish social security arrangements?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

Please explain your answer

**Q: If you agree, does the body need to be established in law or would administrative establishment by the Scottish government of the day be sufficient?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer  |

**Q: If yes, what practical arrangements should be made for the independent body (for example, the law could state how appointments to it are made and the length of time an individual may serve as a member of the body)?**

|  |
| --- |
| Please specify below  |

**Q: Should there be a statutory body to oversee Scottish social security decision making standards?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer  |

**Q: If yes, should this be a separate body in its own right?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer  |

**Q: Do you have any other views about the independent scrutiny of social security arrangements in Scotland (e.g. alternative approaches)?**

|  |
| --- |
| Please specify below  |

**PART 2: THE DEVOLVED BENEFITS**

**6. Disability Benefits** (Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Severed Disablement Allowance and Industrial Injuries Disablement Benefit)

**Q: Thinking of the current benefits, what are your views on what is right and what is wrong with them?**

**Disability Living Allowance (DLA)**

|  |
| --- |
| What is right with DLA? |

|  |
| --- |
| What is wrong with DLA? |

**Personal Independence Payment (PIP)**

|  |
| --- |
| What is right with PIP |

|  |
| --- |
| What is wrong with PIP? |

**Attendance Allowance (AA)**

|  |
| --- |
| What is right with AA? |

|  |
| --- |
| What is wrong with AA? |

**Q: Is there any particular change that could be made to these disability benefits that would significantly improve equality?**

|  |
| --- |
| Please specify below The interaction between disability benefits and eligibility for social care funding will be critical in ensuring that disabled people can realise their right to independent living under Article 19 of the Convention on the Rights of Persons with Disabilities. In addition, while commitments that benefit levels will remain the same are welcome, this will not compensate disabled people for the funding they have lost previously through the budget cuts.It should also be noted that the intention of DLA/PIP was always to provide financial support to cover the **additional costs** of disability. However, despite COSLA guidance issued in 2015[[6]](#footnote-6), many local authorities do not disregard this income during assessments to decide on care charges. This means that many disabled people are using monies which are intended to cover additional costs to pay for care and support for basic needs. This has an impact on the realisation of disabled people’s CRPD rights, with the additional potential impact of causing ‘financial hardship’ as acknowledged in the COSLA guidance.It should be recognised that benefits which are designed to support disabled people with the additional costs of disability are integral in enabling disabled people to participate in society. As such, and following the recommendations made under the Committee for Economic, Social and Cultural Rights General Comment 19, the adequacy of benefits ‘should be monitored regularly to ensure that the beneficiaries are able to afford the goods and services they require to realise their Covenant rights.’ |

We want to make sure that the process is clear and accessible from start to finish, and that people claiming devolved benefits understand how and when their claim will be dealt with.

**Q: In relation to the above how should the new Scottish social security system operate in terms of**:

* A person applying for a disability related benefit
* The eligibility criteria set for disability related benefits
* The assessment/consideration of the application and the person’s disability and/or health condition
* The provision of entitlements and awards (at present cash payments and the option of the Motability Scheme)
* The review and appeal process where a person isn’t content with the outcome

|  |
| --- |
| Please specify below Assessment processes should not be set up as ‘traps’. Assessment processes at present are highly confrontational and adversarial, especially when they are linked to awards such as ESA (which we recognise is not being devolved to the Scottish Parliament).We are concerned that assessment processes for disability force disabled people to focus on what they cannot do; what people need is access to supports and services which enable them to live the life that they want. We see the social security system as an essential part of this. Assessments should focus on how to enable people rather than how to disempower them.At present assessment processes are highly reductive and do not provide space for people to explain what their life is like. Tick boxes and yes/no answers are not a good way to assess someone. Assessments are not good at recognising when someone might have a fluctuating condition. For example, they might be well at the time of assessment, but their condition may change in a way that means they need more support.We would also like to draw attention to the right to an effective remedy, particularly with regard to decisions on Motability cars, as many disabled people have their car taken away from them before they have had the chance to appeal. This in turn impacts upon Motability car drivers’ ability to travel, work and socialise and therefore their right to independent living under Article 19 of the Convention on the Rights of Persons with Disabilities. This is particularly serious for disabled people living in remote and rural areas.It would be better to listen to the person and get the decision right first time round than have to go through an appeal process. People should get all the information and support that they need to make an appeal. |

