



**A New Future for Social Security
Consultation on Social Security in Scotland**

Response from Citizens Advice Scotland

October 2016

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Overview

0.1.1 As the leading provider of advice on social security issues to Scotland's citizens, Citizens Advice Scotland is delighted to respond to this important consultation. Designing a new social security system for Scotland is a major opportunity and challenge. In this substantial response we have attempted to bring the best of our unique evidence base to inform the development of the new system based on the experiences of those who work with the current system on a daily basis.

0.1.2 The devolution of new powers represents an opportunity for the Scottish Government to shape a social security system designed with the people who will require support from it at its heart. There are many opportunities presented by the range of powers that are being devolved, which CAS has sought to present throughout this response.

0.1.3 In particular, these opportunities include the possibility to support a principled approach by:

- Ensuring that people who need support from the system can exercise their rights to be treated with dignity and respect.
- Giving people a range of ways to access the new system, including a choice of communication methods.
- Involving users in the design and development of a new Scottish Social Security Agency, to make sure their needs always come first.

0.1.4 The devolution of specific benefits provides the opportunity to:

- Substantially reduce the number of unnecessary medical assessments for disability benefits by making the best use of existing evidence.
- Making changes to the eligibility criteria for carers' benefits, to provide recognition of the needs of more of Scotland's full-time carers.
- Help tackle the growing issue of funeral poverty, by providing a streamlined process for funeral payments which provides financial certainty and a streamlined process to people who need support.
- Giving people choice about how they want to receive Universal Credit payments to reduce the number of people running out of income.

0.1.5 In setting the operational policy for the new system, there are opportunities to make improvements by:

- Reforming the complex review and appeal process for benefits to remove barriers to justice for people in need of support

- Ensuring that Scotland’s citizens have access to independent advice and support to help them receive all the social security support they are entitled to.
- 0.1.6 Achieving this, and much more will be a substantial challenge. However, the potential rewards are great – making a life changing positive difference for many Scots. In this response, Citizens Advice Scotland has attempted to bring the wealth of our evidence and experience to bear to help the Scottish Government truly create a new future for social security.

Introduction and Context of Response

- 0.2.1 Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.
- 0.2.2 In 2014/15 the Citizens Advice Service network helped over 323,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £124 million and the Scottish zone of our self-help website Advice for Scotland received over 4 million unique page views.
- 0.2.3 Citizens Advice Scotland welcomes the devolution of social security powers to Scotland. Advice related to social security benefits is the single largest area of advice provided by citizens advice bureaux in Scotland, with 227,561 new issues in 2015/16, representing 39% of the total number of new issues brought to bureaux.
- 0.2.4 Whilst a number of benefits that Scotland's CAB commonly provide advice on will remain reserved, benefits due to be devolved by the Scotland Act 2016 represent almost a third of new social security issues in the past year, a total of 74,133 as shown in table 1 below.

Table 1: Number of advice issues relating to devolved benefits in bureaux

2015/16	New issues	% of benefits advice
PIP (Daily living)	24,401	10.7%
PIP (Mobility)	20,416	9.0%
Attendance Allowance	7,614	3.3%
Carers Allowance	6,375	2.8%
DLA (Care)	5,297	2.3%
DLA (Mobility)	4,170	1.8%
Discretionary Housing Payments	2,839	1.2%
Sure Start Maternity Grant	1,002	0.4%
Funeral Payments	829	0.4%
Industrial Injuries Disablement Benefit	614	0.3%
Winter Fuel Payments	317	0.1%
Severe Disablement Allowance	142	0.1%
Cold Weather Payments	117	0.1%
TOTAL	74,133	32.6%

- 0.2.5 The devolution of these powers represents an opportunity for the Scottish Government to take control of payments that play a crucial part in the lives of tens of thousands of Scots. There are a number of opportunities to use these to improve the experience of people who need help from the social security

system for different reasons. However, CAS recognises that establishing a new system from scratch will be challenging, and will require a great deal of work over a number of years to ensure the system lives up to its worthy ambitions.

- 0.2.6 Citizens Advice Scotland believes that an effective new system should be informed by the best evidence available. As the leading source of advice about social security support for Scotland's citizens, the CAB network has a second-to-none evidence base from the daily work of frontline CAB advisers who see the effect of the social security system on the lives of Scots, and the opportunities for improvements to the system.
- 0.2.7 Over the past year, CAS has worked to marshal this evidence to inform a comprehensive and detailed response to the devolution of the new powers. Some of this has already been published as a suite of reports 'Fair, Equal and Responsive' in December 2015¹, which sought to ensure that the options for the benefits being devolved to Scotland are informed by extensive engagement with people who will need support from the system and evidence of the operation of the current system.
- 0.2.8 CAS welcomes the inclusive approach the Scottish Government has taken to the development of its approach, seeking to include the views, experience and evidence from people who know the current social security system best – those who require support from it, and those who work to advise and support them through the process. We are grateful to the Scottish Government for providing additional funding to support CAB clients and advisers to directly respond to the consultation.
- 0.2.9 This response is informed by consultation with 144 CAB clients with direct experience of the benefits due to be devolved, at events hosted by 14 local bureaux. Three regional consultation events were held with a total of 48 CAB advisers with frontline experience of the system. Two additional focus groups were held with 11 advisers and managers, complemented by an online survey of 43 CAB staff and volunteers. Full details of our consultation activity are attached as Appendix A.
- 0.2.10 This is in addition to the 601 clients that were surveyed in 2015, with additional focus groups with clients to inform the development of powers around the disability benefits system, Universal Credit flexibilities and digital access. Importantly, Citizens Advice Scotland routinely collects evidence from CAB cases where there is an identified social policy issue, with a majority of the 7,000 cases collected in 2015/16 relating to benefits issues. These provide a real time insight into the reality of the daily operation of the social security system.

¹ Fair, Equal and Responsive – Citizens Advice Scotland, December 2015
<http://www.cas.org.uk/publications/fair-equal-and-responsive>

1. Fixing the principles in legislation

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

A. As a 'Claimant Charter'?

B. Placing principles in legislation?

C. Some other way, please specify

1.1 CAS believes the strongest means of embedding the principles in the new Scottish Social Security System is to place them in both a Charter (option A) and in legislation (option B).

1.2 We believe the legislation should state overarching guiding principles to ensure that these form the foundations of the new system. These principles, to be effective in practice, will then need expanded on in more detail within a Charter. The Charter can contain a level of detail that may not be appropriate for primary legislation. In addition the Charter is far more likely to be accessible to claimants for the purposes of understanding their rights and feeling empowered to challenge substandard service delivery and seek redress where appropriate.

If you think option A, a 'Claimant Charter' is the best way to embed principles in the legislation: What should be in the Charter?

1.3 Below are CAS's suggestions for what might be included in a charter. This is a summary of more than 165 ideas from 65 CAB advisers and clients that CAS consulted with between August and October 2016. This list is not intended to be comprehensive, but it does represent the views of those who interact with the current social security system on a frequent basis.

1.4 Provided with an extract of the NHS Patient's Charter, advisers were supportive of the idea that the social security charter would be similar in content and style. Advisers and clients were on the whole supportive of the idea that the charter would include both rights and responsibilities and would be aimed at both users of the system and those providing services. However, they did raise concerns about how this would work in practice, and were keen that the system would be designed and delivered with these principles in mind, to ensure that the social security charter would not be "just words on a page".

Underpinning principles and priorities

- Social security offers a cradle-to-the-grave safety net
- Social security allows for people to fulfil their potential, despite life circumstances
- Social security protects people in a time of need
- Value should not be measured in monetary terms alone
- The right not to experience hardship or be left without any income is paramount
- The right to know that staff will be held accountable if they fall below the standards set out in the charter
- The charter should reflect expectations of both users and service providers
- The social security system is not to be abused; it is there to provide support to people when they need it.

Rights

Accessibility

- The right to an accessible social security system which makes reasonable adjustments for those with protected characteristics
- The right to have needs taken into account and an acknowledgement of the various difficulties people face when accessing social security
- The right to have vulnerabilities identified and addressed
- The right for people's changing needs to be recognised and provided for

The right to information

- The right to free, prompt advice
- The right to information in multiple formats including online and hard-copy information leaflets and booklets
- The right to up-to-date information about other benefits, not just devolved benefits
- The right to, at the point of claiming benefits, be made aware of all benefit they may be entitled to and information about the claiming process
- The right to open and transparent information that is written in unambiguous plain English, and other languages as required

Dignity and respect: how people can expect to be treated

- Both the agency staff and the benefit claimant should have the right to mutual respect throughout the entire process of applying for and receiving benefits
- The right to be treated in a fair and consistent manner
- The right to be trusted
- The right to have opinions and experience respected
- The right to be treated as an individual and to have specific limitations taken into account
- The right to be treated with sensitivity – to prevent those who react strongly due to health conditions from being turned away
- The right to be believed and listened to by non-judgemental staff
- The right to be supported through traumatic events, such as bereavement
- The right for any conditionality and expectations placed on the claimant to be reasonable and meaningful
- The benefit department should be able to help the claimant more inclusively in using on-line services to claim benefits if they are requesting claimants use this method of submitting a claim.

Processing times

- The right to timely assessment, decision and payment of benefits
- The right to have a claim dealt with efficiently, correctly, with reasonable timescales and with regular updates
- The right to have a decision reviewed within a specified timeframe

Communications

- The Social Security Agency will communicate with clients in the clearest most easily understood terms when explaining their claims whether it be in writing, by telephone or face to face
- The right for claimants speak to someone who is aware of and knows about their case.
- The right for the client to say how they wish to be contacted, depending on personal circumstances; the right to a flexible approach to contact method including face-to-face, letter, phone, paper forms, online and email
- The right to be kept fully informed of all decision-making from the beginning of the process and throughout
- The right for phone calls to be answered within a reasonable and specified time; and for users to be called-back within a timescale which is appropriate and set
- The right to be spoken to with respect and for agency staff to take a user-centred approach to communications
- The right to receive written communications that are relevant to the individual (i.e. not just a template)
- The right to have confirmation that the agency has receipt of information (for example, regarding changes of circumstances)
- The right to speak to trained and skilled advisers who have a good knowledge of reserved and devolved social security benefits

Complaints, reviews and appeals

- The right to an easily accessible and confidential complaints process which: is responsive to feedback within strict time limits; offers meaningful redress to the user; and will not affect any current claim
- The right to provide feedback (even if through intermediaries)
- The right to challenge decisions through a streamlined review and appeal process, and have their review and/or appeal determined within a reasonable fixed time limit
- The right to an independent appeal and a fair hearing

Working with other agencies and access to independent advice

- Commitment by the Social Security Agency to form partnerships and good working practices with other public and voluntary organisations resulting in appropriate referrals for users and the ability to address emerging issues
- The right to give permission to allow data sharing to ensure efficiency and correct decision making for benefits eligibility
- The right to free and independent advice, advocacy and representation throughout the claim, review and appeal process
- The right to be signposted or referred to other services as appropriate
- The right to expect relevant information to be shared between agencies to ensure accurate benefit awards and therefore avoid both under and overpayments

Decisions

- The right to high quality decision making by trained professionals and to expect the right decision first time
- The right to receive feedback regarding how decisions have been reached, with reference to the relevant evidence

Continuous improvement

- There should be reviews of processes and systems in accordance with client experiences
- A quality and audit department should be introduced into the new agency, to flag up systemic problems
- Effective tools for gathering feedback from other agencies and service users should be embedded
- Processes and services should be evidence based

Assessments and use of evidence

- The right for unnecessary assessments to be avoided
- The right to, where necessary, receive assessments which are fit for purpose and inquisitorial rather than adversarial
- The right to identify the best people to give evidence in their case, and for all evidence to be accepted
- The right to provide evidence and have this considered in an unbiased appraisal of all the relevant evidence
- The right to a paper-based assessment if the medical evidence suggests this is appropriate
- The right for medical information to be collected from all relevant health professionals as identified by the client

Responsibilities

Underpinning principles

- Responsibilities should mirror rights – e.g. if clients have a time limit, the Agency should have a time limit
- Claimants' responsibilities should be underpinned by mutual respect
- Responsibilities should be clearly stated at the start of any claim and reiterated throughout the journey
- Responsibilities need to be built into the charter, though must be flexible enough to fit personal circumstances

To treat staff with respect

- The responsibility to treat staff with the same dignity and respect that they would expect to receive

Sharing information

- The responsibility to provide a means of contact and where this is not possible, the responsibility to co-operate with the agency in establishing an appropriate means of contact
- The responsibility to provide all necessary information
- The responsibility to not knowingly provide incorrect information
- The responsibility to provide evidence where necessary
- The responsibility to communicate changes of circumstances as soon as possible

To engage and co-operate

- The responsibility to engage and co-operate with all relevant agencies (within the individual's capabilities)
- The responsibility to adhere to the terms and conditions of the contract and to receive both a paper and digital copy of any agreement between the claimant and the Agency
- The responsibility to attend appointments or communicate if that is not possible

Should the Charter be drafted by:

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

1.5. CAS believes the Charter should be produced by an advisory group which includes robust representation of system users, which can in part come from organisations with experience and expertise in supporting and representing those users.

1.6. It is essential that the views of those who interact with the current social security system on a frequent basis are at the heart of the development of the Charter. Therefore the advisory group must consult closely with current and potential users of the social security system from the outset, and continue this engagement throughout the entire process. A wider group of interested parties could be invited to provide feedback on a draft Charter further into the drafting process.

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?

1.7. CAS believes the most appropriate name would be 'The Social Security Charter'. However, the final decision should be made by an advisory group set up to produce the Charter.

1.8. CAS believes the Charter will be strongest if it encompasses all parties involved in the social security system, rather than being solely aimed at claimants. CAS welcomes the Scottish Government's desire to bring about a cultural change within the new system, and to embed dignity and respect at its heart. For this to be effective in practice, all parties involved need to take this principled approach. Therefore the Charter will need to apply to claimants, recipients, medical assessors, decision makers, and

service providers. This supports CAS's stance that the Charter should include both rights and responsibilities, similar to the Charter of Patient's Rights and Responsibilities.

- 1.9. For these rights and responsibilities to encompass all parties involved in the new system, CAS believes a more appropriate name could be: the Scottish Social Security Charter. The Advisory Group set up to draft the Charter should have the final say on what the Charter is ultimately called.

Do you have any further comments on the 'Claimant Charter'?

- 1.10. **CAS believes that the most important role of the Charter is to embed the principles into the system to empower claimants to challenge substandard service and seek redress, and to train all staff who come into contact with claimants.**
- 1.11. The most important factor regarding the Charter is ensuring that it is "not just words". The Charter must strengthen the guiding principles by helping to embed them into the system in a practical sense. The Charter should be used for training all staff who will come into contact with claimants, to ensure they are aware of the rights and responsibilities of all parties involved, and to ensure they undertake, from the outset, to provide people with a respectful and dignified service where their rights will be respected.
- 1.12. To empower claimants the Charter must be clear, accessible, and well-advertised. Claimants who do not receive the service they are entitled to should be able to use the Charter as an effective foundation from which to challenge substandard service and seek redress. Empowering claimants is in the best interests of the whole system. Empowered claimants help to ensure that where service falls short of the necessary standard, the affected individual is empowered to challenge this due to knowing their rights. This in turn helps to ensure that a high quality level of service delivery is maintained.

Placing the principles in legislation

If you think option B 'placing the principles in legislation' is the best way to embed principles in the legislation. On whom would you place a duty to abide by the principle that claimants should be treated with dignity and respect?

- *The Scottish Government*
 - *The Scottish Ministers*
 - *The Chief Executive of the Social Security Agency*
 - *Someone else, please specify*
- 1.13. **Scottish Ministers should be responsible in legislation for ensuring a Charter is created within a reasonable timeframe which sets out the rights and responsibilities relating to the Scottish social security system users.**

- 1.14. This should be set out in similar terms to those found within section 1 of the Patient Rights (Scotland) Act 2011 which gave Scottish Ministers the responsibility of producing what became the Charter of Patient's Rights and Responsibilities. The legislation should also include provisions that place a duty on Scottish Ministers to review the Charter periodically within a set reasonable time frame to ensure it is kept accurate and as effective as possible.
- 1.15. For incorporating respect within the guiding principles (including that claimants should be treated with dignity and respect) a similar approach should be taken to that within the Tribunals (Scotland) Act 2014. Scottish Ministers should be under a duty to have regard to the principles when exercising their regulation-making functions concerning social security in Scotland. The head of the Scottish Social Security Agency should be under the same duties when exercising leadership functions over the Agency, and be accountable directly to the Scottish Parliament.

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

- 1.16. **CAS believes that all five of the Scottish Government's proposed principles should be placed in legislation, with the addition of the further principles that the system should be accessible and fair; and that procedures, decision making, and reviews should be handled quickly and effectively.**
- 1.17. CAS believes that it is not only the principle that claimants should be treated with dignity and respect that should be embedded in the legislation. This principle is of vital importance; however there are other guiding principles that would benefit from being strengthened through ratification in the legislation.
- 1.18. The consultation sets out the Scottish Government's 5 guiding principles for the new system as follows:

<p>Our Vision</p> <p>Social security is important to all of us and able to support each of us when we need it.</p>	<p>Principle 1.</p> <p>Social security is an investment in the people of Scotland</p>
<p>Principle 2.</p> <p>Respect for the dignity of individuals is at the heart of everything we do</p>	<p>Principle 3.</p> <p>Our processes and services will be evidence based and designed with the people of Scotland</p>
<p>Principle 4.</p> <p>We will strive for continuous improvement in all our policies, processes and systems, putting the user experience first</p>	<p>Principle 5.</p> <p>We will demonstrate that our services are efficient and value for money</p>

- 1.19. These principles should all be embedded within the legislation, to ensure Scottish Ministers and the head(s) of the Scottish Social Security Agency are duty bound to have regards to them. In addition, there are further principles that should be included within the legislation:

Principle 6 The system should be accessible and fair

Principle 7 Procedures, decision making, and reviews should be handled quickly and effectively

- 1.20. These additional principles would reflect those currently set out under the Tribunals (Scotland) Act 2014. Section 12 of the 2014 Act states that proceedings before the Scottish Tribunals are to be accessible and fair, and handled quickly and effectively. Scottish Ministers are under a duty to have regard to these principles in exercising their regulation-making functions under the Act. The Lord President and the President of Tribunals are under the same duty but in relation to exercising their leadership functions under the Act.

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 explain your answer?

- 1.21. It is important that while these principles are embedded within the system, both through legislation and through a Charter, that there is strong and independent scrutiny of the system that can measure the effectiveness of meeting these guiding principles, and where appropriate recommend the changes needed to be made, as further detailed in our response to the 'Independent Advice and Scrutiny' section of this consultation.

2. Outcomes and the user experience

Are the outcomes (shown in the table on page 16 of the consultation document) the right high level outcomes to develop and measure social security in Scotland?

- 2.1. Yes, CAS is broadly supportive of the outcomes developed by the Scottish Government, and welcomes an approach that centres around the user's experience.

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

- 2.2. **CAS recommends that the Scottish Government introduce two new outcomes, one on recognising the role that public and third sector services play, and one on access to complaints and reviews.**
- 2.3. CAS is aware that the Scottish Government's intention is for existing advice and support services in Scotland to continue to provide independent advice, support and advocacy. However, CAS is of the view that this important and extensive work needs to be reflected in the high level outcomes. Therefore, CAS recommends that under 'other public sector and third sector services' one of the outcomes should be that the Minister responsible for the delivery of social security in Scotland should:

"Ensure that the role that public and third sector services play in facilitating access to the system is recognised and supported."

- 2.4. This is distinct from the outcome that reads: 'The social security system is effectively integrated with other services to ensure a person-centred service where recipients get the support they need when they need it,' as this appears to be more aimed at ensuring that the social security system is integrated with existing public sector services.
- 2.5. Secondly, there is no outcome which focusses on dispute resolution. It is crucial that any public service provides the opportunity for complaints and redress when someone disagrees with a decision or experiences poor standards of service delivery. Without this, the agency has no opportunity to gather feedback which drives improvement, and the user of the system has no mechanism through which to access their entitlements if the wrong decision has been made. CAS therefore recommends that the following outcome should be included:

"[People applying for, or in receipt of Scottish benefits are] Able to challenge decisions where necessary and to access clear, fair, and effective complaints and review procedures."

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

- 2.6. All seven of the CAB client focus groups which discussed 'Outcomes and the User Experience' included comments about the attitude and behaviour of staff, and case evidence from CAB across Scotland also supports the comments made during the focus groups:

"Some felt that some staff had "attitudes" and looked down on you when you were interviewed or called into the Jobcentre; Sometimes staff aren't tolerant if you don't understand something."

"Many people felt that what they said about their medical condition / needs was treated with scepticism and doubt. 'Feels like being on trial only you haven't done anything wrong.'"

- 2.7. In 2015, CAS and DWP Scotland delivered a joint partnership project to encourage staff and volunteers in Jobcentres and local CABs to establish links and build relationships. It was clear that staff and volunteers from each organisation shared many of the same values, and were equally keen to deliver a high quality service, but were at times constrained by the environment within which they were working.
- 2.8. In the vast majority of cases, staff are *not to blame* for poor communications, attitude and behaviour. Blame is a blunt tool for encouraging change and good practice. Participants in the client focus groups commented on the systems, procedures, conditions, and environment and constraints staff face that can lead to stress and compassion fatigue. Ensuring adequate staffing levels and training in delivering a person-centred service is of utmost importance in achieving the goal of dignity and respect in all aspects of service delivery. It is also essential to cultivate a culture of capability-building so that staff can build on their skills and take pride and joy in their work.

"Lack of training of benefit agency staff has been apparent to the participants. One participant felt that this would impact on staff morale, which would in turn have a knock-on effect on how members of the public are treated; all participants felt that there were occasions when they were not treated with dignity or respect."

- 2.9. In order to put dignity and respect at the heart of service delivery and communications, CAS recommends that the Scottish Government and the new Scottish Social Security Agency does the following:
- Always prioritises the user experience. Other priorities, such as budget management are also important but should not be prioritised at the expense of the user's experience of claiming benefits;
 - A culture of dignity and respect needs to be fostered throughout the whole organisation at every level of governance, benefit delivery and point at which users engage with the system.

- Cultivate this culture of dignity and respect through good *management* of staff and services, providing adequate support and supervision to those at the point of delivery; but also through strong *leadership*. Leaders at any level – from government ministers to operational managers – need first-hand knowledge of the point of service delivery, should be present and visible, leading by example through commitment, compassion and modelling of appropriate behaviours.
 - There needs to be clear lines of responsibility and accountability. If responsibility is diffused it allows for people to default to the position of perceiving themselves as not accountable. An example of this is the sanctions regime which applies to some reserved benefits: a work coach refers an individual for a sanction, and a decision maker decides whether or not that individual receives a sanction. The diffusion of responsibility makes it difficult to determine who is ultimately responsible for the decision.
 - The Scottish Government must ensure that any services working in partnership with the Scottish Social Security Agency are encouraged to adopt a culture of dignity and respect, and that any agencies contracted to deliver services are mandated to do so.
 - Ensure feedback from users and partners informs improvement. This requires a willingness to gather, analyse and act on all the available data, not just the data that supports a positive perception of the department's performance.
 - Be transparent about the areas for improvement with staff within the organisation and on the outside of the organisation.
- 2.10. Fundamentally, cultivating a culture of dignity and respect is first and foremost about treating all staff involved in service delivery with dignity and respect, which in turn leads to users being treated with the same standards of care.

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?

The Scottish Government should consult with users of the system, and their representatives. See more below under co-production and co-design.

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

- 2.11. **CAS recommends that the Scottish Government avoids using the words 'benefits,' 'claimant' and 'welfare' in the new Scottish social security system.**

2.12. Clients and advisers with whom CAS consulted had mixed views on the language which should be used when delivering social security in Scotland. Some took the view that the language used does not make a difference to the services delivered:

“Everyone felt that the words currently used such as claimants and benefits should be kept and are fine.”