**Q: With this in mind, do you think that timescales should be set for assessments and decision making?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer People need to know what decision has been made about their claim in an accessible and timely manner. People who need to claim social security payments are often dependent upon them and slow processes can have a dramatic impact on their ability to pay for the things they need, with a big impact upon their ability to realise their rights. |

**Q: What evidence and information, if any, should be required to support an application for a Scottish benefit?**

|  |
| --- |
| Please specify below We welcome the fact that people using the system will be able to call upon supporting evidence and information. However, we note that the claimant's views should have parity with those of professionals such as doctors or social workers.  |

Who should be responsible for requesting this information?

|  |
| --- |
| Please specify below  |

Who should be responsible for providing it?

|  |
| --- |
| Please specify below People who have no vested interest in the outcome of the decision, but who have met or know the person, for example, consultants, GPs or social workers.Furthermore, if assessors wish to question documented evidence supporting individual cases, they should contact the professionals who provided it rather than placing the onus on the individual. |

|  |
| --- |
| Please explain why |

**Q: Should the individual be asked to give their consent (Note: consent must be freely given, specific and informed) to allow access to their personal information, including medical records, in the interests of simplifying and speeding up the application process and/or reducing the need for appeals due to lack of evidence?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If no, please explain why |

**Q:** **If the individual has given their permission**, **should a Scottish social security agency be able to request information on their behalf?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  **🗸** |
| **No**  |  |

|  |
| --- |
| If no, please explain why |

**Q: Do you agree that the impact of a person’s impairment or disability is the best way to determine entitlement to the benefits?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  | **🗸** |

|  |
| --- |
| If yes, which aspects of an individual’s life should the criteria cover and why?  |

|  |
| --- |
| If no, how do you suggest entitlement is determined?We are concerned that focusing on the person’s impairment may reinforce the medical model of disability. Article 1 of the Convention on the Rights of Persons’ with Disabilities says that disability comes about from the interaction of a person’s impairment with various barriers, which then hinders their full and effective participation in society on an equal basis with others. It would be better to focus on how social security payments could enable the person to overcome some of those barriers, alongside wider work to dismantle the barriers themselves. Social security payments for disability should create a level-playing field for disabled people, enabling them to start in the same place as other people who do not face these barriers. This will be different for everyone and will be determined by talking and listening to the person. |

**Q: Currently there are only special rules for the terminally ill but should there be others?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |
| How could this be determined? |

**Q: What do you think are the advantages and disadvantages of automatic entitlement?**

|  |
| --- |
| Please specify below |

**Q: Would applicants be content for their medical or other publicly-held records, for example, prescribing and medicines information or information held by HMRC, to be accessed to support automatic entitlement where a legal basis existed to do this?**

|  |
| --- |
| Please specify below |

**Q: Do you agree that the current UK-wide PIP and AA process for supporting people with terminal illnesses is responsive and appropriate?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If yes, should this approach be applied to all disability-related benefits for people with a terminal illness?  |

|  |
| --- |
| If no, how could the approach could be improved?  |

**Q: Should there be additional flexibility, for example, an up-front lump sum?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your reasons |

**Q: In the longer term, do you think that the Scottish Government should explore the potential for a consistent approach to eligibility across all ages, with interventions to meet specific needs at certain life stages or situations?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: What would the advantages and disadvantages of a single, whole-of-life benefit be?**

|  |
| --- |
| Please specify below |

**Q: Could the current assessment processes for disability benefits be improved?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  **🗸** |
| **No**  |  |

|  |
| --- |
| Please explain howAssessment processes should not be set up as ‘traps’. Assessment processes at present are highly confrontational and adversarial, especially when they are linked to awards such as ESA (which we recognise is not being devolved to the Scottish Parliament). Assessments have developed into extremely traumatising events that leave a lasting legacy of fear - some people have described how the current assessment procedure fills them with "terror". If a social security system is based upon human rights, then perhaps we can dispel some of the trauma that surrounds an assessment.We are concerned that assessment processes for disability force disabled people to focus on what they cannot do; what people need is access to supports and services which enable them to live the life that they want. We see the social security system as an essential part of this. Following the ethos and substantive articles of the CRPD, assessments should focus on how to enable people rather than how to disempower them.At present assessment processes are highly reductive and do not provide space for people to explain what their life is like. Tick boxes and yes/no answers are not a good way to assess someone. Assessments are not good at recognising when someone might have a fluctuating condition. For example, they might be well at the time of assessment, but their condition may change in a way that means they need more support. |