“On the whole, group members were not overly concerned about whether they were called claimants etc. as they were fed up of the constant change of terms wanting instead a ‘change of attitude’”

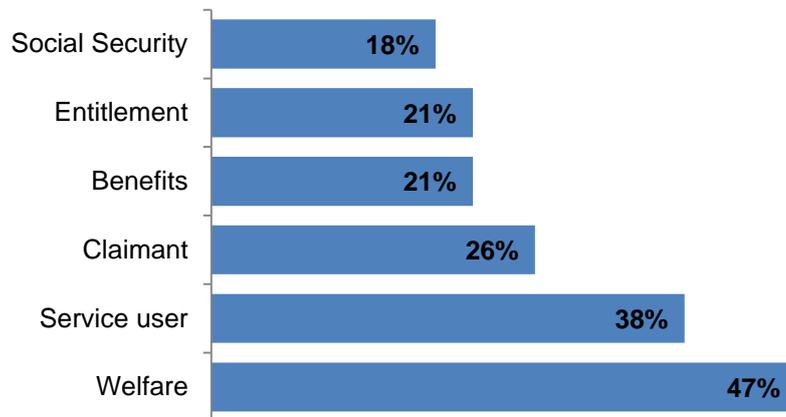
2.13. However, others had preferences for particular words or phrases. There was an emerging consensus that favoured use of the words ‘client,’ ‘customer’ or ‘applicant’ for those using the system, and the words ‘entitlement,’ ‘support,’ ‘allowance,’ or ‘award’ for the benefits they claim.

2.14. A number of clients and advisers said the following words have negative connotations and should not be used as part of the Scottish Social Security System:

- ‘Benefits’
- ‘Claimant’ or ‘service user’
- ‘Welfare’

2.15. Analysis of the ‘*Designing a Social Security System for Scotland*’ adviser survey conducted in September 2016 showed that the highest number of survey respondents disliked was the word ‘welfare’ which was disliked by 47% of those who answered the question. The term ‘service user’ was disliked by 38% and ‘claimant,’ ‘benefits’ and ‘entitlement’ were disliked by 26%, 21% and 21% respectively. Interestingly, 18% of survey respondents said the term social security should not be used in the new system, and one respondent said: *“whatever [term] is used will quickly become synonymous with ‘the social’ so the answer is that the words do not matter.”*

Figure 1: Survey respondents' views on words that should not be used in the new Scottish Social Security System



2.16. Although opinions differed around use of specific words and the terms used to refer to users of the system, there was broad consensus that language used in communication with claimants needed to be clear and easy to understand.

What else could be done to enhance the user experience?

- 2.17. **CAS recommends that the Scottish Government avoid a 'digital by default' strategy, and instead ensures that claimants have access to a number of different communication methods.**
- 2.18. **CAS recommends that all Scottish Social Security Agency phone lines are 0800 Freephone numbers.**
- 2.19. **CAS recommends that escalation routes are provided for intermediaries to contact the Agency on the claimant's behalf.**
- 2.20. **CAS recommends that public phones are provided to facilitate access to the social security system for those who do not have access to a mobile or home phone.**
- 2.21. **CAS recommends that benefit claim forms are in clear, accessible language, and come accompanied by guidance on how to complete the form.**
- 2.22. **CAS recommends that benefit claims are dealt with within reasonable and realistic timescales. There should be an acknowledgement immediately sent when any benefit claim has been received with the timescales included.**
- 2.23. **CAS recommends that written communications should be individualised, written in clear, plain English, avoiding medical jargon, legalistic language and abbreviations.**

- 2.24. **CAS recommends that the Scottish Government explores the possibility of having Social Security Agency staff who are responsible for their own caseload of clients, and can act as a single point of contact for those clients.**
- 2.25. **CAS recommends that the Scottish Social Security Agency adopts the implicit consent process as outlined by the DWP, and trains staff accordingly.**
- 2.26. Citizens advice bureau advisers spend hours dealing with issues around poor administration of benefits. As CAS has evidenced in a recent report: *Living at the Sharp End: CAB Clients in Crisis*², problems with benefit delivery can cause severe hardship and can leave some of the most vulnerable people in society without any money to live on for weeks at a time. For this reason, benefit delivery is as important as system design and it is crucial that the Scottish Government gets it right, as CAB client focus group members pointed out.

“One group member was told different things by DWP over the phone than what was stated in the letter he received. He did not know what to do or who to believe. All he knew was that he had no money.”

- 2.27. To improve benefits delivery overall, changes must be made in the following areas: processing of benefits to minimise delays; content and style of letters; processing times; communications between departments; mail handling systems; communication with claimants; and training of staff.³

Enhancing the user experience when people first get in touch

- 2.28. A number of improvements can be made to reduce the barriers that claimants experience when claimants first make contact with the agency. This section focusses on barriers relating to digital and telephone contact.
- 2.29. Although it might suit some clients, a digital by default approach is not appropriate for all benefit claimants, as there are still many who do not have access to a computer and/or the internet, or the digital skills to make a claim for benefits online.
- 2.30. Research carried out by Citizens Advice Scotland in 2013⁴ showed that more than two fifths (44%) of CAB benefit clients aged between 45 and 59 said they never used the internet, compared with just 26% who said they used it often. A total of 76% of CAB clients said they would struggle to apply for a benefit online including 39% who said they could not apply online at all.

² Living at the Sharp End: CAB Clients in Crisis - Citizens Advice Scotland, July 2016 <http://www.cas.org.uk/publications/living-sharp-end>

³ Response to Work and Pensions Committee inquiry on Benefit Delivery – Citizens Advice Scotland, September 2015 www.cas.org.uk/publications/work-and-pensions-committee-benefit-delivery-consultation

⁴ Offline and Left Behind – Citizens Advice Scotland, 2013 www.cas.org.uk/publications/offlineand-left-behind

- 2.31. In May 2016, CAS published follow-up research, based on a survey of 601 clients across 30 CAB in Scotland, 74% of whom were in receipt of at least one benefit.⁵ The survey included questions around whether clients could use a computer; their ability to make an application for a benefit online; and their ability to apply for a job online.
- 2.32. Comparison with the research carried out in 2013 shows that although there is an improvement in respondents' ability to use a computer and the internet, one in five (19%) cannot use a computer at all, with a similar proportion (21%) never using the internet. This number rises when people's ability to make benefit claims or apply for jobs online is considered - 59% could not make a claim for benefits online without help compared with 66% in 2013, and 54% could not apply for a job online without help, compared with 62% in 2013. When considering the profile of clients who will be applying for disability benefits, it is also important to appreciate that this group will include a significant number of people who will never have the skills or capacities to apply for benefits online, and for whom alternative methods of contacting the agency will be necessary.
- 2.33. CAB clients experience a number of problems when trying to access the DWP over the phone. Access to phones is an issue for many CAB clients who do not have access to a mobile or a phone at home. It is not always free to call the DWP and a long wait on the phone for someone claiming benefits can lead to high phone bills. Some clients who live in rural areas also experience intermittent or non-existent mobile phone coverage. With the introduction of the new Digital Jobcentre model, clients are no longer able to use phones in the Jobcentre Plus to resolve administration issues and delays. This has led to increasing numbers of clients coming to bureaux to simply use the phone, some of whom were sent directly from the Jobcentre to the CAB. It is CAS's view that if benefit agencies require claimants to claim via the phone, the agency must also ensure that there is public access to free phones specifically so that claimants can contact the agency.
- 2.34. It is vital to have well-functioning customer helplines and escalation routes in order that claimants and advisers can resolve issues in the quickest and most straightforward way. CAB advisers often have to wait for more than 10 minutes and can be referred via several advisers before reaching someone in the correct department. The DWP have implemented a policy of offering claimants three hour call-backs, but CAS has seen a significant number of cases in which these call-backs are not received. It is also not always appropriate to offer a call-back if the claimant is being supported by a third party (such as a bureau), and will not have the adviser by their side in three hours' time.

⁵ Bridging the Digital Divide – Citizens Advice Scotland, May 2016
www.cas.org.uk/publications/bridging-digital-divide

Enhancing the user experience when they are in the process of applying for a benefit

- 2.35. Improvements can be made to what many clients described as a long, complex and difficult application process. Most claims for benefits must be made through online claim, or first via telephone, and then via paper claim. Many described the difficulties they experience in filling in these forms which – for disability benefits – often require an understanding of the activities and descriptors that the claimant will be assessed on. In response to a CAS survey on Personal Independence Payment, 62% of CAB advisers said that very few (less than one in ten) clients would be able to fill in the paper PIP2 form by themselves.
- 2.36. We asked if clients would be able to fill in this form if it was an online application form, and again 62% of advisers who responded to the survey said that very few would be able to fill in an online PIP2 form. Only 4% said that most would be able to fill in the PIP2 form online on their own. In designing application forms, it is important to remember that many benefit claimants experience significant barriers which prevent them from being able to fill these in without support:

“A number of the focus group had quite severe literacy issues. They shared that they felt excluded as they did not know what they needed to do and just panicked when ‘huge’ forms appeared at their door. Some felt ‘isolated’.”

- 2.37. One problem with online claim forms that CAB clients and advisers have reported is when there is no option to save the form before it is completed. This is particularly a problem with applications for Universal Credit which can take more than 90 minutes. If someone is filling in the form in a public place, such as a library, their allocated time on the internet might time out before they have completed the form. CAS recommends that if the Scottish Government are to introduce online claim forms for any of the devolved benefits, these should have the opportunity to save the form unfinished.
- 2.38. Huge improvements could be made in terms of processing times. In response to parliamentary questions, the UK Government released statistics which show that during the period between February 2015 and March 2016, just over 44,000 claimants waited more than 16 days to have JSA or ESA claims processed,⁶ resulting in over 220,000 applications for Short Term Benefit Advances. The introduction of PIP also saw unprecedented waiting times for people to receive their full benefit entitlement, mainly due to a bottle-neck for medical assessments. Benefit claims should be dealt with within reasonable and realistic timescales. There should be an acknowledgement immediately sent when any benefit claim has been received with the time scales shown, which would avoid unnecessary chasing up by claimants and allow them to claim advances or other forms of financial support if needed.

⁶ Social Security Benefits: Written question – 32486 - Hansard, 24 March 2016, www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-24/32486

Enhancing the user experience when a decision is made

2.39. Much was said in the client focus groups regarding improvements that can be made to written letters. Some recommendations from the focus groups included:

- [Introduce] easier application forms with less medical jargon;
- Letters [could be made] more personal and clearer with information;
- [Replace] standardised, computer generated letters [with] something personal to client;
- One group member wanted DWP to stop talking in terminologies and abbreviations as he did not understand them and it made him more confused and anxious. If they needed to do this then [the agency could] include a list of what they stood for in with the letter.
- Decision letters should properly explain how the decision has been reached – not just copy and paste standard text. They should include details of all the evidence used.

2.40. In addition to comments about the content and style of letters, one frequent complaint from CAB clients is around lost and delayed mail, or two letters with different dates arriving on the same day. Under the current system, documents relating to clients' benefit claims can get lost at various stages between the client, the Jobcentre and the benefits centre. This can include benefit applications, medical evidence and even original documents for proof of identity, despite documents being sent by recorded delivery. CAB evidence suggests that the majority of lost mail is being lost not in the post *on its way* to DWP, but being lost *within* DWP mail-handling systems. It is therefore necessary that the Scottish Government carefully design their mail handling systems to prevent similar problems under the new system.

“The biggest complaint from everyone was the lengthy delays in letters being delivered to claimants, sometimes the date on the letter is 7 or 9 days before it is delivered; the Housing Department seem to know about changes before claimants do.”

2.41. Participants in three of the seven focus groups who discussed this topic suggested that decision makers should phone claimants prior to making a final decision to refuse or withdraw benefits as they may find out more information that would change the decision they intend to make:

“One group member, mid 40s, who previously worked until he became ill, stated that he wanted phone calls prior to receiving the award letter. He struggled to get appointments at his local CAB as they were so busy but if he was notified by phone that his benefit award was stopping and a letter was to follow – it would give him a chance to book an appointment in advance for advice.”

2.42. However, the way in which this is done should be carefully considered because claimants could feel put on the spot if called unexpectedly by a decision maker, and the things they say in this circumstance should not have a negative impact on their claim.

Enhancing the user experience when they are in receipt of benefit

2.43. A number of clients who participated in the client focus groups said that, when contacting the Department to get help with a particular issue with regards to their claims, they found they needed to go over their circumstances again and again as they were passed through several different departments.

“There’s no sharing of information, you can speak to 3 or 4 different people as you can be put through to the wrong section or have to tell different sections some information.”

2.44. As a result, a number of clients said they would prefer to have one designated worker who would understand their circumstances and have easy access to their records. Feedback from CAB advisers suggests that this is one aspect of Universal Credit which is welcomed, and CAS recommends that the Scottish Government explores the possibility of having Social Security Agency staff who are responsible for their own caseload of clients.

2.45. One common complaint of advisers and clients alike is that benefit agency staff are not always able to access all the information relevant to that person’s case. For example, it is sometimes not possible for DWP staff to see if a client has sent additional evidence or has communicated a change in circumstances. The Scottish Government must introduce an IT system which allows for all Agency staff dealing with user enquiries to access all relevant information relating to the claimant’s circumstances. Claimants should also receive written acknowledgement when they communicate a change of circumstances, so they know they have fulfilled that responsibility.

2.46. CAB advisers often act as an intermediary, contacting the benefits agency on behalf of a client. Currently, the DWP uses ‘implicit consent’ to establish whether an agency is a trusted intermediary, and if so is able to disclose some non-sensitive information relating to the case without the benefit claimant needing to be present, or needing to go through the security questions. Implicit consent can be accepted where the caller:

- knows basic information about the customer, for example, National Insurance number, date of birth, address, and;
- can quote facts and recent details about the claim, or can quote from our recent correspondence with the customer, and;
- makes enquiries that you would expect the customer to make if they were able⁷

⁷ Working with Representatives Guidance – Department for Work and Pensions
www.gov.uk/government/uploads/system/uploads/attachment_data/file/461988/working-with-representatives-sept-2015.pdf

2.47. This implicit consent process is very important to intermediaries and representatives, and allows for issues to be resolved as quickly as possible for the user. CAS recommends that the Scottish Social Security Agency adopts the implicit consent process as outlined by the DWP, and trains staff accordingly. Agency staff should also accept written or verbal consent from claimants for a representative to act on their behalf.

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

2.48. **CAS recommends that users of the Scottish social security system are offered a choice of communication methods, including face to face, written letters, online claims, and telephony.**

2.49. **CAS recommends that the Scottish Social Security Agency uses written letters to communicate any important information regarding someone's claim.**

2.50. **CAS recommends that emails and text messaging should always be used as an additional method of communication to provide an alternative copy of the information contained within written letters, but should not be used as a primary method.**

2.51. **CAS recommends that social media is avoided as a method of communicating with claimants, though it could be used for communicating with the public.**

2.52. The message coming from CAB clients and advisers is that users would like a choice of communication methods. A 'one-size fits all' approach excludes those who have varying capabilities, as has been outlined above.

2.53. In response to the '*Designing a Social Security System for Scotland*' adviser survey, 77% of survey respondents said they thought it was important that the Scottish Social Security Agency provided opportunities for face-to-face contact with agency staff, but when asked about preferred methods of communication, it is clear that different communication methods are more or less appropriate at different stages of the claim process. Aspects of the claiming process where one fifth of survey respondents felt it would be useful to have the option of face-to-face contact were when first making contact with the agency (21%) and when making an initial claim (21%).

2.54. An even higher proportion, a quarter of survey respondents (26%), thought that telephone was a preferred contact method for when claimants first make contact with the agency.

2.55. Paper form was the method preferred for when claimants make an initial claim – 28% of survey respondents thought this option should be provided, and 24% thought that using phones to make initial claims was also a good idea.

2.56. There was a strong preference for use of written letters, which was the preferred option for ongoing communications regarding a claim, communicating decisions regarding a claim, challenging decisions, making complaints and communicating changes of circumstances.

Figure 2: What methods of communication should the Scottish Social Security Agency use for communicating with users when they first make contact with the agency?

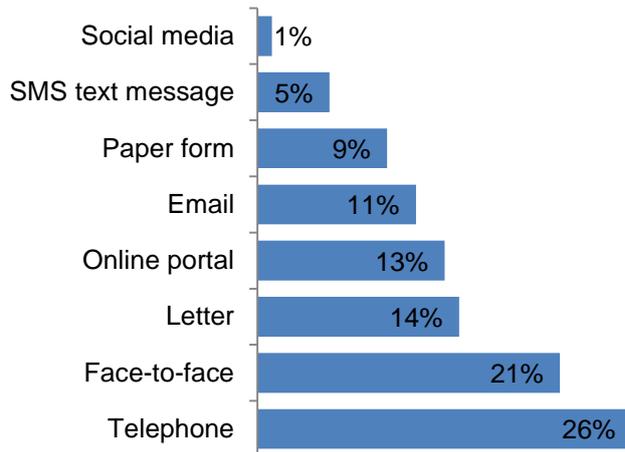


Figure 3: What methods of communication should the Scottish Social Security Agency use for communicating with users when they make an initial claim?

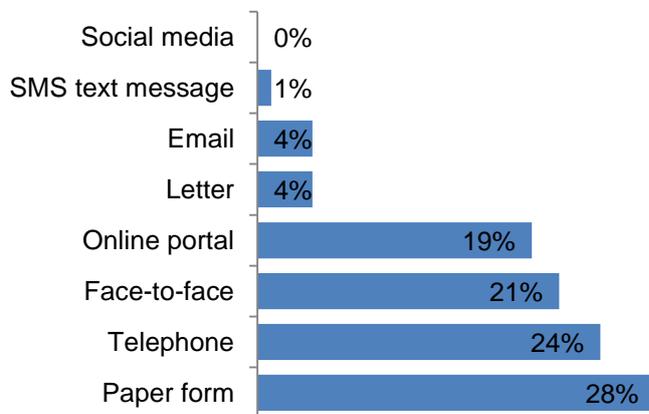


Figure 4: What methods of communication should the Scottish Social Security Agency use for communicating with users for ongoing communications regarding a claim?

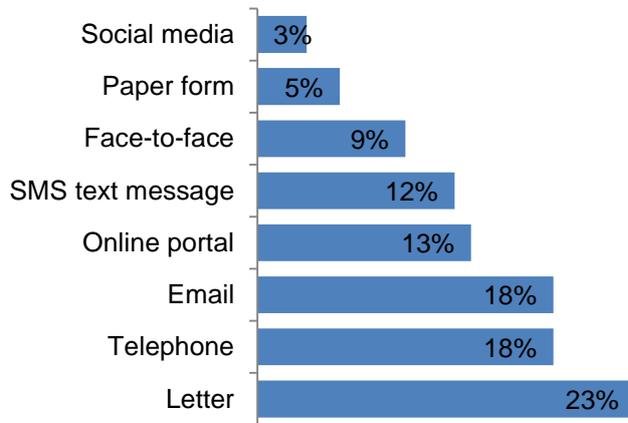


Figure 5: What methods of communication should the Scottish Social Security Agency use for communicating with users when a decision has been made regarding the claim?

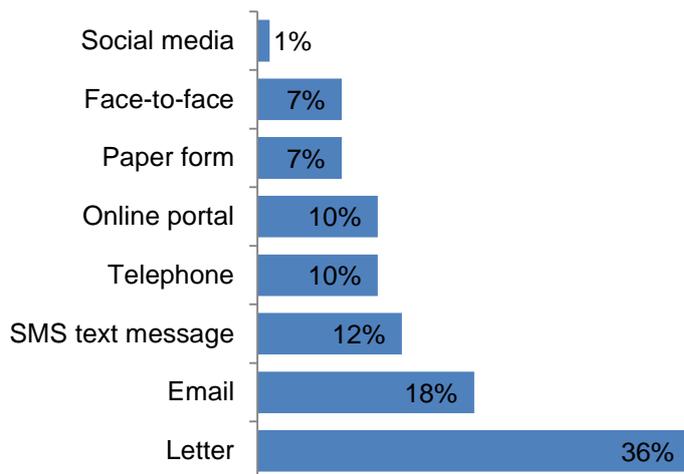


Figure 6: What methods of communication should the Scottish Social Security Agency use for communicating with users when they are challenging a decision?

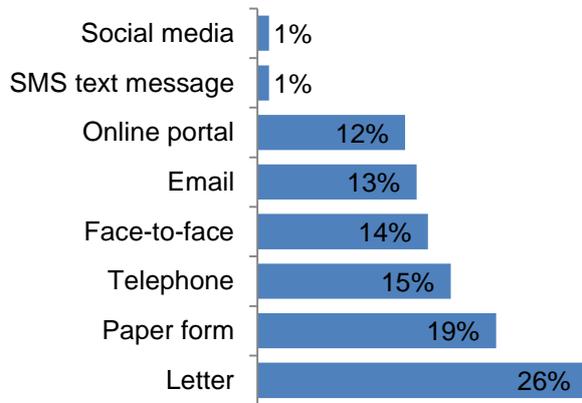


Figure 7: What methods of communication should the Scottish Social Security Agency use for communicating with users when they are making a complaint?

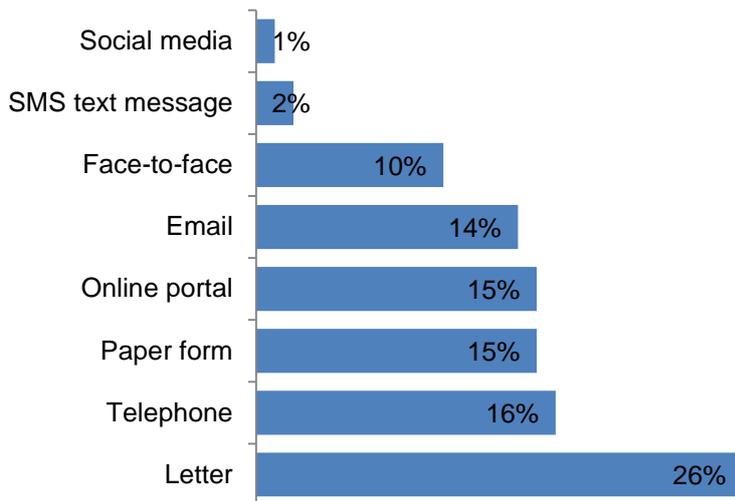
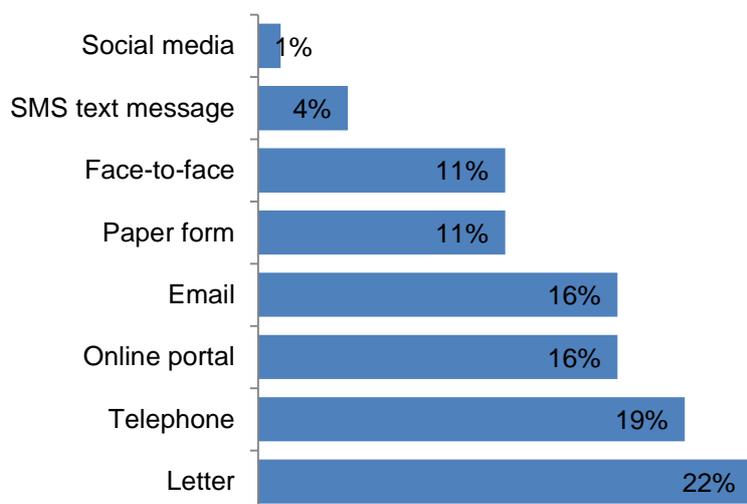


Figure 8: What methods of communication should the Scottish Social Security Agency use for communicating with users when communicating changes of circumstances?



2.57. The client focus groups also showed a preference for written letters, especially when communicating decisions to claimants. Many focus group participants raised concerns that they did not have access to computers and sometimes phones, and are wary of giving out information over the phone, making these communication methods less favourable.