**Q: For those people that may require a face-to-face assessment, who do you think should deliver the assessments and how?**

For example, private organisation, not-for-profit organisation, public sector body or professional from health or social care.

|  |
| --- |
| Please specify belowWe do not take a view about which specific bodies should undertake the assessments. However, we note that in our own experience and in the experiences of others whom we have supported, while the people undertaking the assessments may indeed be health professionals, they are often reporting on conditions that are well beyond their training or lived experience. This is reflected in the high levels of successful appeals against decisions; for example, more than a fifth of people moving from DLA to PIP had the original decision changed following the mandatory reconsideration process.[[7]](#footnote-7) |

**Q: What are the advantages and disadvantages of different types of assessments?**

e.g. paper based, face-to-face, telephone

|  |
| --- |
| Please specify below |

**Q: How could the existing assessment process be improved?**

|  |
| --- |
| Please specify below |

**Q: Could technology support the assessment process to promote accessibility, communication and convenience?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: If yes, please explain what technology would be helpful**

e.g. Skype, video conferencing

|  |
| --- |
| Please specify below |

**Q: If the individual’s condition or circumstances are unlikely to change, should they have to be re-assessed?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: What evidence do you think would be required to determine that a person should / or should not be reassessed?**

|  |
| --- |
| Please specify below |

**Q: Who should provide that evidence?**

|  |
| --- |
| Please specify below |

**Q: Do you think people should be offered the choice of some of their benefit being given to provide alternative support, such as reduced energy tariffs or adaptations to their homes?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

|  |
| --- |
| What alternative support do you think we should be considering? (Please specify below) |

**Q: Would a one-off, lump sum payment be more appropriate than regular payments in some situations**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain the reason for your answer |

|  |
| --- |
| If yes, what are they?  |

**Q: What would be the advantages and disadvantages of such an approach?**

|  |
| --- |
| Please specify below  |

**Q: Should the new Scottish social security system continue to support the Motability scheme?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  **🗸** |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: How could the new Scottish social security system support older people with mobility problems not eligible for a mobility allowance?**

|  |
| --- |
| Please specify below |

**Q: How could the new Scottish social security system better support people of all ages with mobility problems who are in receipt of a mobility allowance?**

|  |
| --- |
| Please specify below |

**Q: What kind of additional support should be available for people who need more help with their application and during assessment?**

|  |
| --- |
| Please specify belowWhatever kind of support the person needs. For example, this might be support with accessibility, support with the emotional and psychological impact of the process or support with literacy and numeracy.We have seen the hugely positive difference that can be achieved by using an advocate at the different stages of the social security process. The ‘success’ rates for people who use the services of an advocate are significantly higher than those who do not afford themselves of the opportunity for assistance.Currently, the only groups of people within legislation who are entitled to be informed how to obtain the services of an advocate are people with mental health issues and those with a learning disability. We would like to see this right to advocacy extended to all who may require that level of support. |

**Q: How could disability benefits work more effectively with other services at national and local level assuming that legislation allows for this** e.g. with health and social care, professionals supporting families with a disabled child.

|  |
| --- |
| Please specify belowThe interaction between disability benefits and eligibility for social care funding will be critical in ensuring that disabled people can realise their right to independent living under Article 19 of the Convention on the Rights of Persons with Disabilities, along with other rights in that Convention. In addition, while commitments that benefit levels will remain the same are welcome, this will not compensate disabled people for the funding they have lost previously through the budget cuts. |

**Q: How do you think this might be achieved?**

|  |
| --- |
| Please specify below |

**Q: What are the risks?**

|  |
| --- |
| Please specify below |

**Q: If DLA and PIP help meet the additional costs of disability, what is the role of Industrial Injuries Disablement Benefit (IIDB) and its supplementary allowances (Constant Attendance Allowance, Reduced Earnings Allowance etc) in the benefits system?**

|  |
| --- |
| Please specify below |

**Q: In addition to the issues set out at page 47 of the consultation, please tell us:**

|  |
| --- |
| **What is right with the IIDB scheme?** |

|  |
| --- |
| **What is wrong with the IIDB scheme?** |
| Please explain your answer  |