“The majority of clients preferred to be contacted by letter.”

“Most wanted to keep the option of paper claims; Most wanted to be contacted by letter or e mails if DWP need further information, firstly so they had a record to keep and secondly because people are now wary of giving any details over the telephone.”

“The benefit of receiving a letter is that you can re-read it and show it to someone else who can help you make sense of it; All participants thought that it is good to get written communication but said that people should be given a choice as to what suits them best; “modern methods might suit lots of people but isn’t the right thing for everyone.””

2.58. Many clients and advisers consulted with mentioned the need for free phone numbers when contacting the Social Security Agency, not just when making an initial claim, but available for ongoing communications regarding a claim.

“All phone numbers should be free and the free phone number listed on the letter; one group member, who previously worked at a call centre, suggested that: “NI number could be punched in to the phone as a security check and then you could be put through to a relevant and dedicated staff member for your specific issue.”

2.59. When asked about use of SMS text messages as a communication method, 12% of survey respondents said that they thought this could be used in ongoing communications regarding a claim and in communicating decisions,

but it did not score highly for use regarding any other aspect of the claim process. Although useful, text messaging should always be used as a supplementary method of communication rather than a primary method, because phones can be lost, messages can be deleted, and mobile phone signal can be intermittent or non-existent, especially in rural areas.

“Members of the group were scared to be contacted via text – in case they misplaced their phone or a DWP staff member texted their information to someone else by mistake.”

“One person noted he received a text from DWP giving his decision and advising he’d be phoned back within 2hrs. He didn’t get it as he doesn’t get mobile signal in house – common across rural and semi-rural Highlands.”

2.60. Finally, when asked about use of social media, only 3% said this could be used as a method for ongoing communications regarding a claim, and for all other aspects of the claim process it was even less favourable. Social media was not mentioned as a useful communication tool in either the CAB client focus groups or the adviser consultation events, so CAS recommends that it is avoided as a communication method.

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?

2.61. **CAS recommends that, in consulting with users of the system, the Scottish Government should make use of organisations and networks that already exist where possible.**

“One [client focus group] member stated that Scotland could lead the way with this and make positive change; “Help people to live not just exist ... Ask for input from the people using it.””

2.62. Users of the system, but also welfare rights advisers, advocates and carers should be present, and involved at all levels of service design and delivery. CAS welcomes the approach taken by the Scottish Government during this consultation process; making the effort not just to invite users to sit on users panels and be involved in high-level discussions around service design, but also encouraging Scottish Government officials to attend consultation events and hear first-hand about people’s experiences of the current benefits system is positive.

2.63. The Scottish Government’s intention to establish ‘User Panels’ or ‘Experience Groups’ to inform the process is also welcome, but CAS recommends that the Scottish Government make use of organisations that already exist where possible. There is a vibrant network of public and third sector services in Scotland who have excellent links with current users of the social security system. These organisations not only have access to users, but are also trusted by users and can help to facilitate a conversation that is accessible,

comfortable and not alienating. For example, during the course of this consultation period, CAS has consulted with over 140 users of the social security system, and over 100 CAB staff and volunteers who support those users to access the system on a day-to-day basis. Our network allowed us to do this with relative ease, and because citizens advice bureaux are a trusted service, independent of government, clients have been willing to confide in us their experiences and hopes for the new Scottish system.

2.64. *Pilotlight*, a project run by IRISS and aimed at co-designing Self Directed Support with service users and service providers developed a number of co-design tools which they have published on their website.⁸ This is a good example of an approach which used accessible tools in order to gather feedback from people with mental and physical disabilities and learning difficulties. *Pilotlight* developed a number of recommendations for successful co-design, including:

- Value everyone equally. Lived experience is as valuable as professional experience.
- Break down ‘them’ and ‘us’ barriers whenever possible. Mix people up. Move away from ‘roles’ and instead focus on skillsets and ‘what we’re good at’.
- Be transparent about where you are in the design process. Make people feel comfortable when they are in the messy, idea generation, stages.
- Give people the opportunity to complain (within reason!), listen to the complaints and write them down. If they have ideas about changing the process, facilitate these where possible.⁹

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?

2.65. CAS welcomes the announcements that the Scottish Government is to set up new ‘Experience Groups’ in 2017 to consult with over 2,000 users of social security on the design of the new system.¹⁰ CAS prefers use of the term ‘Experience Groups’ as opposed to ‘user panels’ because, as stated above, CAB clients told us that they disliked use of the term ‘service users’. The Scottish Government should also avoid use of the terms ‘claimant’ and ‘customer’ as clients have told us that for them these words have negative connotations.

⁸ Co-design tools – Pilotlight pilotlight.iriss.org.uk/co-design/tools

⁹ What we are learning – Pilotlight <http://pilotlight.iriss.org.uk/about/what-we-learned>

¹⁰ Public to design social security system – Scottish Government, October 2016
<http://news.scotland.gov.uk/News/Public-to-design-social-security-system-2d21.aspx>

3. Delivering social security in Scotland

3.1. Based on consultation with CAB advisers, Citizens Advice Scotland considers the following to be core capabilities of benefit delivery:

Governance and management

- Designing processes for all of the below
- Recruitment, management and training of staff
- Oversight, management and continuous improvement of all aspects of the user interface (online claims; telephony; content of letters etc.)
- Quality assurance and auditing
- Working in partnership with existing public and third sector agencies and organisations

Processing

- Managing the claims process
- Eligibility checking
- Identity checking
- Medical assessments (where necessary)
- Decision making
- Making payments
- All other aspects of processing claims, decisions, complaints, reviews and reconsiderations
- Mail delivery and mail handling

Data control

- Recording, protection and responsible handling of claimant data
- Data sharing

Communications

- Ongoing communications with claimants regarding claims (e.g. regarding changes of circumstances)
- Digital interactions
- Telephony and call handling
- Written correspondence
- Interactions with claimants in person

Dispute resolution

- Complaints procedures
- Management of processes claimants use to challenge decisions – for example, internal reviews

Safeguards

- Fraud investigations
- Debt recovery

Should the social security agency administer all devolved social security benefits in Scotland?

- 3.2. CAS recommends that the Scottish Government considers each benefit in turn and assesses each agency or group of agencies against the agreed criteria in order to decide who is best placed to carry out the core competencies of benefit delivery for that particular benefit.**
- 3.3. CAS welcomes the announcement that the Scottish Government intends to establish a Scottish Social Security Agency, and there is strong support amongst our CAB staff and volunteers for the majority of benefit delivery and aspects of the user interface to be delivered by this new agency. The data from the *'Designing a Social Security System for Scotland'* adviser survey showed a majority of respondents in support of the new Agency delivering every benefit and every aspect of benefit delivery except Discretionary Housing Payments and independent scrutiny of the system (which by definition would need to be carried out by another publicly commissioned agency). However, successful delivery of benefits by the new Agency will depend on meticulous design and adequate resourcing of the Agency.
- 3.4. CAS is broadly supportive of the new Scottish Social Security Agency being responsible for benefit delivery for the majority of the devolved benefits. However, rather than taking the social security system wholesale, in assessing who is best placed to deliver benefits in Scotland, it is necessary to consider each benefit in turn and assess which agency or group of agencies might be best placed to deliver that particular benefit.
- 3.5. For example, it is likely that the DWP would be best placed to deliver on any changes to the payment of Universal Credit, given that the DWP developed the IT system that supports this aspect of benefit delivery and has the capacity to make Alternative Payment Arrangements, and it would be very difficult and costly for the Scottish Government to develop an equivalent. Similarly, the proposed Job Grant will also rely on substantial data sharing with the DWP regarding those on unemployment benefits who enter into employment, and may be a complicated payment to administer, depending on how eligibility is defined.
- 3.6. Secondly, it is desirable for the Scottish Welfare Fund and Discretionary Housing Payments to remain with Local Authorities as on the whole, those discretionary payments are currently being successfully delivered by Local Authorities, with oversight from COSLA and Scottish Government. This sets a precedent for Local Authorities delivering discretionary payments, meaning that if the Scottish Government had plans to introduce new discretionary payments, it may decide that Local Authorities would be best placed to deliver these additional payments too.
- 3.7. Thirdly, it is clear that Best Start Grants are to be integrated with aspects of health care, for example the requirement that an applicant has had contact with the NHS or a Health Visitor, and the suggestion that the Best Start Grant might be integrated with the administration of Healthy Start Vouchers. This

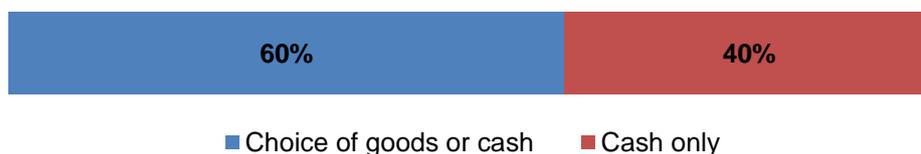
doesn't necessarily mean that the NHS is best placed to deliver every aspect of the Best Start Grant (such as payments and checking eligibility), but it will certainly require close working and information sharing between the NHS and the agency in question. Again, the assessment of people's eligibility for disability benefits is likely to require information sharing from NHS health professionals in the form of supporting medical evidence, and it will be necessary for some public, private or third sector agency to carry out assessments, so disability benefits is also likely to require a mixed approach.

- 3.8. Similar issues are likely to apply to other benefits being devolved, and there might be good reasons for preferring one agency over another, or a combination of agencies involved in benefit delivery, for each benefit considered independently.

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

- 3.9. **CAS recommends that the Scottish social security system should provide the option of providing goods or cash.**
- 3.10. **Wherever possible, users should be involved in decisions regarding in kind support, both for their own awards but also throughout the process of service design.**
- 3.11. **The Scottish Government should be wary of adopting a 'one-size-fits-all' approach to the provision of goods in place of cash. Instead, each benefit should be considered independently: what works well for one benefit will not necessarily work well for them all.**
- 3.12. The prevailing view amongst CAB advisers is that claimants should be offered a choice of goods or cash, but that it should always be a choice. A majority of adviser survey respondents – 60% - said that claimants should be provided with the choice, however concerns were raised in the client focus groups around a number of issues.

Figure 9: Survey data on provision of social security as goods or cash



- 3.13. Firstly, CAS is concerned that provision of goods without choice can lack dignity for the claimant as there can be stigma attached to 'getting what you are given'. Limited choice can have a negative impact on individuals and therefore in kind assistance should only be provided where it may be in the best interest of the individual. Wherever possible, users should be involved in

decisions regarding in kind support, both for their own awards but also throughout the process of service design. Offering universal benefits in kind, such as free prescriptions and the Baby Box is one way to reduce the potential stigma attached to receiving goods or services in kind instead of a particular benefit. This issue was picked up at our CAB adviser consultation event.

“There are dignity issues with state being perceived as ‘taking control.’”

- 3.14. Secondly, CAS is concerned that the social security budget could be used to pay for services, in which case there would be a danger that it could become conflated with existing budgets for provision of local services. If this were the case it would be detrimental to individuals, depriving them of income that they otherwise could have used for whatever the individual most needed. The benefit of cash will always be its flexibility to be used for anything, whether that is an aid or appliance, a taxi to the hospital or to work, or to pay the energy bills. Flexibility allows for choice, but also allows claimants to live an independent life.
- 3.15. Thirdly, the Scottish Government should be wary of adopting a ‘one size fits all’ approach. What may work well for one benefit may not work so well for other benefits. For instance, as detailed in the ‘Disability benefits’ section of this response, CAS recommends the popular Motability scheme continues, but as also noted in other areas of this response, this type of approach may not be appropriate for other benefits, or other possible goods that could be offered in kind.
- 3.16. When asked what types of in kind support might be provided by the social security system, advisers suggested the following:
- Wheelchairs/mobility vehicles;
 - White goods, such as a fridge or washing machine *[although there is existing provisions for these under the Scottish Welfare Fund Community Care Grants];*
 - Bus pass or other transport;
 - To offer cheaper tariffs in partnership with utility companies.
- 3.17. However, one adviser at the Inverness consultation event raised the issue that goods are much more difficult to transport to rural and remote areas than cash, which can be paid electronically. This can lead to claimants waiting to receive their entitlement.
- 3.18. There was relatively broad support for the last option amongst advisers, but they were keen that it would mean that individuals would be better off as a result of receiving part or all of their benefit in the form of cheaper energy, rather than simply exchanging like for like and receiving the same value of benefit simply in the form of credit to their energy supplier.
- 3.19. Also, competition in the energy market is a concern. Energy bills have risen much faster than inflation and are the number one spending concern of

consumers.¹¹ But despite there never being a greater need for engagement, over half of consumers have never switched and more than two-thirds are on the expensive standard variable tariffs.¹² Any approach by the Scottish Government which considered bulk buying cheap energy from utility companies should ensure that this does not contribute to the existing lack of competition in the energy market.¹³

Should social security in Scotland make some provision for face to face contact?

3.20. Yes – CAS recommends that the agency makes some provision for face to face contact with claimants, particularly at the initial claim stage.

3.21. There was broad support for face to face contact amongst advisers and clients that CAS consulted with. The ‘Designing a Social Security System for Scotland’ survey data showed that 77% of advisers thought that providing opportunities for face to face contact with staff was very important. Participants in the CAB client focus groups supported this view:

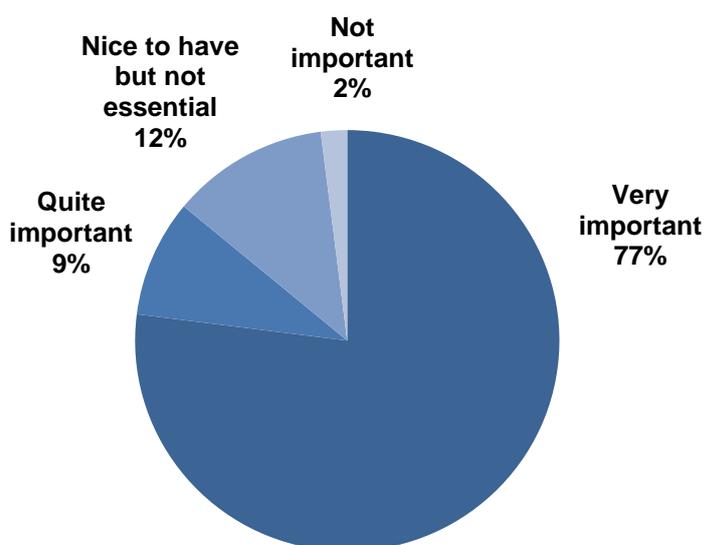
“Everyone missed the local contact for benefits. Processing Centres are too big and remote. If you want to speak to someone it has to be a virtual contact centre, [which is] not good customer service. Face to face contact is better customer service.”

¹¹ Energy bills still the biggest household worry – YouGov, January 2015
<https://yougov.co.uk/news/2015/01/14/energy-biggest-household-concern/>. Energy prices consistently poll as either households first or second biggest worry in Which? Consumer Insights Tracker.
<http://consumerinsight.which.co.uk/tracker/worry>

¹² The CMA’s customer survey found that 56% of consumers had never switched supplier, did not know if it was possible or did not know if they had done so. It is commonly agreed that around 70% of households are on standard variable tariffs.

¹³ Response to CMA’s provisional decision on remedies – Citizens Advice Scotland and Citizens Advice (England and Wales), April 2016
www.cas.org.uk/system/files/publications/response_to_cma_provisional_recommendations.pdf

Figure 10: Survey data on the importance of face to face contact



- 3.22. As a service that offers face to face advice as a matter of course, our advisers and clients understand the benefits that this can bring. However, as has been described in the ‘Outcomes and the User Experience’ section, when asked about preferred methods of communication, it is clear that different communication methods are more or less appropriate at different stages of the claim process. One fifth of survey respondents felt it would be useful to have the option of face to face contact when claimants first made contact with the agency and when making an initial claim, but face to face contact was not felt to be as important for other aspects of the claims process.
- 3.23. Face to face contact can be provided in a number of ways. The Scottish Social Security Agency could establish a number of local offices across Scotland; offices or services could be co-located with existing services; agency staff could run outreach sessions – either by drop-in or by appointment – at accessible locations such as libraries and GP Surgeries; or agency staff could provide a face to face service through home visits. One popular request emerging from the client focus groups was for the claimant to have the same adviser on each occasion, which they felt would save time and improve the user experience as the claimant would not have to repeat the same background information each time.

“Group members stated that they would prefer to have a designated worker that they could develop a type of relationship with.”

- 3.24. In establishing local offices, it is necessary to consider how social security services will interact with existing services in the area. For example, advisers were concerned that claimants would be passed “from pillar to post” depending on whether they were seeking help regarding reserved benefits, devolved benefits or local authority payments. In a city, it is frustrating to be sent from one agency to another, but in rural areas people can travel tremendous distances for appointments and to not receive the help they were

expecting is not only frustrating but has a huge impact on time and finances, as participants in our client focus group commented.

“One participant felt that a Scottish Government run “one-stop shop” approach would be a good idea, whereby a claimant could receive face-to-face information and advice on their individual claim but at the same time, information on their other non-devolved benefit entitlement would also be available to that agency to ensure accuracy and continuity of advice.”

3.25. Some services offer better opportunities for co-location than others. For example, a number of advisers have raised concerns about co-locating with Jobcentres because of people’s connotations attached to Jobcentres. Advisers thought it necessary to make a clear distinction between social security delivered by the DWP in Scotland and social security delivered by the Scottish Agency. Some suggested co-locating with Local Authorities, but others raised concerns about the ability of the Social Security Agency to adopt a new culture of operating, based on the principles already committed to by the Scottish government, if the service was co-located with other public sector services that already have a developed working culture.

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

3.26. **CAS recommends that assessments are carried out by a public sector body, either through the NHS, or by a specialist unit within the Scottish Social Security Agency.**

3.27. In situations where assessments are required, CAS recommends they are carried out by a public sector body, either the NHS or the Scottish Social Security Agency.

3.28. As outlined in the ‘Disability Benefits’ section of this response, CAS recommends a tiered approach to assessment that would greatly reduce the need for face-to-face assessments. In situations where assessments might be required – where a claimant requests one or where it has been impossible to determine eligibility from all existing evidence – CAS would recommend the assessments are carried out by a public sector body, either through the NHS, or by a specialist unit within the Scottish Social Security Agency.

3.29. At our consultation events with CAB advisers, there was a clear view that private companies should not conduct medical assessments. Most participants favoured the NHS, due to the experience of specific conditions within the service, and the belief that better information and evidence could be provided through that route. Other participants felt that assessments could be carried out by health professionals connected to the client. Others felt that any assessments should be carried out by a specialist unit within the new Scottish Social Security Agency.

- 3.30. However, one concern raised by advisers was that, if the NHS were to carry out medical assessments, this could have a negative impact on an individual's relationship with the agency that also provides their healthcare, especially if they had had any other contact with the individual carrying out the assessment.
- 3.31. Another issue is that, for the NHS to deliver assessments of disability benefits, it may give the impression that all disability is related to a health condition, thus prioritising a health model of disability. Not every disability has a connection with health conditions, for example sensory impairments, learning difficulties and limited mobility are all aspects of ability which *may* have a connection to health, but also can be completely independent of someone's physical and mental health. Disability advocacy organisations have fought for a long time for disability to be divorced from a purely health framework, which overlooks the social and environmental aspects of impairments.
- 3.32. One way to potentially overcome these issues is for a public sector agency which is connected to the NHS (and therefore can draw on all the available knowledge and expertise of medical professionals), but is not *branded* as the NHS to deliver assessments of disability. This would allow for fully trained staff to have access to medical expertise, but not jeopardise individuals' relationships with healthcare professionals or the agency which delivers their healthcare. It would also prevent people with disabilities feeling like their conditions were being reduced to a medical understanding of ability.

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

- 3.33. **No – CAS is opposed to the suggestion that the Scottish Government should aim to deliver social security through already existing public sector organisations. However, it will be necessary for certain existing public sector organisations to be involved in benefit delivery.**

Public Sector

- 3.34. A number of points have already been raised about how existing public sector agencies might be involved in benefit delivery. These include the possibility of the NHS delivering assessments for disability benefits, and also the NHS being involved in delivering the Best Start Grant, which was suggested by a number of advisers in the adviser consultation events.
- 3.35. There was some support amongst advisers for what they called the 'integration of services' and specific comments included that social security benefits should be part of health and social care. However, CAS is wary of the social security budget being integrated with the budgets of other public services. Where other public sector services are involved in benefit delivery, they should be contracted to carry out a specific task or aspect of benefit delivery, with the Scottish Social Security Agency and Minister for Social Security ultimately accountable for all aspects of benefit delivery.

Local Authorities

- 3.36. CAB advisers raised concerns about the consistency of approach if Local Authorities were responsible for delivering all or any aspects of social security in Scotland. It was felt that there are differences of approach across the 32 Scottish Local Authorities. For example, the Welfare Rights Adviser at Orkney CAB was very keen on Orkney Council having the responsibility for delivering social security, as she felt they delivered other high quality services, and understood the particulars of the locality's geography. However, other advisers were not supportive of the idea that their local authorities might be responsible for delivering the devolved benefits.

“Council should not take it on - too much variation and inconsistent approach.”

“LA approach too fragmented for disability benefits.”

- 3.37. CAS is also concerned that responsibility for delivering social security could interfere with the other services that Local Authorities deliver, such as housing services and social services. It is likely that claimants will already have an existing relationship with the Council, and this is likely to impact on their perception of the social security system if it is delivered through Local Authorities. However, this is only the case if councils were responsible for providing aspects of the user interface, and may not be the case if they were responsible for some of the 'back-room' functions of benefit delivery.
- 3.38. There was some support for local authorities to deliver funeral payments, Best Start Grants and Cold Weather and Winter Fuel Payments. These suggestions came up in the adviser consultation events, and survey data showed 40% of advisers who answered the question thought the Local Authorities should be responsible for Funeral Payments; 28% thought LAs should be responsible for Best Start Grants, and 26% thought LAs should be responsible for Cold Weather and Winter Fuel Payments. However, for delivery of all of these benefits, the Scottish Social Security Agency was the preferred option.

Figure 11: Survey data on who should deliver social security in Scotland – specific benefits

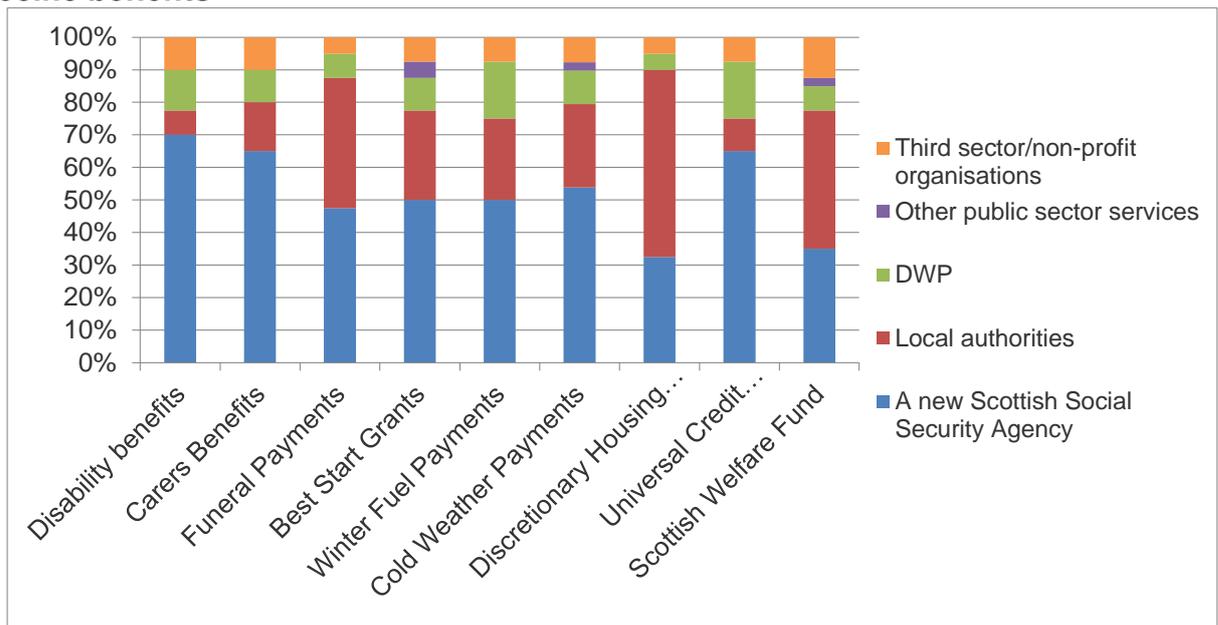
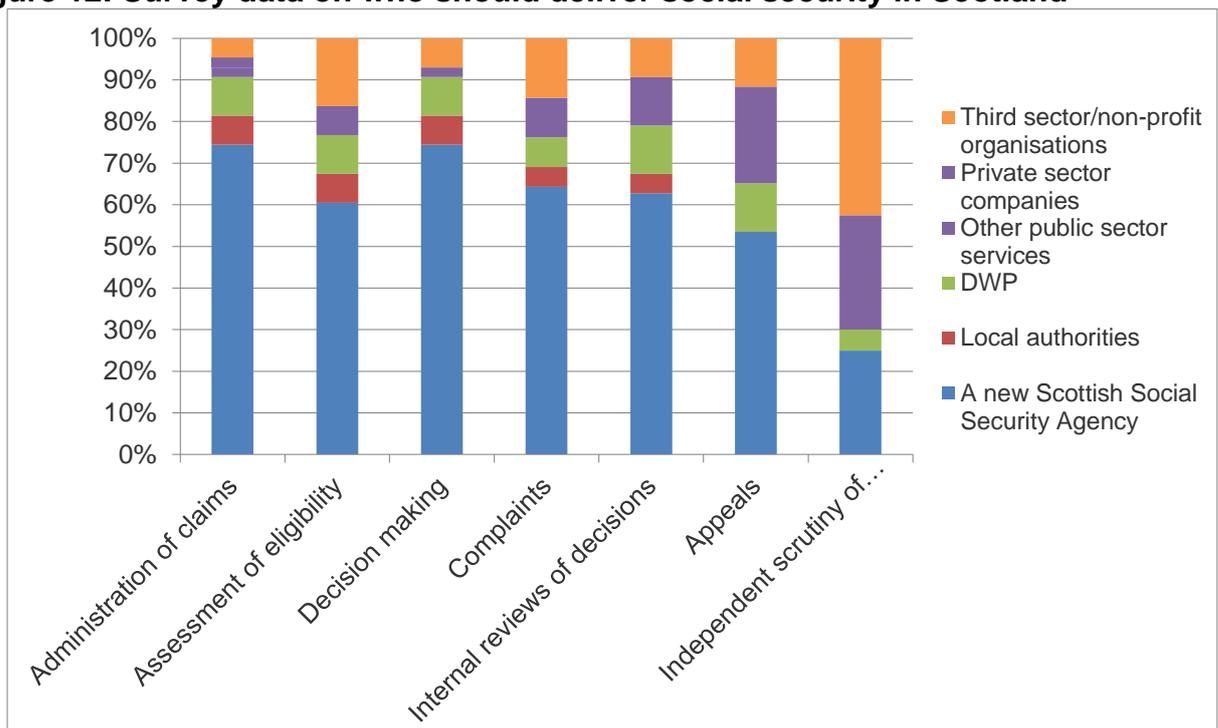


Figure 12: Survey data on who should deliver social security in Scotland



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?

- 3.39. **No. CAS recommends that the private sector has no involvement in the delivery of social security in Scotland.**
- 3.40. **CAS recommends that no aspect of benefit delivery is delivered by the voluntary sector, but that the Scottish Government develop good partnerships with those in the sector, particularly advice and advocacy organisations.**
- 3.41. **CAS recommends that the voluntary sector is involved in the continuous improvement of the social security system and that the Scottish Government provide opportunities for these organisations to provide feedback on the user experience.**
- 3.42. **CAS recommends that no aspect of benefit delivery is delivered by the social enterprise sector.**

Private Sector

- 3.43. CAB advisers showed very little support for the private sector delivering any aspect of social security in Scotland. The ‘Designing a Social Security System for Scotland’ survey data showed that 0% of respondents thought private companies should be involved in the delivery of any of the specific benefits, and when asked about whether the private sector should be involved in any particular aspects of benefit, 2% (one respondent) said that private companies should be involved in the administration of claims. The adviser consultation event data also supported this view, and advisers showed strong aversion to including the private sector in any aspect of benefit delivery:

“Private companies have a lot of problems; public is better.”

“Assessments – not the private sector.”

“No private company involvement.”

“NO role for private companies.”

- 3.44. These strong views are to be expected, given the extent of public controversy around the use of private companies to provide assessments for ill health and disability benefits over the last five years, leading eventually to the DWP ending its contract with Atos to provide Work Capability Assessments for Employment and Support Allowance¹⁴. More recently, HMRC also ended its contract with Concentrix due to the way the company carried out its fraud investigations. Following investigation, the Work and Pensions Committee stated that:

“The Committee was astonished by the extraordinary evidence we heard. From Concentrix we saw a company desperately out of their depth and unable to deliver

¹⁴ Atos contract comes to an end bringing much relief for campaigners - The Guardian, March 2014
www.theguardian.com/society/2014/mar/27/atos-contract-end-relief-campaigners

on the contract awarded to them by HMRC. From senior HMRC officials we saw a palpable disregard for the human implications of this gross failure of public service. From the tax credit claimants we saw dignity in the face of appalling and traumatic experiences.”¹⁵

3.45. It is CAS’s view that these problems partially stem from unclear terms in the contracts developed between public sector agencies and private sector companies, and poor management of the contracts. Also, contracting a private company to deliver aspects of service delivery increases the distance between senior government officials and the realities of service delivery, meaning it is harder for the Government to know what is going well and what needs to be improved. Any company with a profit-making motive is poorly placed to deliver aspects of social security, because their agenda is not solely focussed on service delivery which prioritises the user.

Third Sector

3.46. There are aspects of benefit delivery that will require close working relationships with the third sector, and particularly those who provide advice and advocacy. CAS recommends that the Scottish Government develop strong partnerships and good working relationships with those in the sector.

3.47. The third sector should be involved in the continuous improvement of the social security system as there are many in the sector who have frequent contact with service users.

3.48. In terms of the relationship that the Scottish CAB Service has with benefit delivery, citizens advice bureaux are not well placed to deliver any of the core competences of benefit delivery as this would have the potential to jeopardise one of the core principles of our service which is that we remain *independent*. It is also necessary to avoid any conflict of interest, given that we are the primary provider of independent benefits advice in Scotland, as one CAB adviser commented.

“People are aware that they can go to CAB for help – many clients don’t attempt to fill in a form without assistance, and they need help to understand the questions. Once the client has the form, they need help from independent advisers – CAB, other charities or support workers.”

3.49. However, Scottish citizens advice bureaux have close working relationships with Jobcentres and Benefit delivery Centres, so will play an important role in supporting benefit delivery. As a result, CAS can provide insights into the opportunities and challenges presented by colocation of advice services and government agencies. For example, the Multi Agency Support Team (MAST) service was provided within the Falkirk Job Centre for a six month period from October 2014 until March 2015. This consisted of staff from Scottish Welfare

¹⁵ Concentrix scandal, HMRC and tax credits: Committee issues statement – UK Parliament Work and Pensions Committee, October 2016 www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news-parliament-2015/concentrix-hmrc-tax-credits-statement-16-17/

Fund, Housing Options and Falkirk Area Welfare Benefits Advice Support Unit (CAB). The aim of the project was to support customers at risk of crisis through identifying and prioritising additional support requirements and facilitating take up of support. Co-locating the MAST service within the Jobcentre permitted an immediate access point for customers at the point when they were likely to be most receptive to support and thereby reduced their risk of crisis.¹⁶ The sorts of outcomes achieved by customers supported by the MAST service included: an increased awareness of additional benefit entitlements; support to prioritise their issues and to “see them clearly”; an introduction to community services such as mental health support, debt advice, and addiction support; and customers feeling they had been listened to and supported. For more information on the role of CAB, see ‘Advice, Advocacy and Representation’ section of this response.

Social Enterprises

- 3.50. There was little support amongst advisers for social enterprises delivering social security in Scotland. However, some consultation event participants suggested that, if any social security benefits were going to be provided as goods in kind, then it is desirable for social enterprises to be involved in provision of goods, albeit with a national framework and guidance to ensure consistency. Using social enterprises to provide goods would ensure that the social security budget was also being reinvested in local not-for-profit initiatives, and one participant gave the example of Four Square which runs Edinburgh Furniture Initiative.¹⁷

¹⁶ Welfare Reform Resilience Fund Final Report – Falkirk Council, July 2015

¹⁷ Edinburgh Furniture Initiative www.foursquare.org.uk/

4. Equality and low income

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?

The difference between equality and equity

- 4.1. Equality does not mean treating people the same, it means recognising people's differences and making reasonable adjustments to ensure that people have equality of opportunity to access services.

Complaints

- 4.2. Users of the social security system need to know how to report instances of discrimination and how to complain about any experiences or treatment that impacts negatively on them as a result of a protected characteristic. Complaints about discrimination should be treated seriously, and be analysed separately so that the agency and the Scottish Government can make any required adjustments to avoid similar issues arising for individuals in the future.

Intersectionality

- 4.3. Although not reflected in the Equality Act 2010, and therefore not a legal requirement, the Scottish Government should be aware of how combinations of more than one protected characteristic can produce specific experiences and forms of oppression. Discrimination is not cumulative, it has individualised effects. For example, if someone is a deaf, black lesbian she is likely to experience ableism, racism, homophobia, and sexism. But she is also likely to experience a specific form of discrimination that comes from being all of those things simultaneously. The Scottish Government should be open to listening to people's diverse experiences and do everything it can to ensure equal access and treatment of all users of the social security system.
- 4.4. The Scottish Government should also ensure that assumptions are not made about other protected characteristics based on the presence of one characteristic. For example, just because someone is pregnant, it doesn't mean that they do not have a disability.

Integration with other Scottish Government strategies and public services

- 4.5. The Scottish Government must ensure that its attempts to eliminate discrimination, victimisation and harassment, and advance equality of opportunity between those who share a protected characteristic and those who do not, are also integrated with other Scottish Government strategies, such as the Fairer Scotland strategy, Health and Social Care and the Child Poverty Act.

- 4.6. One way to ensure equal opportunity is to ensure that public services are well integrated to allow people easy access to the help that they need. For example, the Scottish Association for Mental Health advocate an ‘ask once, get help fast’ Mental Health Strategy which includes better joint working between NHS, Health and Social Care, creating clear pathways for people in crisis or distress.¹⁸ The Scottish Government should ensure that the Scottish social security system has well established links with other public sector organisations to ensure people have access to targeted support.

Consultation and co-design

- 4.7. In this area perhaps more than any other, it is necessary to consult and co-design services with users and their representatives. CAS welcomes the Scottish Government’s intentions to consult with organisations who represent specific interest groups. For example, the Terrence Higgins Trust is an organisation which has expertise on the intersection between health and disability and sexual orientation, and the Equality Network has expertise on gender reassignment, while there are a plethora of organisations who specialise on specific disabilities/conditions and faith groups who represent the interests of their churches and religious institutions. These organisations should be central in ensuring that the new Scottish Social Security Agency is designed with consideration of each of the protected characteristics.

Barriers

- 4.8. The following list of barriers presented in the Scottish Government’s partial Equality Impact Assessment are welcomed by CAS as the right approach to beginning to recognise the ways in which people might be affected by equality issues:
- Attitudinal barriers
 - Communication barriers
 - Organisational barriers
 - Physical barriers
 - Transport barriers
 - Financial barriers
 - Environmental barriers
- 4.9. The Scottish Government may wish to consider introducing additional ‘barriers’ into the assessment. For example:
- Language barriers – By this, we do not mean barriers to do with communication, but the use of language which may be alienating to certain groups. For example, on forms it often asks people to specify whether they are male or female. However, as has been recognised elsewhere in Scottish

¹⁸ Ask Once, Get Help Fast: SAMH Manifesto for the Scottish Parliament Election 2016 – SAMH, January 2016
www.samh.org.uk/media/462301/samh_ask_once_get_help_fast_manifesto_for_the_2016_scottish_parliament_election.pdf

legislation,¹⁹ not everyone identifies as either male or female, for example if they define as transgender or gender non-binary.

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?

- 4.10. There are two ways to approach this question. One is to consider what the Scottish Government can do with the new social security powers to reduce poverty and wealth inequality. The second is to think about what impacts any proposed changes might have for those on low incomes, in order to avoid further detriment. CAS is of the view that it is important to consider each of these questions, as one of the outcomes identified by the Scottish Government at the outset is that Scottish benefits “target the right people and seek to impact on poverty and inequality.”

Assessing how best to use the powers to impact on poverty and inequality

- 4.11. The Scottish Government should explore how the social security powers can be used to help meet poverty reduction targets. This may involve using the power to introduce new discretionary payments and ‘top-up’ existing benefits. CAS recommends that the Scottish Government carries out public consultation on how these powers could be used to reduce poverty and inequality, within existing budgetary constraints.

Assessing how best to use the powers in order to reduce unnecessary detriment caused to those on low incomes

- 4.12. In exploring this question, the Scottish Government should not only consider the financial impacts on those on low incomes, but also the potential impacts on aspirations, independence, and social relations, among other things. How someone is treated in a social security system will have a knock-on effect on many other aspects of their lives and their enjoyment of life. As has been said elsewhere in this consultation response, CAS welcomes the intention to create a system with dignity for the respect of individuals and the user experience at its heart. The Scottish Government’s ability to follow this through in practice will have the most significant impact on individuals and families on low incomes.
- 4.13. Recent research by CAS looked at the causes and impacts of periods of no income. The report, *Living at the Sharp End* identifies a number of benefits-related causes of a gap in income, in which individuals have no money to pay for basic essentials such as food, gas and electricity, rent and toiletries.²⁰ The report found that the most common causes of these gaps in payments for benefit claimants are:

¹⁹ For example, the Marriage and Civil Partnership (Scotland) Act 2014

²⁰ *Living at the Sharp End: CAB Clients in Crisis – Citizens Advice Scotland, July 2016*
<http://www.cas.org.uk/publications/living-sharp-end>

- DWP administrative errors, including: mail lost within DWP mail processing systems (particularly medical evidence), poor communication with claimants and official error causing gaps or delays in payments;
 - Clients who had failed their Work Capability Assessment and been found fit for work losing their eligibility for ESA and having difficulty transferring to JSA;
 - Processing times and waiting days at the beginning of benefit claims causing a gap in payments;
 - ESA claimants challenging a decision regarding their Work Capability Assessment not receiving payments during the Mandatory Reconsideration process;
 - Benefit sanctions, particularly for JSA claimants.
- 4.14. The findings of this research show that benefit delivery is as important as high level service design, and it is essential that adequate resources are allocated to benefit delivery to prevent claimants from experiencing gaps in income. This is the area that has the biggest potential to avoid unnecessary detriment for users of the Scottish social security system. One change that could have significant positive affects for claimants is to increase the frequency of Universal Credit payments from monthly to weekly.
- 4.15. The social security powers to be devolved also allow the Scottish Government the potential to have a positive impact on particular manifestations of poverty. For example, changing the way in which Cold Weather Payments and Winter Fuel Payments are administered can help to reduce fuel poverty (see the section on these benefits for more detail).

What does the Scottish Government need to do, as it develops a Scottish social security system, to ensure that any implications for those with protected characteristics are fully taken into account?

- 4.16. Based on the views of advisers, CAS has detailed some considerations that the Scottish Government should take into account when designing and delivering social security, organised under headings of protected characteristics.

Disability

- Ensure that the way in which disability benefits are designed and delivered, in particular the way in which assessments are carried out does not discriminate against disabled people and recognises the differing ways in which physical disabilities, learning difficulties, sensory impairments and mental health conditions can affect people's day-to-day experience of life.

- Ensure that mental health conditions are given particular attention in the Equality Impact Assessment.
- Ensure that all reasonable adjustments are made both to allow physical access to premises and to increase access to information, for example providing information resources in braille and large print text.
- It is important to recognise that those with disabilities can also be carers, and their needs should not be overlooked.

Age

- Advisers were particularly critical of what they referred to as age discrimination in the current social security system, for example the single room rate of Housing Benefit for under 35s. This was based, they said, on an assumption that young people are getting support from their parents, when in fact many young people between the ages of 18 to 35 are living independent lives. The Scottish Government should avoid making similar assumptions about the lifestyle and financial support available to young people.
- Advisers also had concerns that young carers do not receive enough support or recognition of their role under the current system. CAS has made recommendations for how support services can be improved for young carers – see the section on Carer’s Benefit.
- Pensioners who are carers currently are not eligible to claim Carer’s Allowance. Advisers told CAS that this is a major source of frustration for that group, and suggested that even if pensioner carers under the new system are not eligible for carers benefits, perhaps there could be some form of recognition of the role they play, and/or some non-financial benefits.

Religion and Belief

- The Scottish Government should aim for social security services to be flexible and sensitive to the needs of those of different faiths. For example, some Muslim women may not wish to be alone with a man that is not her husband, and therefore the Agency should be flexible about who carries out medical assessments and how they are conducted.
- When designing funeral payments, the Scottish Government should recognise that different faiths have different funeral practices and claimants should not be financially disadvantaged as a result of this. Extra costs could be incurred for example when funerals are carried out within a short time period and these additional costs should be considered by the new funeral payment where appropriate.

Gender

- CAS is aware of the impact that single household payments of Universal Credit could have on some women's financial autonomy and in some cases could lead to financial abuse. CAS has recommended that the Scottish Government seeks advice on the best ways to avoid situations of financial abuse and reduced independence from organisations such as Women's Aid. CAS also recommends that the Scottish Government allow claimants a choice regarding how they wish to receive their Universal Credit payments.
- The Scottish Government and Social Security Agency staff should avoid making assumptions about people's family arrangements based on gender. For example, ensuring that single fathers of young children are able to access all payments of the Best Start Grant. Also, women are more easily recognised as having a caring role, so it is important to ensure that men who care for someone with health conditions or disabilities are also recognised as carers and are as able to access the system.

Marriage and civil partnership

- For social security benefits, the important factor to be considered when couples make joint claims is whether or not a couple is living together, not whether they are married or in a civil partnership. This should be considered when designing and delivering fraud investigations: the fact that a couple is married is not evidence that they are living together nor that they should be treated as one financial unit.

Sexual orientation

- It is important that the Scottish Government and Scottish Social Security Agency recognises different kinds of families both in designing and delivering the system. For example, the Agency should ensure that the language used reflects different kinds of partnerships, such as "partner" and "spouse", and that agency staff do not assume to know the gender of the user's partner.

Gender reassignment and transgender

- The Scottish Social Security Agency should avoid making assumptions about the gender of an individual based on appearance. If in doubt, staff should ask what pronoun somebody prefers to be called by.
- The Scottish Government should recognise that someone who has not undergone gender reassignment may also require recognition of their gender identity and for adjustments to be made.

Ethnicity

- 4.17. Systemic racism exists in many publicly delivered services and every effort should be made to ensure that everybody is treated equally independent of ethnicity when accessing the Scottish social security system. For example, everyone should be treated equally when undergoing residency rules and

immigration status checks and assumptions should not be made based on country of origin, skin colour or accent.

5. Independent advice and scrutiny

Do you think that there is a need for an independent body to be set up to scrutinise Scottish social security arrangements (Yes/No)? Please explain your answer.

- 5.1. **Yes, there is a need for several independent bodies to be set up to scrutinise Scottish social security arrangements. CAS recommends the Scottish Government establish an independent panel to monitor and review the eligibility criteria for disability benefits; and an independent body to fulfil the functions currently performed by the Social Security Advisory Committee. In addition, CAS recommends the Scottish Government give consideration to consolidate and formalise the function of various stakeholder and user advisory groups as part of this process.**
- 5.2. As the consultation points out, two current advisory bodies exist at UK level – the Social Security Advisory Committee (SSAC) and the Industrial Injuries Advisory Council (IIAC) - that will not be permitted to advise on aspects of the Scottish social security system. Citizens Advice Scotland believes that they play a crucial role in the current UK system, and their functions should be performed by independent bodies in Scotland.
- 5.3. As detailed in our response to section 6, CAS recommends that an independent panel should be set up to monitor and review the eligibility criteria for disability benefits. This panel should include disabled people and representative organisations, as well as medical experts in a range of physical and learning disabilities and mental health conditions.
- 5.4. At the outset of the new system, the panel could investigate and agree what criteria would be a fair assessment of people’s need for support from disability benefits, and what conditions should entitle someone to an award without the need for assessment, for a long-term/lifetime award or for automatic eligibility. The panel could then review the criteria on a yearly basis to take account of medical advances and any practical issues arising from the application of the criteria.
- 5.5. This could incorporate the role currently played by the IIAC, and appears to be a function of the Disability Benefits Commission announced in the Programme for Government²¹.
- 5.6. CAS recommends an independent body should be established to fulfil the functions currently performed by the Social Security Advisory Committee in the reserved benefits system²². Much of the important detail affecting the operation of the social security system is contained in regulations and guidance which are regularly issued and updated. In consultation with CAB

²¹ A Plan for Scotland – The Government’s Programme for Scotland 2016/17 p.74

²² About Us – Social Security Advisory Committee

<https://www.gov.uk/government/organisations/social-security-advisory-committee/about>

advisers there was consensus that the impact of the new Scottish system on the need for social security advice provision would not be fully known until regulations and guidance are published.

- 5.7. The SSAC regularly issues calls for evidence on areas covered by regulations, which enables full analysis of the impact of changes in areas such as waiting days²³ and temporary absence regulations²⁴. It also has the ability to produce reports and recommendations on its own initiative, such as on decision making and mandatory reconsideration²⁵.
- 5.8. Whilst the UK Government is not bound to follow the recommendations made by the SSAC, it allows the full impact of changes to regulations to be known and taken into account. For instance, as raised in evidence, the increase in 'waiting days' for Universal Credit led to an increase in CAB clients who were left without income for an extended period and required a referral for a food parcel²⁶.
- 5.9. This level of detailed scrutiny of regulations is likely to be beyond the resources or specific expertise of the Scottish Parliament's Committees. Given that seemingly small changes to regulations can leave large numbers of people with a substantial reduction in their income, CAS would recommend that an equivalent body to the SSAC should be an essential feature of the new system.
- 5.10. In addition, in the ongoing process of developing the new social security system, the Scottish Government has established a range of stakeholder and expert groups on specific benefits, such as carer's benefits and Industrial Injuries Disablement Allowance, and as part of the 'options appraisal' of delivery options, several of which CAS participates in. In addition, the Scottish Government has attempted to set up 'user panels' or 'experience groups'²⁷ to seek the advice of people who receive the existing benefits.
- 5.11. There may be an opportunity to consolidate and formalise the functions of these stakeholder groups into one or more independent bodies to provide expert advice as the new social security system is developed.

²³ Consultation response on Universal Credit Waiting Days – Citizens Advice Scotland, October 2014 <http://www.cas.org.uk/publications/consultation-response-universal-credit-waiting-days>

²⁴ CAS response to consultation on changes to Housing Benefit and Pension Credit temporary absence regulations – Citizens Advice Scotland, February 2016 <http://www.cas.org.uk/publications/cas-response-consultation-changes-housing-benefit-and-pension-credit-temporary-absence>

²⁵ CAS response to consultation on Decision Making and Mandatory Reconsideration – Citizens Advice Scotland, March 2016 <http://www.cas.org.uk/publications/social-security-advisory-committee-consultation-decision-making-and-mandatory>

²⁶ Learning From Testing Times: Early Evidence of the Impact of Universal Credit in Scotland's CAB Network – Citizens Advice Scotland, June 2016 <http://www.cas.org.uk/publications/social-security-advisory-committee-consultation-decision-making-and-mandatory>

²⁷ Public to design social security system – Scottish Government, October 2016 <http://news.scotland.gov.uk/News/Public-to-design-social-security-system-2d21.aspx>

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? (Yes/No) Please explain your answer.