**Q: Should different approaches be taken for people with life limiting conditions compared to people with less severe conditions?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| What would be the advantages or disadvantages of such an approach? |

**Q: Are there situations where a one off lump sum payment would be more appropriate than a regular weekly IIDB benefit payment?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| What are they, and why? What would be the advantages and disadvantages of such an approach? |

**Q: Should the Scottish Government seek to work with the UK Government to reform the IIDB scheme?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If yes, what should the priorities be? What barriers might there be to this approach? |

**Q: Do you agree with the Scottish Governments approach to Severe Disablement Allowance?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**7. Carers Allowance**

**Q: Do you agree with the Scottish Government’s overall approach to developing a Scottish Carer’s Benefit?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain whyThe increase in financial support to carers is welcome, but this will not necessarily stop some carers from struggling financially. Connecting social security payments with the other kinds of supports that carers need will be crucial. |

**Q: Do you agree with our proposed short to medium term priorities for developing a Scottish carer’s benefit?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: How can we improve the user experience for the carer (e.g. the application and assessment process for carer’s benefit)?**

|  |
| --- |
| Please specify below  |

**Q: Should the Scottish Government offer the choice of exchanging some (or all) of a cash benefit for alternative support (e.g. reduced energy tariffs)?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: What alternative support should be considered?**

|  |
| --- |
| Please specify below  |

**Q: How can we achieve a better alignment between a future Scottish carer benefit and other devolved services?**

|  |
| --- |
| Please specify below  |

**Q: How can we improve the support given to young people with significant caring responsibilities - beyond what is currently available?**

|  |
| --- |
| Please specify below |

**Q: Do you agree with our proposed long term plans for developing a Scottish Carer’s Benefit?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: Do you have any other comments about the Scottish Governments proposals for a Scottish Carer’s Benefit?**

|  |
| --- |
|  |

**8. Winter Fuel and Cold Weather Payments**

**Q: Do you have any comments about the Scottish Government’s proposals for Winter Fuel and Cold Weather Payments?**

|  |
| --- |
| Please specify belowWe note that the right to an adequate standard of living under the International Covenant on Economic, Social and Cultural Rights includes the right to adequate housing. The adequacy of housing is assessed in part on the availability of heating and in part on how well a building protects the inhabitants from the cold and the weather.[[8]](#footnote-8) It should additionally be noted that people on low incomes are often paying higher energy costs. Research by Citizens’ Advice Scotland earlier in 2016 showed that more than a quarter of those on low incomes used more expensive Pre Payment Meters, compared to just 12% on middle incomes and 1% on higher incomes.[[9]](#footnote-9) Therefore, those people living in poor housing may also need additional income to cover the costs of heating their property in order to realise this right.People who are caring for others, but who are beneath the state pension age, should also be eligible for Winter Fuel Payments.We would urge the Scottish Government to co-ordinate findings of the Scottish Rural Fuel Poverty Task Force with plans to amend the social security system. |

**Q: Could changes be made to the eligibility criteria for Cold Weather Payments? For example, what temperature and length should Cold Weather Payments be made on in Scotland?**

|  |
| --- |
| Please specify below |

**9. Funeral Payments**

**Q: Proposals for Funeral Payment: What should the benefit cover?**

|  |
| --- |
| Please specify below |

**Q: Which of these elements do you think should be paid for by the Funeral Payment?**

|  |  |  |
| --- | --- | --- |
|  | YES | NO |
| Professional funeral director fees – advice and administration etc. |  |  |
| Removal or collection of the deceased |  |  |
| Care and storage of the deceased before the funeral |  |  |
| Coffin  |  |  |
| Hearse or transport of the deceased |  |  |
| Limousines or other car(s) for the family |  |  |
| Flowers  |  |  |
| Death notice in a paper/local advertising to announce details of funeral (time and location) |  |  |
| Fees associated with the ceremony e.g. for the minister or other celebrant  |  |  |
| Order of service sheets  |  |  |
| Catering for wake/funeral reception  |  |  |
| Venue hire for a wake/funeral reception  |  |  |
| Memorial headstone or plaque  |  |  |
| Travel expenses to arrange or attend the funeral |  |  |