- 5.12. **Yes, CAS recommends the independent bodies to review eligibility criteria for disability benefits; and to succeed the SSAC should be established in law.**
- 5.13. Establishing the role of the bodies in statute would guarantee their independence from government, allowing them to bring constructive criticism and challenge if needs be. CAS would envisage both as permanent bodies, which would also indicate a need for a statutory underpinning.
- 5.14. The consultation document cites the Expert Working Group on Welfare as an example of a body that was established on a non-statutory basis. However, that group was a short-term commission tasked with providing recommendations to government on options for a social security system in an independent Scotland. It did not have a part in the running of the social security system, and could have been disbanded without the need for legislative change.
- 5.15. Depending on the intended scope, scale and permanence of the various stakeholder and user advisory groups it may also be appropriate to include these in statute.

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)?

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

- 5.16. **CAS would expect the arrangements to include setting out who should be represented on each body and the specific remits of each of the bodies.**
- 5.17. **CAS would also recommend relevant Scottish Parliament Committees are permitted to make referrals to the body fulfilling the functions of the SSAC.**
- 5.18. For instance, the legislation could be used to guarantee that disabled people, disability organisations and a range of medical experts be included on the independent panel on the eligibility criteria for disability benefits. The legislation should also include a requirement for the body to issue public consultations where appropriate to ensure experience and evidence from claimants and organisations can inform its recommendations.
- 5.19. In terms of the specific remits of the bodies, for the independent body to advise on regulations, CAS would recommend the existing functions of SSAC

are duplicated. We would also recommend that relevant Scottish Parliament Committees (currently the Social Security Committee and the Delegated Powers and Law Reform Committee) be permitted to make referrals to the body to allow advice to be provided on regulations to aid the Parliamentary scrutiny process.

Should there be a statutory body to oversee Scottish social security decision making standards? (Yes/No) Please explain your answer.

If yes, should this be a separate body in its own right? (Yes/No) Please explain your answer.

- 5.20. **CAS recommends that the Scottish Government introduce a new statutory body which is independent of the Scottish Government and the Scottish Social Security Agency, responsible for independent scrutiny of decision making and standards.**
- 5.21. **The body should be required to publicly publish any recommendations made, and the Scottish Government or the Scottish Social Security Agency should be required to publicly respond to the recommendations regarding improvements that are to be made.**
- 5.22. A recent survey of CAB welfare rights advisers showed that almost half (48%) of survey respondents said that DWP decision makers ‘rarely’ or ‘never’ make decisions based on a fair appraisal of all the available evidence.²⁸ This may be due to a number of factors, including timeframes within which to make a decision, issues around training, and issues around decision-maker bias.
- 5.23. The Scottish Government should make efforts to ensure excellent standards in decision making, as this can have an impact on people’s trust in and perception of the government agency. It is also instrumental in keeping the numbers of internal reviews and appeals to a minimum, and introducing a separate body to oversee standards ensures that the principle of continuous improvement remains central to the delivery of social security in Scotland.
- 5.24. Therefore, CAS supports the Scottish Government’s proposals regarding the introduction of a body responsible for independent scrutiny of decision making and standards. This body – the Committee – should be statutory and independent of the Scottish Government and the Scottish Social Security Agency, although the Scottish Social Security Agency should provide secretariat to support the work of the Committee.
- 5.25. As was the case for the DWP’s Decision Making Standards Committee, the Scottish equivalent should be comprised of experts from academia, the advice and advocacy sector, and administrative justice. The Committee should be

²⁸ CAS carried out an adviser survey in August 2016 which received a total of 61 responses from 40 CAB offices. Response to Second Independent Review of Personal Independence Payment, Citizens Advice Scotland, September 2016 www.cas.org.uk/publications/cas-response-personal-independence-payment-call-evidence

responsible for making recommendations to the Scottish Government on decision making policy as well as practice, and should have the remit to carry out investigations into:

- Policy;
- Operational policy;
- Practice and procedures;
- Staffing and resources;
- Reporting of statistics on decision making;
- Any other area as required by the Scottish Government or the Scottish Social Security Agency.

5.26. The Committee's recommendations should be based on evidence from:

- Analysis of official statistics;
- Visiting business offices;
- Speaking to staff;
- Looking at processes and policies;
- Hosting or attending forums to hear the views of users and their representatives.

5.27. The Committee should be required to publicly publish any recommendations made, and the Scottish Government or the Scottish Social Security Agency should be required to publicly respond to the recommendations regarding improvements that are to be made.

6. Disability benefits

Options for devolved disability benefits – DLA, PIP and AA

What is right with Disability Living Allowance (DLA)?

What is wrong with DLA?

- 6.1.1. Prior to the introduction of PIP, the number of DLA issues advised on by citizens advice bureaux, though significant, were not on the same scale as currently seen with PIP. Historically the biggest problem was additional costs not being covered, with CAB clients reporting not being able to afford extra costs associated with a disability, such as prescription charges, transport needs, energy costs, aids and adaptations.²⁹ As we can see from evidence presented in our response to the ‘Alignment with other devolved services’ and ‘Alternatives to cash’ sections of this response, many of these continue to be issues for disabled clients.
- 6.1.2. However, it is not necessarily the case that DLA was preferred to PIP in its entirety. Many participants in our 2015 ‘Empowering Scotland’ consultation felt that the introduction of PIP had been ‘a step in the right direction’, in terms of moving away from ‘care’ ‘mobility’ needs as proxies of extra costs under DLA to the impact of a person’s disability or condition on their ability to carry out a range of activities key to everyday life.
- 6.1.3. CAB issues related to Disability Living Allowance have declined as the rollout of PIP has progressed. New issues related to the Care component decreased from 18,591 in 2012/13 to 5,297 in 2015/16 (a fall of 72%), and those related to the Mobility component fell from 16,769 in 2012/13 to 4,170 in 2015/16 (down 75%).
- 6.1.4. Many of the CAB clients who were previously in receipt of DLA, came in for advice because they had been reassessed for PIP and either received a lower award, or no award at all. The change away from DLA has resulted in a significant number of disabled people losing out on support and facing hardship as a result.

²⁹ Paying the price: the real cost of illness and disability for CAB clients – Citizens Advice Scotland, June 2006 <http://www.cas.org.uk/publications/paying-price-real-cost-illness-and-disability-cab-clients>

An East of Scotland CAB reports of a client who was in the army and had a car accident. A serious brain injury resulted in major brain surgery, cranial reconstruction, damage to frontal lobe, 18 months in hospital, permanent short term memory, concentration, spatial awareness and problem solving difficulties. The client was in receipt of DLA middle rate, low rate mobility. He received a home assessment which lasted 15 - 30 minutes without his wife present who is his main carer. He was awarded 0 points and deemed not to be eligible for any support from PIP. The CAB adviser described the PIP assessment letter as "full of holes" and helped the client submit a mandatory reconsideration.

- 6.1.5. Others found the reassessment process extremely distressing as detailed elsewhere in this response, particularly those that had an indefinite or lifetime award of PIP.
- 6.1.6. Disability Living Allowance remains open for new claims for children aged 16 and under. Citizens advice bureaux have advised clients who felt that all evidence had not been taken into account and the award had underestimated the support needs of the child. Clients have also faced administrative problems, such as delays or long hold times whilst trying to phone the DLA contact centre, or problems when their child turns 17 and requires to be reassessed for PIP.

A West of Scotland CAB reports of a client whose child was in receipt of DLA. His son is diabetic and this condition has been managed carefully at home and at school through an internal support worker. The child has recently begun attending secondary school, and the client has now been informed that as his child no longer benefits from frequent attention during the day the condition should essentially be self-managed by the child. While it is the case that children are from this age expected to manage their blood sugar levels during school hours, in reality this is the most vulnerable stage for these clients- in between having their condition managed fully and self-management. In reality children this age often have issues of non-compliance and need to carefully manage their food intake before exercising, for example. Their care needs are still onerous when compared with other children of their age. The CAB reported that this was one of a number of cases they see in this scenario - children with diabetes reaching secondary school are being expected to manage their own condition. The CAB helped the client submit a mandatory reconsideration request.

6.1.7. At the time that PIP was proposed, CAS expressed concerns that people who were receiving the lower-rate Care component of DLA may not qualify for PIP, particularly those with mental health problems. We were also deeply concerned about the introduction of medical assessments similar to ESA and the risk of ‘claimants not being treated with dignity and respect.’³⁰ The rollout of PIP has proved these concerns to be well-founded.

What is right with Personal Independence Payment (PIP)?

What is wrong with PIP?

6.1.8. Since PIP was introduced in 2013, it has rapidly risen to be one of the most common issues in citizens advice bureaux. With 24,401 new issues related to the daily living element and 20,416 to the mobility element in 2015/16, they were respectively the second and fourth most common areas of advice given by Scottish citizens advice bureaux in that year.

6.1.9. Further detail on issues CAB clients have encountered with Personal Independence Payment is provided throughout this response, but in summary the major issues have been:

- Problems with medical assessments which have not treated clients with dignity or respect.
- Poor quality of initial decision-making on entitlement, with a high rate of decisions overturned on reconsideration or appeal.³¹
- Further medical evidence not being sought by decision-makers, causing clients to be charged by GPs for evidence to be provided.
- Problems for clients transferring from DLA to PIP and being reassessed for a lower or no award, despite having clear needs and in some cases being previously granted an indefinite award.
- Clients being referred for medical assessments unnecessarily, when existing evidence would have been sufficient to assess their needs.
- At the outset, lengthy delays of up to 15 months for a claim to be assessed, leaving people in hardship.

³⁰ Response to the consultation on Disability Living Allowance reform – Citizens Advice Scotland, February 2011 <http://www.cas.org.uk/publications/response-consultation-disability-allowance-reform>

³¹ Between April and June 2016, 65% of Tribunal appeals against a PIP decision were upheld. In July 2016, 16% of PIP new claim decisions, and 18% were overturned following a mandatory reconsideration. Tribunals and gender recognition statistics quarterly: April to June 2016 – Ministry of Justice, September 2016 <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2016> and Personal Independence Payment statistics: April 2013 to July 2016 – Department for Work and Pensions, September 2016 <https://www.gov.uk/government/statistics/personal-independence-payment-april-2013-to-july-2016>

- Delays in the mandatory reconsideration process for challenging a decision.

6.1.10. As noted above and elsewhere, it is not necessarily the case that CAB clients and advisers oppose all aspects of PIP. One of the policy intentions behind PIP was to ensure that the benefit focused on disabled people with the greatest need. Instead of using 'care' and 'mobility' needs as proxies of extra costs, PIP determines need based on the impact of a person's disability or condition on their ability to carry out a range of activities key to everyday life.

6.1.11. Participants in our 'Empowering Scotland' consultation were positive about these policy intentions. Many felt that the introduction of PIP was a 'step in the right direction', and their problems had been with its implementation rather than the policy itself. Participants thought that too many changes just made the system more and more complicated and had significant concerns about aspects of the PIP eligibility criteria, particularly the more restrictive mobility criteria.

6.1.12. Additionally, a number of CAB advisers have reported clients getting favourable decisions from PIP, including a number of former DLA who were reassessed and received a higher award, which better reflected the additional costs they faced.

What is right with Attendance Allowance (AA)?

What is wrong with AA?

6.1.13. Advice provided on Attendance Allowance by Scottish citizens advice bureaux rose from 4,708 new issues in 2012/13 to 7,614 in 2015/16, a 62% increase, making up a greater share of CAB workload than was the case four years ago. This change is likely to reflect increasing demand for the benefit rather than any particular policy change.

6.1.14. Many of the policy issues related to Attendance Allowance largely relate to administrative problems faced by clients, such as delays in claims being processed, and poor communication about decisions. There also appears to be a lack of understanding for what purpose the benefit is awarded in some cases (particularly that it is intended to help with care costs) as well as clients not being aware of other passported support they could receive as a result of receiving Attendance Allowance, such as Blue Badges or the Severe Disability Premium or Pension Credit.

6.1.15. An issue raised by various commentators on Attendance Allowance is the perceived unfairness of there being no mobility component in the benefit, compared with DLA or PIP. This issue is discussed further in our response to the 'Whole of life approach' section of this consultation.

6.1.16. CAB advisers who participated in our consultation events also raised concerns about the age limits for PIP and AA not keeping pace with the State Pension age, with some clients at risk of having to claim AA whilst not

receiving any pension, as detailed in our response to the 'Whole-of-life' approach section below.

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

6.1.17. As detailed in our response to the 'Equality and low income' section of this consultation, CAS recommends that there are a number of specific actions that could be taken to improve equality for disabled people.

- Ensure that the way in which disability benefits are designed and delivered, in particular the way in which assessments are carried out does not discriminate against disabled people and recognises the differing ways in which physical disabilities, learning difficulties, sensory impairments and mental health conditions can affect people's day-to-day experience of life.
- Ensure that mental health conditions are given particular attention in the Equality Impact Assessment.
- Ensure that all reasonable adjustments are made both to allow physical access to premises and to increase access to information, for example providing information resources in braille and large print text.
- It is important to recognise that those with disabilities can also be carers, and their needs should not be overlooked.

6.1.18. More widely, there are a range of considerations that the Scottish Government should take account of that would improve equality around the new system more widely including the difference between equality and equity; handling complaints; intersectionality; integration with other Scottish Government strategies and public services; consultation and co-design and language barriers.

6.1.19. CAS' recommendations throughout this section have the potential to make it easier for disabled people and those with health conditions to access the system and receive all the social security support they are entitled to. As official figures show, poverty rates are higher for households with a disabled adult, with 23% of families with a disabled adult in poverty in 2014/15, compared to 16% of those without.³² As highlighted in other parts of this section, disabled CAB clients have reported being forced to use disability benefits to 'plug gaps' due to low income from other sources.

³² After Housing Costs figures. Analysis of risk of poverty by equality characteristics – Scottish Government, August 2016 <http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty/CoreAnalysis/povertyanalysis>

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***

A person applying for a disability related benefit

- 6.1.20. **Claimants should have a choice about how they apply for disability benefits. This should include online, by telephone, on paper and in person. CAS recommends a 'digital by default' approach would not be appropriate for applications for disability benefits.**
- 6.1.21. **The application form needs to be shorter and easier for claimants to understand. It should enable claimants to fully explain the impact of their condition(s), and be framed in as positive a way as possible.**
- 6.1.22. **Support needs to be widely available to help people make a claim for disability benefits. This support should be available from multiple sources, and preferably independent from the decision-making process.**
- 6.1.23. **Claimants are provided with more information about the claim process at the outset, including an overview of the process, and information about what will be required of them at each stage.**
- 6.1.24. **Since PIP was introduced in Scotland in June 2013, bureaux have been helping clients to apply for PIP. Bureaux have helped clients throughout the process – from the initial telephone call to make a claim, to appealing an adverse decision.**
- 6.1.25. **Responses from participants to our 2015 'Empowering Scotland' consultation, as well as case evidence from bureaux, emphasised that the application process is currently difficult to navigate for many claimants. Claimants experience the process as confusing and distressing. Too often, the process leads to the claimant's condition deteriorating and their quality of life suffering, as an adviser who participated in the consultation commented:**
- “Any system should take account of the fact that it will be used by the most vulnerable people in society so ease of use should be built in. It should not be so difficult that it deters people from applying or exacerbates their conditions”.*
- 6.1.26. **The most significant issue for bureaux and clients has been the introduction of the face-to-face assessment, which is dealt with in more detail below. However, there are a number of problems with the application process itself which could be addressed when the new powers over disability benefits are devolved.**

The current application process

6.1.27. The process for making an application for PIP is as follows:

- (1) A claimant makes their claim by telephone call or textphone. At this stage a claimant will be asked for basic information including contact details, relevant periods in hospital or residential care, payment details and their main illnesses and disabilities.
- (2) A 'How your disability affects you' (PIP2) form is sent to the claimant. The claimant has four weeks to complete and return this form.

6.1.28. Bureaux have seen a number of clients struggling to make a claim in this way. In particular, some clients do not want to make the initial telephone call. Although a paper form to make the initial claim can be sent in exceptional circumstances, this can lead to delays and therefore disadvantage that person.

6.1.29. Many participants thought that **the PIP2 form was too long and complex**. They also thought that the **form was too rigid**, based on a 'tick box' approach that made it difficult for many people to fit their conditions into the descriptors. The fact that the form was focused on what people could not do could also make the process more distressing for claimants. The result was that people were often put off making a claim, or found the whole process detrimental to their health and wellbeing.

"Individuals often struggle to see how their illness will fit into the descriptors and this leaves them unable to complete the forms".

"The forms are awful and take a lot of energy to complete. It is the last thing you want to face when you are feeling ill. It is difficult to know what to put down and how to explain what life is like".

"The forms are so long and complex that people are overwhelmed before they start".

6.1.30. Claimants also felt that the current application form is designed to 'catch you out' and that it made them feel like 'liars or scroungers'. Responses reflected **a significant lack of trust in the current system**.

6.1.31. Another key issue for bureaux has been the time limit for returning the PIP2 form. Claimants only have one month to return this form, which can make it difficult for them to obtain the support they need.

An East of Scotland CAB reports of a client who was in receipt of DLA and has severe depression and panic attacks, which have deteriorated and become more restrictive in her life. Her inability to come out of her house on her own to a venue she knows and to a person she knows, indicates one of the problems she faces. Her level of anxiety and panic remained constant throughout the interview.

A PIP application was sent to the client dated 21 July, to be returned by 21 August. Both are sent by second class and can take ten days at either end to reach the destination. So, in a calendar month, client really ends up with ten days to get CAB help to complete the document. The CAB has a three week waiting list for clients who need help with PIPs, DLAs, AAs and ESAs and most days there are two of these appointments, so it is a struggle to fit clients in to the diary to get the help they need. In this case, the client, she did not request help until she received the reminder letter, which left the 10 days to give her help to complete the form and post it five days before the return deadline, with the hope it that it would reach the DWP Mail Handling Centre in time.

Improving the application process

6.1.32. Two key themes emerged from participants' responses on how the application process could be improved so as to be more accessible, and less distressing, for claimants.

Claimants should have a choice about how they apply for disability benefits

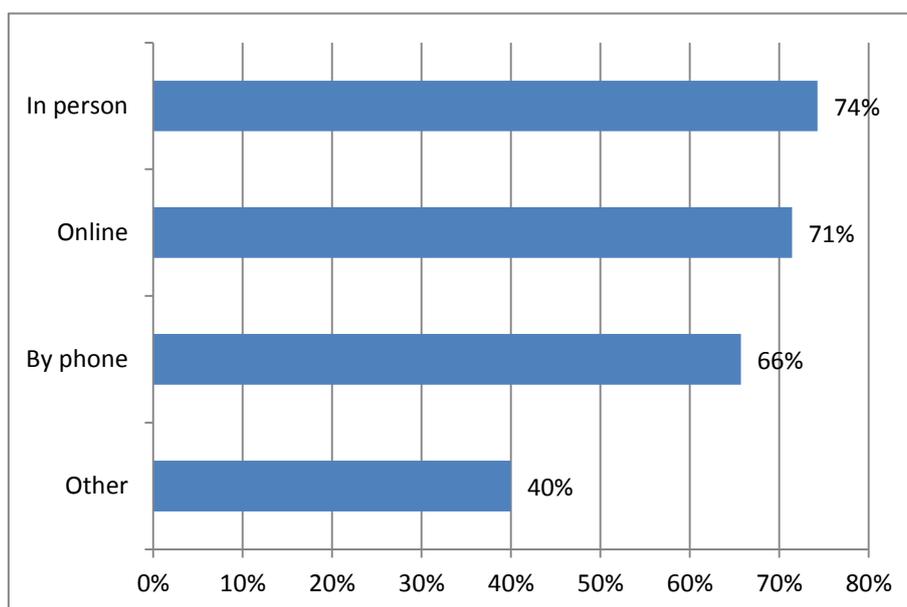
6.1.33. The majority of participants thought there should be several different methods of applying for disability benefits, including online, by telephone, on paper and in person.

“There should be as many different means of application as necessary to ensure that all who are likely to be eligible can apply”.

6.1.34. Participants emphasised that every claimant is different and will have their own needs and preferences, so should be able to choose the method that is most appropriate for them. All options should be as accessible as possible; for example, paper forms should be easily available from different locations such as GP surgeries and local benefit offices.

6.1.35. Figure 13 shows that the majority of advisers responding to the 'Empowering Scotland' online survey selected a number of methods that should be available.

Figure 13: How do you think that people should be able to make an application for disability benefits? (Please select all that apply)



6.1.36. Although most thought there should be the option to apply online, this should not be the only method given that many claimants may not have access to a computer or may not be confident in using a computer or the internet.

6.1.37. In August 2015 CAS conducted a survey of 601 CAB clients across the country, most of whom were seeking advice about a benefits issue. Part of this survey asked clients about their ability to use the internet³³. Tables 2 and 3 and Figures 14 and 15 below suggested that claimants of disability benefits find it harder to use a computer and the internet when compared with all benefit claimants. For example, 35% of DLA and PIP claimants said that they could not use a computer at all, compared with 19% of all respondents. 52% of DLA and PIP claimants said that they could not make an application for benefits online, compared with 30% of all respondents. On this basis, whilst we would support an online option being able, CAS does not recommend a 'digital by default' approach is used for this purpose.

Table 2: Can you use a computer?

	All respondents		DLA & PIP claimants	
Very well	177	30%	16	16%
I can get by	223	37%	29	29%

³³ Bridging the Digital Divide – Citizens Advice Scotland, May 2016
<http://www.cas.org.uk/publications/bridging-digital-divide>

With difficulty	88	15%	21	21%
I can't use one at all	111	19%	35	35%
Total	599	100%	101	100%

Figure 14: Can you use a computer?

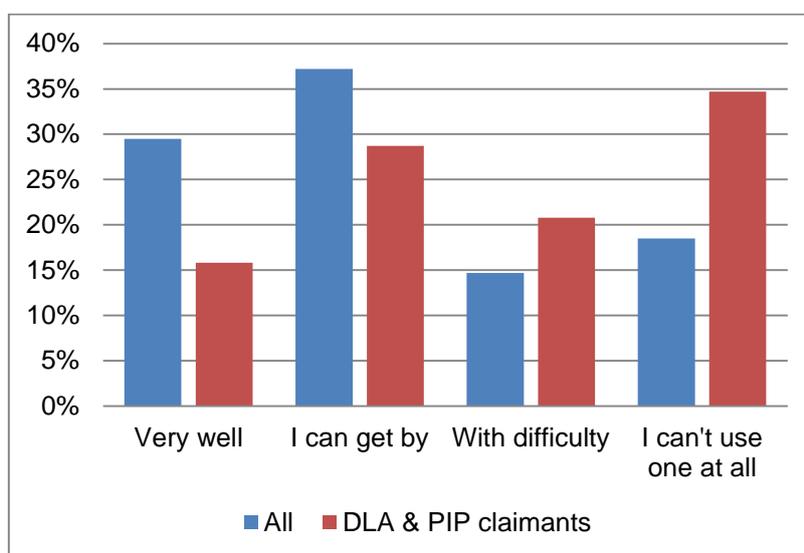
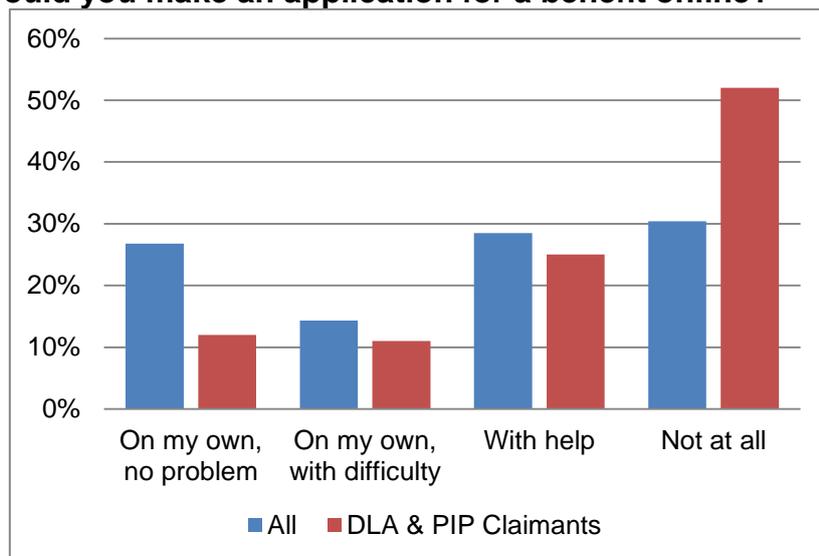


Table 3: Could you make an application for a benefit online?

	All respondents		DLA & PIP claimants	
On my own, no problem	160	27%	12	12%
On my own, with difficulty	85	14%	11	11%
With help	170	29%	25	25%
Not at all	181	30%	52	52%
Total	596	100%	101	100%

Figure 15: Could you make an application for a benefit online?



6.1.38. Many liked the option of applying in person for disability benefits.

Some thought this could be at a local Jobcentre or benefits office. However, some expressed concern that because of negative perceptions of the DWP/Jobcentre, people may be put off going to make a claim in person.

“Local benefit centres should be more customer-friendly and help applicants complete their forms”.

“You could have a face-to-face appointment at a local office to discuss application (rather than initial PIP phone call at the moment)”.

“Face to face contact from an actual employee of the DWP could prevent the inaccurate decisions made by the decision makers”.

“Applying in person could make the process easier to understand and questions can be explained”.

6.1.39. Some participants also thought that applications for disability benefits should be able to be triggered by other services, particularly GPs or hospital consultants. Some thought GPs should be able to refer someone directly to make an application; others suggested that a benefits officer should be based at a local GP surgery who could help people to make a claim.

Support needs to be widely available to help people make a claim for disability benefits

6.1.40. It was clear from participants’ responses that claimants want appropriate support to be available as widely as possible, regardless of the method of application.

“I think whatever method you use support should be available from people like Citizens Advice or Welfare Rights”.

“It’s best to have assistance, no matter what the claim method. It helps to have someone explain the questions to you. I don’t always know how to answer them”.

“Many people need help applying so that help should be available and all applicants should know where to go for help”.

6.1.41. From participants’ responses, it was clear that support was needed for a range of reasons throughout the application process including help to: understand the process and what is required; make the initial telephone call for PIP; fill in forms; gather evidence; request a mandatory reconsideration; appeal a decision.

“I’m not very good at explaining my problems in everyday life and it was really helpful to have somebody else to ask me the right questions. I didn’t understand the way the questions on the forms were worded”.

6.1.42. Support can come from a range of different sources, including bureaux, welfare rights officers, support workers and should be available at multiple locations. Many thought having this support available at local GP surgeries or hospitals would be particularly helpful.

6.1.43. On the whole, participants thought that this support should be independent from the DWP, again reflecting a lack of trust in the current system.

“I wouldn’t trust staff from the DWP to complete my application forms properly”.

“All claimants should be directed to independent assistance with the application”.

Changes to the application form

6.1.44. A number of participants suggested changes that could be made to the application form which would make it easier for claimants. These changes included:

- Ensuring that disabled people and representative organisations are involved in the design of any application form, and that design is kept under review.
- Shortening the form.
- Reducing repetitive questions.
- The application form could be more like a diary of the person’s daily life and any problems they encounter.
- The form should include descriptions of different scenarios which illustrate how a person’s disability or health condition may impact on their daily living or mobility.

- The form should allow people to fully explain their condition and its impact.
- The form should be less rigid and not simply a 'tick box' approach.
- The language of questions needs to be much clearer.
- The form should be more focused on what a person can do, and what support they need to do that.

The eligibility criteria set for disability benefits

- 6.1.45. In assessing people's eligibility for disability benefits, much greater emphasis should be given to evidence from people who know the claimant, including health and other relevant professionals, carers and family members.
- 6.1.46. The agency determining eligibility for disability benefits should be responsible for gathering this information and covering any associated costs.
- 6.1.47. The agency should ensure that they routinely gather medical evidence from a wide range of relevant health and social care professionals (not solely GPs).
- 6.1.48. Medical evidence should be gathered at the initial assessment phase to inform the decision regarding the claimant's eligibility. This would improve accuracy of decisions and therefore avoid the administrative costs associated with reconsiderations and appeals.
- 6.1.49. Further evidence and detail is provided in our response to the 'Evidence' section of this consultation.

The assessment/consideration of the application and the person's disability and/or health condition

- 6.1.50. Lessons must be learnt from the roll-out of PIP to prevent excessive delays in any future assessment process. There should be a specific time limit within which a decision on entitlement must be made.
- 6.1.51. In assessing people's eligibility for disability benefits, much greater emphasis should be given to evidence from people who know the claimant, including health and other relevant professionals, carers and family members.
- 6.1.52. There should be a tiered approach to assessment, with a face-to-face assessment only carried out in a small number of cases either when a claimant requests one or it has not been possible to gather enough information to make a decision.
- 6.1.53. CAS recommends that face-to-face assessment should only be carried out by a suitably qualified professional with knowledge and experience of the

particular claimant's condition(s). They should take place at a location that is local and accessible to the claimant. Claimants should be treated with dignity and respect at all times.

- 6.1.54. In situations where assessments are required, CAS recommends they are carried out by a public sector body, either the NHS or the Scottish Social Security Agency.
- 6.1.55. CAS recommends an increase in the use of paper-based assessments, thereby increasing the availability of assessment centres and ensuring that claimants are assessed at a centre that is familiar, geographically close and easily accessible.
- 6.1.56. CAS recommends home visits should always be available for those who need them.
- 6.1.57. If an individual's condition or circumstances are unlikely to change, there should be no requirement for them to be re-assessed to continue receiving an award. The timing of any reassessments should be appropriate to the claimant's condition(s) and circumstances.
- 6.1.58. Technology could support the assessment process in certain situations. However, it will not be suitable in all instances, given issues with broadband provision and suitable locations in parts of rural Scotland.
- 6.1.59. Further evidence and detail is provided in our response to the 'Proposals for Assessments' section of this consultation.

The provision of entitlements and awards (at present cash payments and the option of the Motability Scheme)

- 6.1.60. The new Scottish social security system should continue to support the Motability scheme.
- 6.1.61. CAS recommends all people entitled to disability benefits should be able to use their benefits to access the Motability scheme, not just those on the highest mobility rate. This is particularly important in rural areas, where a car is essential due to the lack of suitable public transport for people with mobility problems.
- 6.1.62. CAS recommends the criteria for entitlement to the enhanced mobility component should be changed so that the relevant distance is increased from 20 metres to at least 50 metres, as was previously the case for DLA.
- 6.1.63. CAS recommends that the standard rate for the mobility component is increased to reflect the costs associated with limited mobility, and to help people to remain in employment.

- 6.1.64. People should be offered the choice of some of their benefit being given to provide alternative support, along the lines of the popular Motability scheme.
- 6.1.65. CAS recommends that reduced energy tariffs, travel concessions, and a choice of aids and adaptations would be the most useful support to be provided as part of a disability benefit.
- 6.1.66. It is important however, that people are given a genuine choice between receiving this support or the cash equivalent and that attempts are not made to pressurise people into sacrificing part of their benefit for alternative support.
- 6.1.67. Offering this support also must not be seen as a substitute for wider action by the Scottish Government and local authorities to improve energy efficiency, provide appropriate aids and adaptations, reduce public transport costs, or provide more accessible public transport.
- 6.1.68. Further evidence and detail is provided in our response to the 'Mobility component' and 'Alternatives to cash' section of this consultation.

The review and appeal process where a person isn't content with the outcome

- 6.1.69. CAS recommends that the new Scottish Social Security system should include an internal review process in order to reduce the demand on the appeals service, and to help claimants to receive the right decision and have their issues resolved as quickly as possible.
- 6.1.70. CAS recommends that the Scottish Government publishes regular statistics on the performance of its internal review process.
- 6.1.71. CAS recommends that the claimant receives an acknowledgment of their request for an internal review which clearly explains the process.
- 6.1.72. CAS recommends that, during the review process, payments continue for clients who are already in receipt of the benefit in question.
- 6.1.73. CAS recommends that decision notices provided to claimants following an internal review make reference to all evidence received and taken into account.
- 6.1.74. CAS recommends that the review decision be passed directly from the Agency to HM Courts and Tribunals Service, rather than the claimant having to lodge an appeal themselves.
- 6.1.75. The internal review process needs to allow for claimants to challenge any or all aspects of a decision, and to guide them clearly through this process.

- 6.1.76. CAS is of the view that a Tribunal should continue to be the forum for final dispute resolution within the Scottish Social Security System. If an individual disagrees with the Scottish Social Security Agency decision following internal review, they should be able to appeal to a Tribunal.
- 6.1.77. CAS feels that one of the most important actions that must be taken to ensure the Tribunal offers a fair and proportionate means of appealing a decision is to guarantee proper diversity of panel composition for appeals.
- 6.1.78. CAS recommends there should be improved communication and direct feedback from the Tribunal to Agency Decision Makers
- 6.1.79. CAS recommends that the Scottish Government takes steps to guarantee that where an appeal at a Tribunal has been successful, the Agency implement the Tribunal's decision, and make any payments due, without delay.
- 6.1.80. Further evidence and detail is provided in our response to the 'Complaints, Reviews and Appeals' section of this consultation.

Evidence

What evidence and information, if any, should be required to support an application for a Scottish benefit? Who should be responsible for requesting this information? Who should be responsible for providing it? Please explain why.

- 6.2.1. In assessing people's eligibility for disability benefits, much greater emphasis should be given to evidence from people who know the claimant, including health and other relevant professionals, carers and family members.**
- 6.2.2. The agency determining eligibility for disability benefits should be responsible for gathering this information and covering any associated costs.**
- 6.2.3. The agency should ensure that they routinely gather medical evidence from a wide range of relevant health and social care professionals (not solely GPs).**
- 6.2.4. Medical evidence should be gathered at the initial assessment phase to inform the decision regarding the claimant's eligibility. This would improve accuracy of decisions and therefore avoid the administrative costs associated with reconsiderations and appeals.**
- 6.2.5. One of the emerging issues with PIP has been the difficulties claimants can face in obtaining evidence to support their claim, particularly as a result of health professionals charging claimants for providing this evidence.

An East of Scotland CAB reports of a client who handed in a report from her GP to substantiate her PIP application. Her partner had had to pay £75 to obtain this medical report.

- 6.2.6. Under current guidance to both health professionals and claimants it is clear that, during the assessment phase, claimants should not be approaching their GP to gather further evidence.
- 6.2.7. Guidance on the PIP claimant journey states that, at the stage the claimant is sending in their 'How your disability affects you' form they should also send any supporting evidence, but that should only be things that the claimant already has available. It advises claimants: 'Don't ask for other documents which might slow down your claim or for which you might be charged a fee – for example, from your GP. If we need this we'll ask for it ourselves using the contact details you provide on your form'.³⁴
- 6.2.8. Guidance for health professionals similarly states: 'Claimants are only required to send in evidence they already hold, such as copies of clinic letters, they are not told to contact their GP or health professional to obtain further evidence'.
- 6.2.9. On receiving the claimant's PIP2 form, it is for the Assessment Provider to request further information from a claimant's GP or other health professional. This is done by sending a Factual Report for completion. The GP/health professional will receive a payment for completing this report from the Assessment Provider.
- 6.2.10. However, case evidence from bureaux as well as the views gathered from CAB clients and advisers as part of our 'Empowering Scotland' consultation in 2015, strongly suggests that the DWP/Assessment Provider do not seek information from a claimant's GP or other relevant professional, and instead decisions are too often based solely or primarily on the report from the face-to-face assessment.

“Many decisions for PIP are made purely on medical assessment report and the DWP state that this is sufficient information, and will not seek a report from other professionals who have possibly known and treated the claimant for many years. It is difficult to see how this can possibly be the best approach to deciding a person's eligibility”.

³⁴ Paragraph 2.3.4 of Department for Work and Pensions PIP Assessment Guide www.gov.uk/government/uploads/system/uploads/attachment_data/file/547146/pip-assessment-guide.pdf

A West of Scotland CAB reports of a client who had chronic rheumatoid arthritis and requires three monthly injections to help her alleviate the pain. She went for her assessment one week after she had made sure that she would receive her hydrocortisone injection to enable her to attend. Her mobility benefit was removed despite her previously receiving a High Mobility DLA award and no cognisance was taken of the medical information supplied by her rheumatology nurse, nor was she contacted.

A South of Scotland CAB reports of a client who on his form stated he found it difficult to discuss his condition and requested that his GP and consultant should be contacted. However, no contact was made and a DWP Decision Maker suggested to the bureau adviser that the responsibility for getting such evidence lies with the client. This was despite the fact that DWP guidance to claimants specifically states that new medical evidence should not be sought.

6.2.11. As part of a September 2016 survey of CAB advisers on their experiences of PIP, when asked what further evidence Atos/Capita request on claimants' behalf, 19 survey respondents, unprompted, said Atos 'rarely' seek further evidence in regards to a claim, and six further respondents said that Atos 'never' seeks additional evidence (together, they made up 69% of those who answered the question). This reflects a similar picture to the one provided by advisers in 2014, when 56% of survey respondents said that assessment providers were not requesting evidence. Only two respondents said that Atos do sometimes obtain further evidence, and both mentioned GPs. The comment from a bureau tribunal representative below summarises the difficult position this puts clients in:

“Less than 1 in 10 set of appeal papers contains medical evidence that ATOS has sought themselves. Clients are often very upset or frustrated by this as they have given the details and are happy for the medical professional to be contacted. Moreover a lot of services that can provide medical evidence are reluctant to give this to the client themselves.”

A North of Scotland CAB reports of a client who had a face-to-face assessment for PIP carried out as a home visit. The health care professional did not have with her the additional medical evidence that had been sent in to support his claim. On this occasion the client was pro-active and checked, and was able to provide his own copies of the medical evidence for the HCP. Another client might not know to check, and might be disadvantaged because the HCP was unaware of all the evidence.

6.2.12. Even if the claimant ignores the DWP guidance and attempts to gather supporting evidence, there are numerous barriers associated with trying to obtain evidence in support of a benefits claim from healthcare professionals, which are explored below.

6.2.13. When asked who clients tend to obtain evidence from in support of a benefits claim, PIP survey respondents answered with the following, in order of most common:

GPs	44
Specialist Doctors	35
Community Psychiatric Nurses	31
Mental Health Service providers (both NHS and other)	30
Physiotherapists	17
Occupational Therapists	14
Social Workers	7
Other Allied Health Professionals	5
Carers	2
Friends and family	2

6.2.14. We also asked advisers how easy it is to gather supporting evidence from various kinds of health and social care professionals. The category which received the highest number of responses indicating that supporting evidence could be obtained with ease was Allied Health Professionals (23%). The survey results showed specialist doctors to be the most difficult category from which to obtain supporting evidence. Respondents also indicated that GPs are not always easy to obtain evidence from, and four respondents said it was 'impossible' to obtain evidence from GPs.

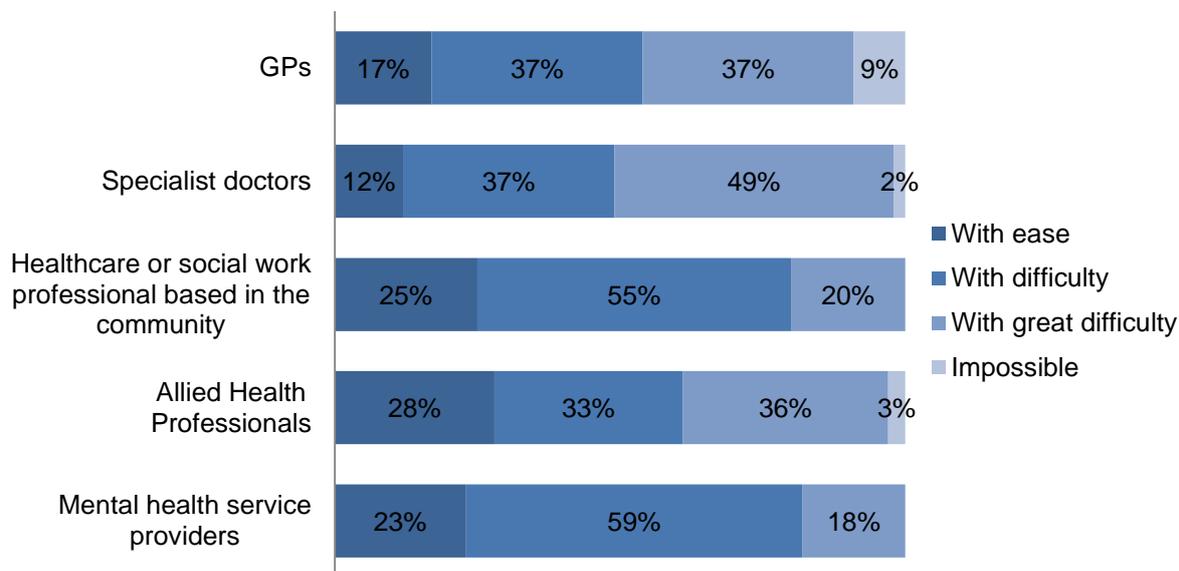
6.2.15. As Table 4 and Figure 16 show, for each of the health and social care professionals included in the question, respondents indicated that it is on the most part difficult, very difficult or impossible to acquire supporting evidence from them.

Table 4: Ease of obtaining supporting evidence from health and social care professionals – based on adviser survey

	Supporting evidence can be obtained with ease	Supporting evidence can be obtained with difficulty	Supporting evidence can be obtained with great difficulty	It is not at all possible for clients to obtain supporting evidence	Don't know	Total
From their GP	17%	35%	35%	8%	4%	48
From specialist doctors	10%	33%	44%	3%	10%	48
From healthcare or social work professional based in the community	22%	48%	17%	0%	13%	46
From Allied Health Professionals³⁵	23%	28%	30%	2%	17%	47
From mental health service providers	21%	54%	17%	0%	8%	48

³⁵ Allied Health Professionals are health care professions distinct from nursing, medicine and pharmacy. Examples include physiotherapists, occupational therapists and speech and language therapists. More information can be found at <https://www.england.nhs.uk/ourwork/qual-clin-lead/ahp/>

Figure 16: Ease of obtaining supporting evidence from health and social care professionals – based on adviser survey



6.2.16. Another problem with providing supporting evidence is the tight timescales involved. When asked whether one month was enough time to gather relevant medical evidence in support of their initial claim, 80% of survey respondents said that one month was ‘rarely’ or ‘never’ enough time. As one adviser put it:

“Clients don’t often have reports [supporting evidence] to go with the PIP form. The month starts from the date that the phone call for the claim is made. It does not leave enough time for clients to get reports. Most of the PIP forms we assist with are sent away with what the client has available during the visit. The bureau only seeks further information if the award has to be appealed.”

6.2.17. Participants in our ‘Empowering Scotland’ consultation were clear **that much more weight should be given to evidence from people who know the claimant.**

“Evidence provided by medical experts who the claimant has been dealing with should be weighted more than the medical assessment as they will know how the client’s condition affects them more than a short medical assessment will determine”.

6.2.18. Most participants thought that **the agency making a decision on eligibility should be responsible for gathering further information, and it should be that agency, not the claimant, who bears any associated costs.**

“The onus on the applicant to provide the evidence and information for the claim is just putting pressure on people who are already struggling”.

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? (Yes/No) If no, please explain why

If the individual has given their permission, should a Scottish social security agency be able to request information on their behalf? (Yes/No) If no, please explain why

6.2.19. Yes, the individual should always be asked to give their consent for their personal information to be shared to make it easier for medical evidence to be obtained

6.2.20. Yes, if the individual has given their permission, a Scottish Social Security Agency should be able to request information to provide evidence for their claim.

6.2.21. One of the biggest current barriers clients experience in obtaining medical evidence is that healthcare professionals are not contracted to provide this information unless the DWP or Atos requests it. The British Medical Association provides guidance to GPs advising that:

“NHS GPs are under no obligation to provide such evidence to their patients or to provide it free of charge. If a GP does not agree to provide additional evidence for their patient then it is a private matter to be resolved between the GP and their patient.”³⁶

6.2.22. This means that GPs and other healthcare professionals are in a difficult position of being asked by patients to provide evidence that they are not contracted to provide or being paid to provide. To cover the costs, GP surgeries will sometimes charge for medical evidence, but this means that the cost is transferred to the claimant, and can be prohibitive. It also means there is not a consistency of approach geographically: a PIP claimant registered at one GP surgery may be expected to pay £50 for a letter detailing how their disabilities affect them, whilst a claimant registered at a different surgery might have access to this for free.

“[Atos] very rarely seeks further medical evidence, but place the onus on the claimant to provide this. In South Lanarkshire this presents a problem as NHS Lanarkshire have advised not to provide their patients with medical reports unless sought by an authorised body.”

6.2.23. Another barrier for PIP clients is that for some who are long-term disabled, they may have gone a long time without consulting medical professionals because their condition is unlikely to change, there is no cure or treatment, or it is a disability as opposed to a medical condition (e.g. for

³⁶ Benefits certification and work for Atos – British Medical Association
<https://www.bma.org.uk/advice/employment/fees/benefits-and-work-for-atos>

somebody blind or partially sighted they may have a condition that affects their ability to carry out daily tasks but they do not have an illness). This makes it more difficult for them to gather further evidence from health professionals.

6.2.24. Most CAB clients and advisers who took part in our 2015 'Empowering Scotland' consultation thought that there could be improvements to information sharing between services which would reduce the need for claimants to provide the same information more than once.

6.2.25. For example, links with GPs and hospitals could be improved. Some suggested a central system which would hold information on claimants from a variety of sources – e.g. GPs, social workers and occupational health – which could then be accessed by the agency making a decision on disability benefits. Participants emphasised that obtaining client consent for information sharing was essential.

6.2.26. CAS is of the view that there is a lot of potential for improving the assessment of eligibility for disability benefits through data sharing, although it is necessary to proceed with caution and ensure that data sharing practices yield improved outcomes for clients as well as government departments.

Proposals for eligibility

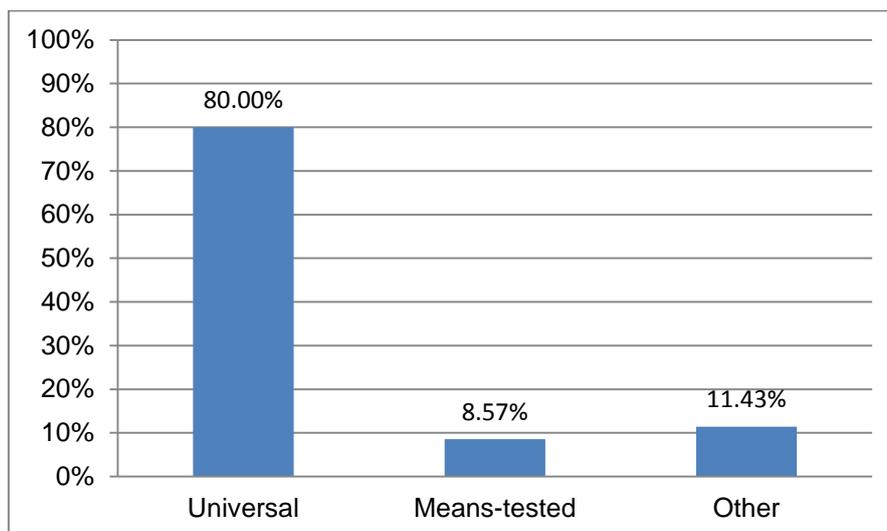
Do you agree that the impact of a person's impairment or disability is the best way to determine entitlement to the benefits? (Yes/No) If yes, which aspects of an individual's life should the criteria cover and why? If no, how do you suggest entitlement is determined?