**Q: Are there other elements that you think should be included or explicitly excluded?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: How can we improve the process for identifying whether someone is responsible for the funeral and should receive the funeral payment?**

|  |
| --- |
| Please specify below |

**Q: In terms of the Scottish Funeral Payment, are there any qualifying benefits (e.g. Pension Credit) that you would add to or take away from the current qualifying benefit list?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: Is the three month application window for a Funeral Payment sufficient time for claimants to apply?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If no, please explain your answer and suggest an alternative length of time in which a claim could be made. |

**Q: What are your views on the options for speeding up and simplifying the payment?**

|  |
| --- |
| Please specify below |

**Q: The other funds which are deducted from the DWP funeral payment are listed below. What sorts of funds do you think it is appropriate to deduct from a Scottish FP?**

|  |  |  |
| --- | --- | --- |
|  | YES | NO |
| Funds in the deceased’s bank account |  |  |
| Funeral plan/insurance policy |  |  |
| Contributions from charities or employers |  |  |
| Money from an occupational pension scheme |  |  |
| Money from a burial club |  |  |

**Q: Are there any other funds that you think are appropriate to deduct?**

|  |
| --- |
| Please specify below |

**Q: Which services should promote awareness of the funeral payment to ensure that claimants know about it at the relevant time?**

|  |
| --- |
| Please specify belowAccessible information about the scheme should be available in hospitals, from GPs and from funeral directors. The scheme should also be promoted in offices of the new social security organisation and in wider advice-giving organisations. |

**Q: Are there any other points that you would like to raise in connection with the new Scottish Funeral Payment?**

|  |
| --- |
| Please specify belowWe would endorse the plans to speed up decisions for awards. We have heard about funeral directors who were not willing to wait for families to raise payments and if they could receive assurances through the Scottish Funeral Payment scheme, this may help. |

**10.** **Best Start Grant**

**Q: What are your views on who should receive the Best Start Grant (BSG)?**

|  |
| --- |
| Please specify below |

**Q: Should we continue to use the same system to determine who is responsible for a child for the purposes of the BSG application?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: Do you agree that each of the three BSG payments should only be made once for each child?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If no, what exceptions would you make to this rule? |

**Q: Should we continue to use the same method as the SSMG to determine whether a child is the first child in a household?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

|  |
| --- |
| **If no, what alternative method should we use?** |

**Q: Do you agree that we should retain the requirement to obtain advice from a medical professional before making a maternity payment?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: Are there other points during the first five years of a child’s life when families face greater pressure than at the start of nursery (other than birth and the start of school)?**

|  |
| --- |
| Please specify below |

**Q: What are your views on defining ‘the start of nursery’ as the point of entitlement to a funded early learning and childcare place, for the purposes of making the second payment?**

|  |
| --- |
| Please specify below |

**Q: Are there any particular issues related to the nursery payment that you think we should consider?**

|  |
| --- |
| Please specify below |

**Q: Are there any particular issues related to the school payment that you think we should consider?**

|  |
| --- |
| Please specify below |

**Q: Should the school payment be payable to all eligible children who begin primary school for the first time in Scotland, or should an upper age limit be included?**

|  |
| --- |
| Please specify below |

**Q: What are your views on our proposals in relation to the BSG application process?**

|  |
| --- |
| Please specify below |

**Q: What are your views on establishing an integrated application process for the BSG and Healthy Start?**

|  |
| --- |
| Please specify below |

**Q: What are the advantages and disadvantages of this approach?**

|  |
| --- |
| Please specify below |

**Q: Would the option to receive items rather than a cash payment as part of the BSG have benefits?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: Which services should promote awareness of the BSG to ensure that claimants know about it at the relevant time?**

|  |
| --- |
| Please specify below |

**11. Discretionary Housing Payment**

**Q: Could the way that Discretionary Housing Payments (DHPs) are currently used be improved?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: Could the administration of DHP applications be improved?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: Does the guidance for local authorities on DHPs need amending?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**12. Job Grant**

**Q: What should the Scottish Government consider in developing the Job Grant?**

|  |
| --- |
| Please specify below |

**13. Universal Credit flexibilities**

**Q: Should the choice of managed payments of rent be extended to private sector landlords in the future?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: Should payments of Universal Credit be split between members of a household?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