- 6.3.1. Entitlement to disability benefits should remain universal.
- 6.3.2. An independent panel should be set up to monitor and review the eligibility criteria for disability benefits. This panel should include disabled people and representative organisations.
- 6.3.3. The criteria for entitlement to the enhanced mobility component should be changed so that the relevant distance is increased from 20 metres to at least 50 metres, as was previously the case for DLA.
- 6.3.4. An additional lower rate for the daily living component should be introduced.
- 6.3.5. Criteria and descriptors should be developed that ensure that people with mental health conditions and learning disabilities are equally able to qualify as those with physical impairments.
- 6.3.6. The current PIP descriptors and points system should be reviewed to enable the new system to operate more flexibly and be suitable for all disabilities and health conditions, particularly fluctuating conditions.
- 6.3.7. As noted in the 'Personal Independence Payment' section of this response, PIP is intended to focus on disabled people with the greatest need. Participants in our 'Empowering Scotland' thought the introduction of PIP was a 'step in the right direction', and their problems had been with its implementation rather than the policy itself.
- 6.3.8. However, as discussed below, participants had significant concerns about aspects of the PIP eligibility criteria, particularly the more restrictive mobility criteria. Therefore, while overall participants did not want to scrap the PIP eligibility criteria entirely, they did think that improvements should be made gradually.

Who should be eligible for disability benefits?

- 6.3.9. The majority of participants thought that **disability benefits should remain universal**. 80% of advisers responding to the online survey thought that entitlement to disability should be universal, whereas only 9% thought it should be means-tested (see Figure 17).

Figure 17: Should entitlement to disability benefits be universal or means-tested?



6.3.10. Participants saw universality as important for the message it sent to society; one of inclusion, equality, dignity and non-discrimination.

“It ensures that all are treated with the same respect and not to be able to pick out individuals and stigmatise poverty”.

“All people with disability should be treated equally and helped to improve their quality of life”.

“As soon as you means-test, you create a barrier and those closest to the barrier gain most and those just above lose most”.

6.3.11. A small number of participants did think that disability benefits should not be available to people with a high level of income or savings (£60,000 or more). Others thought there should be some sort of ‘opt-out’ option, where eligibility would remain universal but there was a mechanism to give the money back to the Government or to an identified charity.

6.3.12. Participants’ responses on eligibility criteria largely reflected the current DLA/PIP model. They emphasised that the benefit should be available to people with a physical and/or mental health condition. While some participants thought that the benefit should be available to *all* disabled people, most suggested some limitations. These included that the condition:

- Is ‘long-lasting’ or likely to persist for a certain amount of time (there appeared to be a general consensus of around 6 months)
- Has an impact on their daily living or impairs their quality of life
- Results in extra costs for the disabled person.

6.3.13. Some participants thought there should be one benefit regardless of age. In particular, DLA/PIP should not stop when a person turns 65.

6.3.14. Some also thought that there should be automatic eligibility for certain conditions, as was the case with DLA.

What about the current disability benefits system needs to be changed?

6.3.15. It became clear through our consultation with bureaux and clients that the vast majority did not want a complete overhaul of PIP. However, most did think improvements could be made to the PIP descriptors and points system. Participants stressed that this should be done gradually so as to minimise distress for claimants. Some suggested that there should be a built-in mechanism for yearly independent review of the criteria used to determine eligibility.

6.3.16. There were four areas identified as priorities for change.

Changing the mobility descriptors under PIP

6.3.17. Participants thought restricting eligibility for the enhanced mobility component to those who could walk less than 20 metres was resulting in significant hardship for many disabled people. Most wanted to see the distance increased to at least 50 metres (as under DLA).

6.3.18. CAS is beginning to see a number of cases where people who were in receipt of the higher mobility rate under DLA are not qualifying for the enhanced rate under PIP. This is particularly detrimental as people can lose their entitlement to the Motability Scheme.

A West of Scotland CAB reports of a client who has recently been transferred over from DLA to PIP. He previously received High Rate Mobility and Middle Rate Care. Following his face to face assessment he has been awarded Standard Rate Mobility and Daily Living which means he will lose his Motability car. The client was happy with the Daily Living component but thinks he should be on higher rate Mobility. The client wishes help to challenge the decision as he feels it will impact on his independence. He does not feel that the medical report accurately reflects the assessment and wishes to dispute some of the statements.

An East of Scotland CAB reports of a client who has been in receipt of DLA since 1993 and had received a lifetime award. He has now received a PIP award which will reduce his award and remove his Motability car. The client is totally reliant on his car for getting to and from work as a CCTV Operator and his move to PIP would rob him of this.

6.3.19. Some participants thought that, rather than enhanced mobility being a passport to the Motability Scheme, all claimants should be able to use their PIP award to access Motability.

Lower rate for care/daily living

6.3.20. Under DLA, there were three rates for the care component – lowest, middle or highest. Under PIP, there are only two rates for the daily living component – standard and enhanced.

6.3.21. Many participants thought that a lower rate for daily living should be reintroduced to PIP. They thought that removing this rate was excluding people who face additional costs. People perceived to have lower level support needs may now get no support from PIP, which could lead to higher health and social care costs in the long term. The preventative and supportive role played by the lowest rate of the care component under DLA is lost under PIP.

Mental health

6.3.22. From our consultation it appeared that, while participants recognised that improvements had been made in PIP to ensure people with mental health conditions received the benefit, much more still needed to be done. The **PIP descriptors were seen as still geared towards physical conditions**, and it was more difficult for people with mental health conditions to ‘fit’ their conditions into the descriptors.

“Physical conditions are relatively easy to match with descriptors/criteria of the benefit. As such, claimants with physical conditions are more likely to garner sufficient points to meet the qualifying threshold. However, it is more difficult to match mental health conditions to related descriptors/criteria... Accordingly, those with mental health conditions are less likely than their counterparts with physical conditions to garner sufficient points to meet the threshold”.

Flexibility

6.3.23. Although overall participants seemed to view PIP eligibility criteria as an improvement, a significant number raised concerns that the current descriptors and points system was too rigid and arbitrary. This could mean that people with significant needs but who struggled to fit neatly into the descriptors ‘lost out’. There appeared to be a general consensus that the PIP descriptors and point system needed to be reviewed so that it could operate

more flexibly and be suitable for all disabilities and health conditions, particularly fluctuating conditions.

“The PIP points system is artificial and arbitrary”.

“The descriptors are too narrow – they do not fit all health conditions and disabilities”.

“PIP is too prescriptive for clients to obtain points”.

Currently there are only special rules for the terminally ill but should there be others? Please explain why. How could this be determined?

6.3.24. CAS would support the extension of automatic entitlement for people with terminal illnesses certified as having less than six months to live, to all people diagnosed with a terminal illness, regardless of how long they are expected to live.

6.3.25. Extending the automatic entitlement to people with all terminal illnesses, rather than just those with less than six months to live would simplify the rules in this area, and would spare a lengthy assessment process for those who have been diagnosed with a terminal illness, providing certainty at a difficult time and ‘one less thing to worry about.’

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

6.3.26. CAS would support the introduction of automatic entitlement for certain conditions that would clearly have a significant impact on their ability to perform everyday tasks, without the need for an assessment.

6.3.27. In line with the evidence presented in our responses to the ‘Assessments’ and ‘Evidence’ sections of this consultation, CAS supports much greater use of existing evidence, a reduction in the need for face-to-face assessments in many cases, and a tiered approach to assessment. Certain conditions will, by their nature, have a significant impact on an individual’s ability to perform everyday tasks to a level that would entitle them to an award. Additionally, a number of participants in our ‘Empowering Scotland’ consultation thought that there should be automatic eligibility for certain conditions, as was the case with DLA.

6.3.28. In these cases, CAS would support a diagnosis being used as a trigger to an automatic entitlement.

6.3.29. As outlined above, CAS would recommend an independent panel (or Disability Benefits Commission) comprising disabled people, disabled people’s organisations and medical experts should make decisions on which conditions might entitle people to an automatic award.

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?

6.3.30. As outlined in our response to the 'Evidence' section of this consultation CAS would support it being possible for the agency responsible for administering the disability benefits to request evidence that supported automatic entitlement, provided that the individual has given their consent for the agency to do so.

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

6.3.31. Yes, the current process for supporting people with a terminal illness is reasonably responsive and appropriate. As outlined above CAS would support extending this process to anyone diagnosed with a terminal illness.

Should there be additional flexibility, for example, an up-front lump sum? (Yes/No) Please explain your reasons.

6.3.32. Yes. In general, CAB clients and advisers have expressed support for greater choice and flexibility in how people receive benefits, so we would support people diagnosed with a terminal illness being given the option of an up-front lump sum if that is what they choose to do.

6.3.33. This would not come without risks however. For instance, an individual may live longer than their original prognosis and be at risk of the lump sum running out. CAS recommends that individuals considering taking a benefit payment as a lump sum be referred for independent advice on their options.

'Whole of Life' Approach

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? (Yes/No) Please explain why

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

6.4.1. Yes, the Scottish Government should explore the potential for a 'whole-of-life approach' to disability benefits.

6.4.2. This approach should take the form of one disability benefit, but with slightly differing criteria for those aged 16 and under, those of working age, and those over State Pension age.

6.4.3. In consultation with CAB advisers, most participants supported the idea of a 'whole-of-life' disability benefit, which was felt to be less complex, and would ease the transition and remove the need for some reassessments. In our online survey of 43 CAB advisers, 85% agreed that 'this approach would be helpful for clients', with just 5% disagreeing.

"Means less regulations to master and everyone know what to apply for instead of being unsure."

"I think this approach would be more meaningful to people."

"Would benefit people with long-term disabilities most."

"Common-sense. Practical. Wise."

6.4.4. However, there was broad consensus that if a single benefit were created, it would need different criteria for different age groups. There were two broad areas where participants felt that different criteria would be required.

Differing needs of children compared with adults

6.4.5. Participants felt that as children were not expected to live independently, then some of the adult criteria would be inappropriate, such as being able to cook a meal or budget their income. They also gave examples of different additional costs for children (e.g. private tutoring or an iPad for a client with motor skill difficulties).

6.4.6. Participants also gave examples of clients who were receiving DLA, but were not awarded PIP on turning 17. They also made comments about problems for young disabled clients in transitioning between receiving additional support at school and adult support services, which sometimes do not meet that client's needs as well.

Mobility needs of people over State Pension age

6.4.7. Participants drew a distinction between the mobility needs of people over State Pension age and those of working age. Currently Attendance Allowance does not have a mobility component, unlike DLA and PIP. However, if someone is in receipt of DLA or PIP prior to the age of 65, then this can continue, drawing a distinction in the system between people who have additional mobility needs as a result of a disability or condition starting in childhood or working age, and mobility needs as a result of the ageing process.

6.4.8. On the whole, there was not particular support amongst participants for introducing a mobility component for old-age disability benefits. Participants

cited it as a potential disadvantage of a whole-of-life disability benefit, pointing out that the introduction of a mobility component for everyone over the age of 65 would increase the costs considerably.

- 6.4.9. Some participants suggested ways that, despite having different criteria, a 'whole-of-life' benefit could support the mobility needs of older people. One suggested that a lower rate of mobility support could be provided – a mobility scooter through the Motability scheme, as opposed to a car. Others suggested that it may be an opportunity to be able to distinguish between mobility needs as a result of a disability received in later life, and those as a consequence of the ageing process.
- 6.4.10. Participants also felt that problems were caused by Attendance Allowance not being aligned to the State Pension age, and that some people were unfairly losing out. They felt that the cut-off point for a change of criteria should rise with the State Pension, rather than being the age of 65.

Proposals for assessments

Could the current assessment processes for disability benefits be improved? (Yes/No) Please explain how

How could the existing assessment process be improved?

- 6.5.1. **Yes, the current assessment processes for disability benefits could be improved. In developing a devolved Scottish disability benefit, CAS recommends the following specific improvements to the assessment process compared with the current PIP system:**
- 6.5.2. **Lessons must be learnt from the roll-out of PIP to prevent excessive delays in any future assessment process. There should be a specific time limit within which a decision on entitlement must be made.**
- 6.5.3. **In assessing people's eligibility for disability benefits, much greater emphasis should be given to evidence from people who know the claimant, including health and other relevant professionals, carers and family members.**
- 6.5.4. **There should be a tiered approach to assessment, with a face-to-face assessment only carried out in a small number of cases either when a claimant requests one or it has not been possible to gather enough information to make a decision.**

The current assessment process

- 6.5.5. By far the most common complaint about the current system of disability benefits was the assessment process for PIP. One of the key changes in the move from DLA to PIP is the introduction of a face-to-face assessment with an independent healthcare professional.

- 6.5.6. Evidence from bureaux since the introduction of PIP in Scotland has highlighted a number of problems with the face-to-face assessment. Initially, bureau clients experienced **considerable delays in arranging this face-to-face assessment**.
- 6.5.7. Data from the DWP shows that the median clearance time for a PIP claim peaked in June-July 2014 at 30 weeks. Although national data shows that this has fallen to 7 weeks for cases in July 2016³⁷, the detriment to clients because of these delays has been significant.
- 6.5.8. When surveyed in August 2014, over half of bureau advisers believed that the delays were leaving clients in severe hardship and unable to pay for living essentials.³⁸ Nine out of ten advisers said that the delays are causing additional stress and anxiety for clients, and nearly four in five advisers thought that clients' health was getting worse as a result.

An East of Scotland CAB reports of a client who has serious health issues and last year was diagnosed with throat cancer. The client has been waiting for over ten months for an appointment for a face-to-face assessment. As a result of waiting for this length of time the client is now in significant financial difficulty, with rent and Council Tax arrears of almost £2,600.

- 6.5.9. Lessons must be learnt from the roll-out of PIP to prevent excessive delays in any future assessment process. **There should be a specific time limit within which a decision on entitlement must be made.**
- 6.5.10. Another significant issue has been clients being asked to **travel inappropriate distances for an assessment**. Claimants are not supposed to be required to undertake a journey of more than 90 minutes; however, bureaux regularly see cases within that time limit where the journey would still be inappropriate for the claimant to make.
- 6.5.11. In our September 2016 online survey of CAB advisers focussing on experiences of Personal Independence Payment³⁹, when asked if there are any barriers that clients face when attending an assessment, 28 of the 40 comments made (70%) referred to barriers associated with geographical distance and accessibility by public transport.

³⁷ Personal Independence Payment: Official Statistics – Department for Work and Pensions, September 2016
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/552855/pip-statistics-to-july-2016.pdf

³⁸ Voices from the frontline – Personal Independence Payment – Citizens Advice Scotland, October 2014 <http://www.cas.org.uk/publications/voices-frontline-personal-independence-payment>

³⁹ Response to the Second Independent Review of Personal Independence Payment – Citizens Advice Scotland, September 2016 <http://www.cas.org.uk/publications/cas-response-personal-independence-payment-call-evidence>

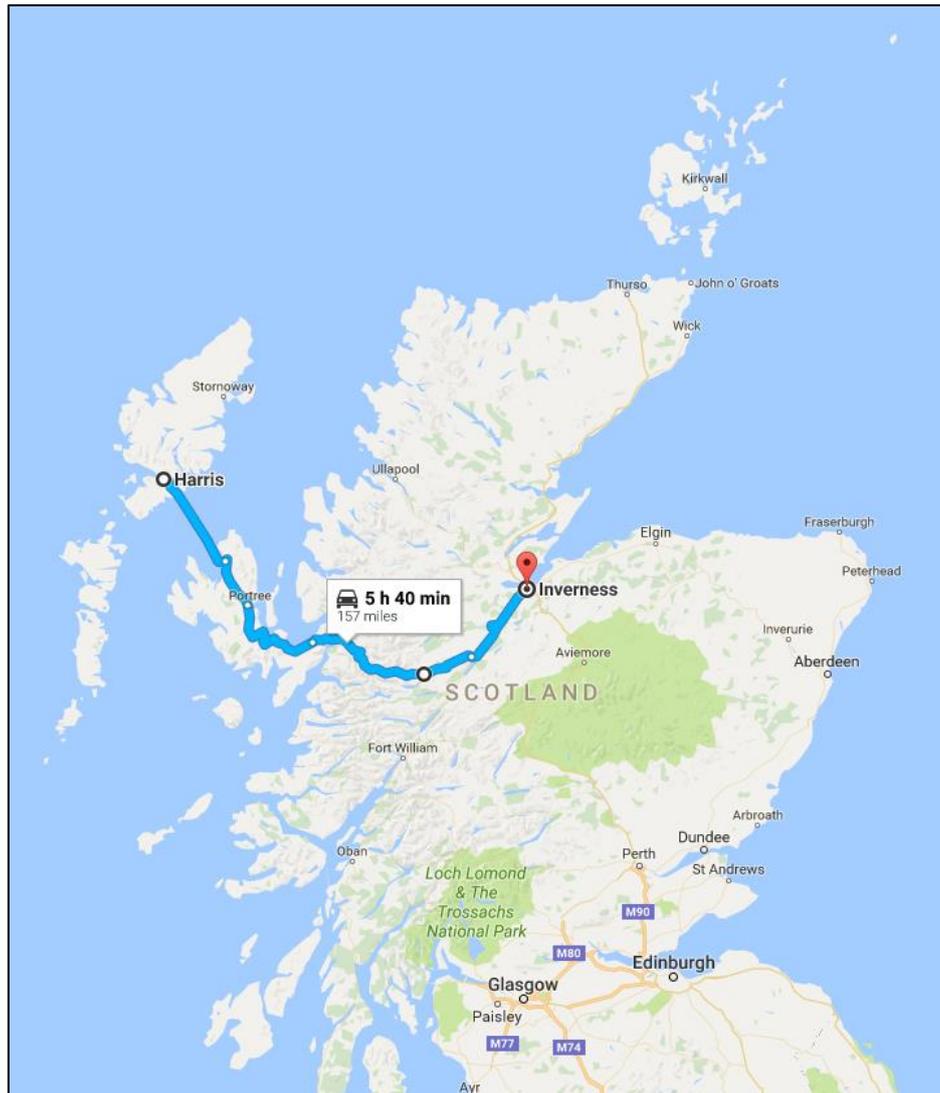
6.5.12. Citizens advice bureau offices are located in 30 of Scotland’s 32 Local Authorities and serve some of the country’s most rural and remote communities. For clients living in these areas, there can be substantial geographical distances to assessment centres, which are not always easily accessible by public transport. The table below gives an indication of some of the distances clients are required to travel to assessment centres.

Table 5: Distances clients are required to travel to assessment centres.

CAB	Nearest assessment centre	Number of miles (by car, as calculated by Google Maps)	Survey respondent’s comments
North and West Sutherland CAB – located in Kinlochbervie	Inverness	94 miles	“over 50 miles”
Harris CAB	Unknown	Unknown	“37 miles (74 roundtrip) from bureau but up to 120 miles (roundtrip) from home for some clients.”
Lewis CAB – located in Stornoway	Inverness	111 miles	
Perth	Dundee	22.5 miles	“Dundee, about 30 miles away from the main town in the county but this could involve two long bus journeys for those who live outwith the main town.”

6.5.13. Figure 18 below is a screenshot taken from Google Maps to give an idea of the geographical distances that clients in Harris would be expected to travel if they had an assessment in Inverness.

Figure 18: Distance from Harris to Inverness



6.5.14. In their comments, some bureaux mentioned that clients are being routinely referred to assessment centres in another town or city which can mean long journeys on public transport to places they are unfamiliar with.

“In the Dumfries and Galloway area our clients can be sent to Carlisle or Glasgow for an assessment. This is too far when there is an assessment centre in Dumfries.”

“Appointments are routinely made in Edinburgh. This is 30 miles away and for most people involves two buses and a train. There is an assessment centre in Stirling which is 7 miles away.”

“Clients are often offered appointments outwith Glasgow area, such as Edinburgh, Kilmarnock, Stirling and Ayr. There is also a protracted process to obtain medical evidence to obtain a taxi to the venue, GPs seem to be unaware of their role in this process.”

A West of Scotland CAB reports of a client who has received an appointment for his PIP medical assessment in Carlisle (a 58 mile round trip), even after his serious condition was explained in the PIP application and in the assessment assistance section it clearly stated an appointment in Dumfries (21 mile round trip) or a home visit was required, due to the risk to the client's health.

6.5.15. A number of respondents to our September 2016 PIP survey were concerned that, for those with mental health issues, medical assessments can be stressful and anxiety can prevent them from engaging with the process.

“Mental health issues are the biggest problem - those with anxiety who struggle to engage with others”

“People with mental health problems find it extremely stressful”

“Clients cannot always access the assessment centre due to mental health difficulties and being house bound”

“Those with mental health issues may not be able to open the mail notifying of the ATOS medical appointment”

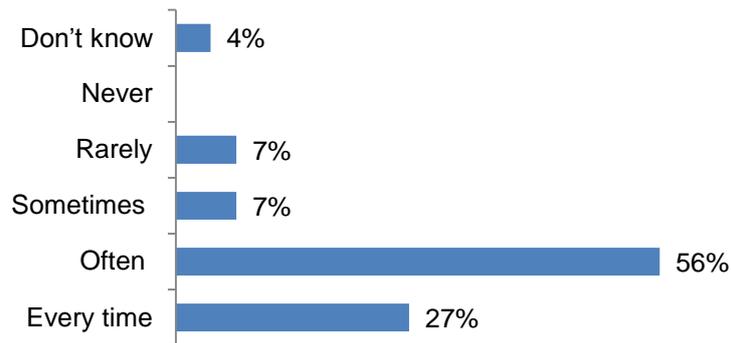
6.5.16. Other barriers mentioned by the survey respondents included the financial cost to clients of having to travel by public transport to another town or city, language barriers, and inconvenient dates and times of appointments that don't take in to account the client's medical circumstances. One respondent mentioned the accessibility of the facility and the 'intimidating environment':

“Assessment centres are not always easy to reach, find or access. Parking can be difficult near the assessment centre. There is (anecdotally) an intimidating environment in the centres which upsets clients.”

6.5.17. We are also concerned that we have seen cases where **clients being assessed for PIP have been treated unfairly and without dignity or respect.**

6.5.18. In our September 2016 adviser survey on experiences of PIP, 82% of survey respondents said that issues relating to the manner of healthcare professionals (HCPs) were raised 'often' when advising clients about their PIP claims or 'every time' they advised a client about their PIP claim. Similarly, when asked about the appropriateness of the questions asked by healthcare professionals, three quarters of survey respondents said that issues around the appropriateness of the questions asked during the consultation came up 'often' or 'every time' they advised a client regarding a PIP claim.

Figure 19: How frequently do issues around the manner of HCPs arise during advice interviews?



An East of Scotland CAB reports of a client who has mental health issues including personality disorder and is currently being treated for trauma. The client attends a GP and a Psychologist and has previously been sectioned twice. The client explained that she had previously, around one year ago, applied for PIP but was not awarded the benefit at this time. The client was advised that she may qualify for PIP as her condition means that she may require help with specific daily activities. It was explained that we could help complete the PIP2 form however I could not guarantee that she would not be asked to attend a medical assessment. The client became very agitated and anxious and stated that she did not want to apply for PIP as she could not cope mentally with the process and left abruptly asking for the notes to be shredded. I explained to the client that if she would like any further advice in the future she can return and also advised that the notes would be shredded on my return to the office.

6.5.19. Regarding the accuracy of the healthcare professionals' report, 59% of respondents said that clients 'rarely' agreed that the healthcare professional's report accurately reflected the discussion that took place, 20% said it 'sometimes' reflected the discussion that had taken place, and 13% said it 'never' did.