If Yes, please indicate if you think the default position should be:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| a) automatic payments to individuals, with the option to choose a joint payment(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

b) automatic household payments, with the option to choose individual payments?(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

 |

**If Yes, how do you think payments should be split? For example 50/50 between members of a couple or weighted towards the person who is the main carer if the claim includes dependent children?**

|  |
| --- |
| Please specify below |

**Q: Do you have any other comments about how the Scottish Government’s powers over Universal Credit administrative flexibilities will be delivered?**

|  |
| --- |
| Please specify below |

**Q: Do you have any comments about the Scottish Government’s powers over the housing element of Universal Credit?**

|  |
| --- |
| Please specify below |

**PART 3: OPERATIONAL POLICY**

**14. Advice, representation and advocacy**

**Q: What role[s] should publicly funded advice providers play in the development of a new Scottish social security system?**

|  |
| --- |
| Please specify below |

**Q: What steps need to be taken, to understand the likely impact of the transfer of the devolved benefits on publicly funded advice in Scotland?**

|  |
| --- |
| Please specify below |

**Q: How could the transfer of the devolved benefits to Scotland be used to drive improvements in the provision of publicly funded advice?**

|  |
| --- |
| Please specify below |

**Q: Do you think that Independent Advocacy services should be available to help people successfully claim appropriate benefits?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: What next steps would you recommend that would help the Scottish Government better understand the likely impact of the transfer of the devolved benefits on independent advocacy services?**

|  |
| --- |
| Please specify below |

**15. Complaints, reviews and appeals**

**Q: Do you agree that we should base our CHP on the Scottish Public Services Ombudsman’s ‘Statement of Complaints Handling Principles’?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: How should a Scottish internal review process work?**

|  |
| --- |
| Please specify below |

**Q: What would be a reasonable timescale for the review to be carried out?**

|  |
| --- |
| Please specify below |

**Q: Should a tribunal be used as the forum for dispute resolution for the Scottish social security system?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: If no, are there any alternative methods of dispute resolution that you think would be preferable to a tribunal?**

|  |
| --- |
| Please specify below |

**Q: How can we ensure that our values underpin the appeals process for a Scottish Social Security agency?**

|  |
| --- |
| Please specify below |

**Q: Are there any other values that you feel should be reflected in the design of the appeals process?**

|  |
| --- |
| Please specify belowWe welcome the suggestion that any appeals service established in Scotland related to the new social security system continues to be independent of the administering body. We would also wish to ensure that any appeals organisation should operate according to international human rights law and should base its decision on the Committee on Economic, Social and Cultural Rights General Comment No 19[[10]](#footnote-10), which provides a framework for social security and sets out how States Parties should look to deliver social security. Human rights principles should be built into the design of the organisation and also within its working practices. |

**Q: What do you consider would be reasonable timescales to hear an appeal in relation a decision on a devolved benefit?**

|  |
| --- |
| Please specify below |

**Q: In order to ensure a transparent appeals process, what steps could be taken to ensure that those appealing fully understand and are kept informed at each stage of the appeals process?**

|  |
| --- |
| Please specify below |

**Q: How could the existing appeals process be improved?**

|  |
| --- |
| Please specify below |

**16. Residency and cross-border issues**

**Q: Should Scottish benefits only be payable to individuals who are resident in Scotland?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain why |

**Q: What are your views on the ‘habitual’ residence test currently used in the UK by DWP?**

|  |
| --- |
| Please specify below |

**Q: Are there other issues that the Scottish Government should take into account when it comes to residency rules?**

|  |
| --- |
| Please specify below |

**Q: What factors should Scottish Government consider in seeking to coordinate its social security system with other social security systems in the UK?**

|  |
| --- |
| Please specify below |

**Q: How can the Scottish Government ensure that no-one either falls through the cracks or is able to make a ‘double-claim’?**

|  |
| --- |
| Please specify below |

**17. Managing overpayments and debt**

**Q: Could the existing arrangements for recovering social security overpayments be improved in the new Scottish social security system?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If yes, please explain your answer |

**Q: What are your views on the role that financial advice can play in the recovery of overpayments?**

|  |
| --- |
| Please specify below |

**18. Fraud**

**Q: Should the existing Scottish Government approach to fraud be adopted for use in our social security system?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| If no, what else should be used instead? |

**Q: If yes, should our existing counter-fraud strategy be adapted in any way?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: How could the new Scottish social security system ‘design out’ errors and reduce the potential for fraud at the application stage?**

|  |
| --- |
| Please specify below |

**Q: Should the Scottish social security system adopt DWP’s existing code of practice for investigators?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: What are your views on the existing range of powers granted to investigators?**

|  |
| --- |
| Please specify below |

**Q: What are your views on conducting interviews under caution?**

|  |
| --- |
| Please specify below |

**Q: What improvements could be made around conducting interviews under caution?**

|  |
| --- |
| Please specify below |

**Q: Should the Scottish Government retain the same list of offences which people can be found guilty of in terms of social security fraud?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: Should the Scottish Government impose the same level of penalties for social security fraud as are currently imposed?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**19.** **Safeguarding your information**

**Q: Should the existing Scottish Government approach to Identity Management and Privacy Principles be adopted for use in our social security system?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: If yes, should our existing Identity Management and Privacy Principles be adapted in any way?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain how |

**Q: Who do you consider should be consulted in regard to the Privacy Impact Assessment and what form would this take?**

|  |
| --- |
| Please specify below |

**Q: What are your views on privacy issues that may affect the new agency?**

|  |
| --- |
| Please specify below |

**Q: Do you perceive any risks to the individual?**

|  |
| --- |
| Please specify below |

|  |
| --- |
| If Yes, What solutions might be considered to mitigate against these? |

**Q: Would you support strictly controlled sharing of information between public sector bodies and the agency, where legislation allowed, to make the application process easier for claimants?** For example, this information could be used to prepopulate application forms or to support applications, reducing the burden on applicants.

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: Would you support strictly controlled sharing of information between a Scottish social security agency and other public sector organisations (for example local authorities) to support service improvements and deliver value for money?**

(please tick one box)

|  |  |
| --- | --- |
| **Yes** |  |
| **No**  |  |

|  |
| --- |
| Please explain your answer |

**Q: What are your views on having the option to complete social security application forms online? Can you foresee any disadvantages?**

|  |
| --- |
| Please specify below |

**Q: What are your views on the new agency providing a secure email account or other electronic access to check and correct information for the purposes of assessing applications (noting that any such provision would need to be audited and regulated so that the security and accuracy of the information would not be compromised)?**

|  |
| --- |
| Please specify below |

**20. Uprating**

**Q: What are your views on the best way to ensure that devolved benefits keep pace with the cost of living?**

|  |
| --- |
| Please specify below |

**Q: Are there any devolved benefits in particular where uprating based on a measure of inflation would not be effective?**

|  |
| --- |
| If so, please explain which benefits and why |

1. First Minister’s Speech to SNAP Human Rights Innovation Forum, 9th December 2015, <http://news.scotland.gov.uk/Speeches-Briefings/SNAP-Human-Rights-Innovation-Forum-2040.aspx> [↑](#footnote-ref-1)
2. UN Committee on Economic, Social and Cultural Rights, General Comment no. 19 The Right to Social Security http://tbinternet.ohchr.org/\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f19&Lang=en, last accessed on 27th September 2016 [↑](#footnote-ref-2)
3. See 2 [↑](#footnote-ref-3)
4. McKendrick, J et al, 2008, ‘The media, poverty and public opinion in the UK’ Joseph Rowntree Foundation, <http://www.jrf.org.uk/report/media-poverty-and-public-opinion-uk>, last accessed 18th October 2016 [↑](#footnote-ref-4)
5. Scottish Government, 2011, Commission on the Future Delivery of Public Services, <http://www.gov.scot/resource/doc/352649/0118638.pdf>, last accessed 18th October 2016 [↑](#footnote-ref-5)
6. Convention of Scottish Local Authorities, January 2015, ‘COSLA National Strategy and Guidance, Charges Applying to Non-residential Social Care Services - 2015/16’ [↑](#footnote-ref-6)
7. Department for Work and Pensions, 14th September 2016, ‘Personal Independence Payment: Official Statistics’ <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/552855/pip-statistics-to-july-2016.pdf>, last accessed 25th October 2016 [↑](#footnote-ref-7)
8. United Nations Committee on Economic, Social and Cultural Rights, 1991, General Comment No 4 ‘The right to adequate housing’ <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en>, last accessed 2nd March 2016 [↑](#footnote-ref-8)
9. Citizens Advice Scotland, 2016, ‘Paying More to be Poor: The poverty premium in energy, telecommunications and finance’, <http://www.cas.org.uk/system/files/publications/poverty_premium_0.pdf>,

last accessed on 25th October 2016 [↑](#footnote-ref-9)
10. See Footnote 2 [↑](#footnote-ref-10)