A West of Scotland CAB reports of a client who was challenging a decision regarding his PIP award. He felt that the difficulties he has taking nutrition, managing his medication and washing due to tremor in both hands had not been recognised. As regards some statements contained within the decision maker's reasoning, the client advised that statements regarding mixing with family members and going for walks had been taken out of context. Contrary to the report, he states that he was extremely anxious on the day. Despite referring to the medical evidence we had submitted with the PIP2 form in the decision letter, they do not appear to have taken into account the supporting statements contained within.

How should people be assessed for disability benefits?

6.5.20. The key message that emerged from participants was that, in assessing people's eligibility for disability benefits, **much greater emphasis should be given to evidence from people who know the claimant**, particularly GPs but also carers, family and friends, support workers, social workers, occupational therapists, community psychiatric nurses, employers etc. It was widely thought that evidence from such sources gave a much better insight into how a person's disability or health condition affects them than a one-off face-to-face assessment.

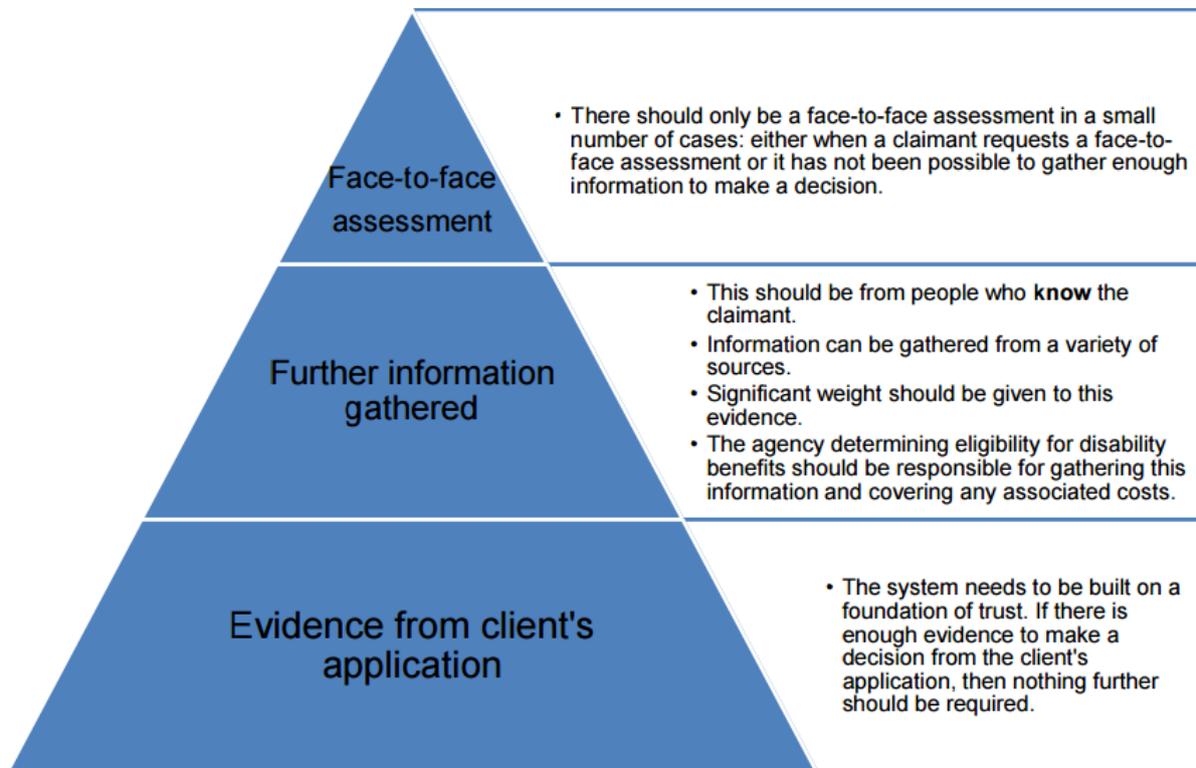
An East of Scotland CAB reports of a client who was reassessed for PIP a year in advance of the end date for his award. The client was awarded PIP Care Enhanced Rate and Mobility Standard Rate. Previously the client had Mobility Enhanced Rate, meaning he now faces losing his Motability Car which he needs on a daily basis. The client is very anxious and stressed because of this decision. The client suffers from Hereditary Angioedema (HAE) which is a very rare and potentially life-threatening genetic condition. He was diagnosed when he was 5 years old. HAE symptoms include episodes of edema (swelling) in various body parts including the hands, feet, face and airway. The client has flare-ups every day and this can result in him having to go to the hospital for injections. His mobility is severely impaired when the flare-up occurs. When he goes to the hospital his notes state what treatment he needs and this means he can get treatment straightaway.

6.5.21. Overall, participants thought there should be a tiered approach to assessment, with a face-to-face assessment only carried out in a small number of cases.

“The starting point should always be the client’s own evidence; you need to accept what people say as prima facie truthful. In some circumstances, there will be a need for further investigation and gathering further evidence. A face-to-face assessment should be rare”.

6.5.22. This tiered approach is illustrated in Figure 20 below.

Figure 20: A tiered approach to assessment



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.

6.5.23. CAS recommends that face-to-face assessment should only be carried out by a suitably qualified professional with knowledge and experience of the particular claimant's condition(s). They should take place at a location that is local and accessible to the claimant. Claimants should be treated with dignity and respect at all times.

6.5.24. In situations where assessments are required, CAS recommends they are carried out by a public sector body, either the NHS or the Scottish Social Security Agency.

6.5.25. As outlined above, CAS recommends a tiered approach to assessment that would greatly reduce the need for face-to-face assessments. In situations where assessments might be required – where a claimant requests one or where it has been impossible to determine eligibility from all existing evidence – CAS would recommend the assessments are carried out by a public sector body, either through the NHS, or by a specialist unit within the Scottish Social Security Agency.

6.5.26. At our consultation events with CAB advisers, there was a clear view that private companies should not conduct medical assessments. Most participants favoured the NHS, due to the experience of specific conditions within the service, and the belief that better information and evidence could be provided through that route. Other participants felt that assessments could be carried out by health professionals connected to the client. Others felt that any assessments should be carried out by a specialist unit within the new Scottish Social Security Agency.

6.5.27. In our 'Empowering Scotland' consultation of CAB clients and advisers, a recurring theme was that participants did not think the assessment should be carried out by a private company. One suggestion was to use a pool of NHS employees. Many thought that any assessment should be conducted by a health professional already known to the claimant, such as a GP.

6.5.28. Participants stressed the importance of assessors being properly trained and qualified. Some thought assessments should only be done by doctors. Overall, participants' key concern was that the assessor should have knowledge and understanding of the claimant's specific condition. This point was frequently raised in relation to mental health conditions.

6.5.29. The assessment must be based on principles of dignity and respect. Claimants should not be made to feel they are 'lying'; the emphasis should be on helping them to fully express their needs so as to get appropriate support.

6.5.30. In terms of the content of the assessment, participants felt there should be a more flexible approach and a focus on asking questions appropriate to

the claimant's condition and circumstances. There should be less of a focus on box ticking and criteria which do not apply in every case.

"[Face-to-face assessments] could be improved by getting rid of pre-programmed questions and tests. This information should be on the form and face-to-face assessments should be about an expert using their judgement. This can only be done properly if the assessor is free to conduct the assessment by way of getting to know the claimant".

6.5.31. In general, CAB clients' experiences of medical assessments conducted by the current private contractors have not been positive, as outlined above. There has also been a lack of clear lines of accountability in certain situations, where it has been difficult to establish whether DWP, Atos, or a sub-contractor is responsible.

What are the advantages and disadvantages of different types of assessments? E.g. paper based, face-to-face, telephone

6.5.32. CAS recommends an increase in the use of paper-based assessments, thereby increasing the availability of assessment centres and ensuring that claimants are assessed at a centre that is familiar, geographically close and easily accessible.

6.5.33. CAS recommends home visits should always be available for those who need them.

6.5.34. As outlined above, CAS would recommend a tiered approach to assessment, with paper-based assessments carried out in the vast majority of cases.

6.5.35. In our 'Empowering Scotland consultation in 2015, CAB clients and advisers felt that assessments should be at a local venue, and claimants should never have to make long or difficult journeys. Assessment venues must be accessible for disabled people. Some thought the assessment could take place at the claimant's local GP surgery. Others suggested more should take place at home.

6.5.36. As noted earlier in this response, in the present system clients are often referred to assessment centres that are a considerable distance from where they live. Home visits are one alternative to this, although some clients are uncomfortable about having a stranger in their home asking them personal questions.

6.5.37. Bureaux have drawn attention to the fact that it can be difficult to get a home visit for those who need it in the present system. Almost a third of respondents to our September 2016 PIP survey (28%) said that it is rarely possible to get a home visit for those who need it. However, responses to the survey suggest that there is no discrepancy between waiting times for home

visit medical assessments and those which take place at an assessment centre.

“The closest assessment centre is 2.5 - 3 hours by bus for some of my clients, only 2 hours by car, but some people cannot sit this long or travel by public transport. It is more difficult to get a home visit as they require a doctor's letter and supporting information.”

“In a recent request for a home visit, a client was asked if she visited her GP, to which she answered yes. So, she was told she can manage the 55 mile round trip to a place she does not know and will need help to get access, i.e. severely limited mobility problems and not able to use public transport.”

“Clients are often refused the chance to reschedule appointments, and are refused home visits when they cannot travel independently to an appointment and have no-one to travel with them.”

Could technology support the assessment process to promote accessibility, communication and convenience? (Yes/No) Please explain why. If yes, please explain what technology would be helpful (e.g. Skype, video conferencing)

6.5.38. Yes, technology could support the assessment process in certain situations. However, it will not be suitable in all instances, given issues with broadband provision and suitable locations in parts of rural Scotland.

6.5.39. Possible use of ‘community hubs’ to conduct assessments via Skype was discussed at one of our consultation events with CAB advisers. Participants from rural areas pointed out that in many locations, broadband provision would not be of sufficient quality to enable this to happen. In addition, a participant from Uist raised the point that there were no towns on the island, so a ‘community hub’ would be difficult to find.

Proposals for awards

If the individual's condition or circumstances are unlikely to change, should they have to be re-assessed? (Yes/No) Please explain why

6.6.1. No, if an individual's condition or circumstances are unlikely to change, there should be no requirement for them to be re-assessed to continue receiving an award. The timing of any reassessments should be appropriate to the claimant's condition(s) and circumstances.

6.6.2. In our August 2015 ‘Empowering Scotland’ consultation with CAB clients and advisers, participants were of the view that reassessments under PIP were too frequent and resulted in additional distress for clients as well as a waste of public resources.

“Some of the reassessment timetables are ridiculous – we see people who have a degenerative illness or disability who are reassessed far too quickly”.

“PIP is often awarded for a very short period, even when someone has a lifelong condition that is not expected to change. Then the DWP will also send out a new PIP2 form a full year before the end of the award period”.

6.6.3. The majority of advisers (79%) thought that **the timing of any reassessment should depend on the claimant’s impairment or health condition.**

“A sensible balance has to be struck between open-ended awards which could result in overpayments/fraud etc. versus claimants having to go through the process every few years. The claimant’s condition and age should be the key factors in determining the length of award”.

6.6.4. CAS would recommend that an independent panel/Disability Benefits Commission would investigate and agree what conditions should entitle someone to an award without the need for assessment, for a long-term/lifetime award or for automatic eligibility, as detailed elsewhere in this response.

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

Who should provide that evidence?

6.6.5. **Determinations on the need for reassessments should be made based on existing medical evidence wherever possible, consistent with the process outlined elsewhere in this response.**

6.6.6. For long-term or lifelong awards where a claimant has a condition that is unlikely to improve, this evidence is likely to be based on medical advances. CAS would envisage the independent panel/Disability Benefits Commission outlined elsewhere in this response would have a role in determining if this should be the case for particular conditions.

Alternatives to cash

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? (Yes/No) Please explain why

What alternative support do you think we should be considering?

6.7.1. **Yes, people should be offered the choice of some of their benefit being given to provide alternative support, along the lines of the popular Motability scheme.**

- 6.7.2. CAS recommends that reduced energy tariffs, travel concessions, and a choice of aids and adaptations would be the most useful support to be provided as part of a disability benefit.**
- 6.7.3. It is important however, that people are given a genuine choice between receiving this support or the cash equivalent and that attempts are not made to pressurise people into sacrificing part of their benefit for alternative support.**
- 6.7.4. Offering this support also must not be seen as a substitute for wider action by the Scottish Government and local authorities to improve energy efficiency, provide appropriate aids and adaptations, reduce public transport costs, or provide more accessible public transport.**
- 6.7.5. Participants in our 'Empowering Scotland' consultation thought that more could be done to offer appropriate aids and adaptations, which would reduce the extra costs associated with a person's disability or health condition.
- 6.7.6. The key point emerging from our consultation on this issue was that there was 'no one size fits all' and too often disabled people were offered aids or adaptations that were inappropriate for their needs. For example, one participant who was unable to stand had a shower fitted with a shower seat. However, the shower cubicle itself was too small for that person to use.
- 6.7.7. Participants also thought that the Scottish Government could do more to make improvements to disabled people's homes, which would reduce extra costs. In particular, they thought a focus on improving energy efficiency would be beneficial. Some also thought there should be reduced energy tariffs for disabled people.
- 6.7.8. In addition to these three key themes, a number of participants suggested that there be more travel concessions or more accessible public transport for disabled people. Participants also highlighted the importance of a disabled person being able to boost their own income, and therefore the need for better support into employment.

Would a one-off, lump sum payment be more appropriate than regular payments in some situations? (Yes/No) Please explain why. If yes, what are they?

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

- 6.7.9. As detailed elsewhere in this response, we would support people diagnosed with a terminal illness being given the option of an up-front lump sum if that is what they choose to do. However, CAS recommends that individuals considering taking a benefit payment as a lump sum be referred for independent advice on their options.

6.7.10. For people without a terminal illness, then this would be more complicated. If the payment were intended to equate to a whole lifetime's disability benefits the sum involved would be extremely substantial and difficult to calculate accurately. It would also move the focus away from the additional costs associated with a disability, to being more of a compensation payment which is not the main purpose of disability benefits.

6.7.11. If clients were facing a substantial one-off outlay – for instance making adaptations to their home – then a larger payment than their monthly disability benefit may be helpful. However, given that there is already support available for that purpose, such as the Scheme of Assistance under the Housing (Scotland) Act 2006, not to mention support for aids and adaptations we propose above, a lump sum payment may not be the best way to meet those costs.

Mobility component

Should the new Scottish social security system continue to support the Motability scheme? (Yes/No) Please explain why

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?

6.8.1. Yes, the new Scottish social security system should continue to support the Motability scheme.

6.8.2. CAS recommends all people entitled to disability benefits should be able to use their benefits to access the Motability scheme, not just those on the highest mobility rate. This is particularly important in rural areas, where a car is essential due to the lack of suitable public transport for people with mobility problems.

6.8.3. CAS recommends the criteria for entitlement to the enhanced mobility component should be changed so that the relevant distance is increased from 20 metres to at least 50 metres.

6.8.4. CAS recommends that the standard rate for the mobility component is increased to reflect the costs associated with limited mobility, and to help people to remain in employment.

6.8.5. Citizens advice bureaux have seen a number of cases where people who have been receiving DLA are losing out when transferred to PIP. In particular, a number of clients who were previously on higher rate mobility component under DLA are only receiving the standard rate mobility component under PIP. This means that they lose their entitlement to the Motability scheme.

6.8.6. These problems have caused considerable distress for many sick and disabled people in Scotland, often leaving them facing hardship and unable to meet basic living costs. When surveyed in August 2014, nine out of ten

advisers thought that the PIP assessment process was causing additional stress and anxiety for clients; nearly four in five advisers said they had seen clients' health worsening as a result of the process⁴⁰.

- 6.8.7. In our 'Empowering Scotland' consultation with CAB clients and advisers in August 2015, participants thought restricting eligibility for the enhanced mobility component to those who could walk less than 20 metres was resulting in significant hardship for many disabled people. Most wanted to see the distance increased to at least 50 metres (as under DLA).
- 6.8.8. CAS is beginning to see a number of cases where people who were in receipt of the higher mobility rate under DLA are not qualifying for the enhanced rate under PIP. As highlighted earlier in this response, this is particularly detrimental as people can lose their entitlement to the Motability Scheme.
- 6.8.9. Many respondents to our September 2016 survey of CAB advisers on PIP mentioned that for clients who were previously on DLA, the less generous mobility component rates means that many lose their entitlement to their Motability vehicle. One respondent mentioned the effect that this can have on employment:

"Many clients because of the changes to the mobility test (re. DLA) are totally disadvantaged now. Many people having to give up mobility car and some clients rely on this for getting to work and have had to give up work as a result."

An East of Scotland CAB reports of a client who has had a Motability car since 1992 due to his DLA award but the transfer to PIP has taken away this entitlement. The loss of the car would have a substantial impact on the client's independence as he needs the car to get to work. The client currently works with the Post Office sorting depot. If he had to use public transport then this would mean he would have to walk at least half a mile to get to work. This would cause him great difficulty.

- 6.8.10. Some participants in 'Empowering Scotland' thought that, rather than enhanced mobility being a passport to the Motability Scheme, all claimants should be able to use their PIP award to access Motability.
- 6.8.11. In our 2016 consultation events with CAB advisers, a number of advisers from rural bureaux raised the point that the loss of a Motability vehicle was particularly detrimental to clients in remote and rural areas, due to the absence of convenient and suitable public transport.
- 6.8.12. There is also a particular issue for claimants who are requesting a mandatory reconsideration in cases where they have lost their entitlement to the Motability Scheme. Once a claimant loses that entitlement, they have to

⁴⁰ Voices From The Frontline: Personal Independence Payment – Citizens Advice Scotland, October 2014 <http://www.cas.org.uk/publications/voices-frontline-personal-independence-payment>

return the car within 21 days of their DLA payments stopping. This can often be before a decision on mandatory reconsideration has taken place, which can put the claimant in a difficult position.

A North of Scotland CAB reports of a client who had his mobility component stopped following a review of his PIP. DWP immediately contacted the Motability company who requested the return of the car or that it be purchased for £8,475. The client could not get around without it so he took out a loan for £10,000 over 5 years (£16,387.30 in total). DWP then reinstated the mobility component before considering an appeal stating that they had made a mistake. The client is now eligible for the Motability car again but the company will not refund him the cost of the car and he is saddled with the loan. The client would prefer to be on the scheme as it includes tax, insurance and repairs. He is out of pocket as a result. A better system would be to delay requesting the return of the car until the outcome of an appeal.

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

6.8.13. As detailed in our response to the 'Whole-of-life approach' section above, on the whole, there was not particular support amongst participants for introducing a mobility component for old-age disability benefits. Participants cited it as a potential disadvantage of a whole-of-life disability benefit, pointing out that the introduction of a mobility component for everyone over the age of 65 would increase the costs considerably.

6.8.14. Some participants suggested ways that, despite having different criteria, a 'whole-of-life' benefit could support the mobility needs of older people. One suggested that a lower rate of mobility support could be provided – a mobility scooter through the Motability scheme, as opposed to a car. Others suggested that it may be an opportunity to be able to distinguish between mobility needs as a result of a disability received in later life, and those as a consequence of the ageing process.

Additional Support

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

6.9.1. **As outlined above, support needs to be widely available to help people make a claim for disability benefits. This support should be available from multiple sources, and preferably independent from the decision-making process.**

- 6.9.2. As outlined above, it was clear that support is needed for a range of reasons throughout the current application process including help to: understand the process and what is required; make the initial telephone call for PIP; fill in forms; gather evidence; request a mandatory reconsideration; appeal a decision.
- 6.9.3. Support can come from a range of different sources, including citizens advice bureaux, welfare rights officers and support workers and should be available at multiple locations. Many thought having this support available at local GP surgeries or hospitals would be particularly helpful, as has been successfully piloted in Edinburgh and Dundee.
- 6.9.4. As detailed in the 'Disability benefits' section of this response, CAS supports significantly reducing the number of face-to-face assessments required, which should reduce some of the need for additional support in this area. However, support during the assessment – whether face to face or by compiling evidence is also crucial.
- 6.9.5. As detailed in our response to the 'Advice, Representation and Advocacy' section of this response, independent advice plays a key role in a well-functioning social security system, including support with entitlement, take-up, applications, complaints, appeals, access to information, outreach and continuous improvement.
- 6.9.6. Independent advocacy can have successful outcomes for claimants, particularly those with specific needs and vulnerabilities. However, it must be recognised that advocacy is most effective when it is undertaken in partnership with independent advice services. While advocacy is important, it cannot operate well without quality independent advice.

Alignment with other devolved services

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?

How do you think this might be achieved?

- 6.10.1. As part of our 2015 'Empowering Scotland' consultation, we asked participants to consider whether changes could be made to other benefits or services that would help to better meet the needs of disabled people. Participants considered that this was an **important opportunity to review overall provision for disabled people and carers**. 76% of advisers responding to the online survey thought that changes could be made to other parts of the system, such as social care.

6.10.2. Three key themes emerged.

Establishing a joined-up approach

6.10.3. A number of participants thought that there could be better links between services that support disabled people. This could be achieved, for example, through improved signposting to other support services.

6.10.4. Specifically, participants thought there should be clear links between services dealing with disability benefits and other services for disabled people, so that those services could advise about entitlement to benefits and vice versa. Some thought there should be a specific person responsible for identifying and putting together a package of support for a disabled person.

“The system should be more focused on helping people ... once you are given a disability benefit you should be also offered support by other agencies, someone to talk to and help you manage your condition”.

“Ensure that disabled people have access to all forms of assistance by joining up local services to meet the needs of the individual”.

“There needs to be improved integration of voluntary and statutory bodies to provide enhanced support e.g. befriending schemes, lifts to appointments, free advice/representation, advocacy services etc.”.

“Each claim for a disability benefit should ‘trigger’ an offer from the local authority to carry out a care needs assessment – this would entail the sharing of information by the DWP and local authority”.

“There could be disability assessment officers in place to determine what type of assistance is needed to support a disabled person”.

Improving social care provision

6.10.5. A recurring issue was that participants felt that a person’s DLA/PIP was too often used to plug gaps in social care provision.

“Disability benefits should not be used to shore up the inadequacies in other statutory services, particularly social care”.

“I need to be able to buy in care because social services are not able to put in the level of care I need – their resources are so limited”.

Providing more aids and adaptations

6.10.6. Participants thought that more could be done to offer appropriate aids and adaptations, which would reduce the extra costs associated with a person’s disability or health condition. More detail on potential solutions can be found in our response to the ‘Alternatives to cash’ section.

What are the risks?

- 6.10.7. The risks in this approach are that disability benefits are used to ‘plug gaps’ in other services. The support provided through the social security system should not result in disabled people having to use their benefit payments to pay for services that should be provided by government elsewhere, but are inadequate or inappropriate.
- 6.10.8. Improving disability benefits should go hand-in-hand with wider improvements to services for disabled people, such as provision of quality social care, appropriate aids and adaptations, and action in other areas, such as on energy costs and accessible transport we propose elsewhere in this response.
- 6.10.9. It is also important to recognise that in many cases, the users of social care provision and recipients of disability benefits are different people. Evidence from official survey data suggests that amongst over 65s a significant minority of local authority social care clients receive no disability benefit, and only a third receive higher-rate awards. Even amongst people who received the highest rate of AA or DLA, only just over 1 in 8 receives any local authority care⁴¹. As a result, one of the risks to be avoided is that support is diverted from disability benefits to social care, when many people who receive disability benefits will not need or want a social care package.

Industrial Injuries Disablement Benefit (IIDB)

If DLA and PIP help meet the additional costs of disability, what is the role of IIDB and its supplementary allowances (Constant Attendance Allowance, Reduced Earnings Allowance etc) in the benefits system? Please explain your answers

- 6.11.1. The role of Industrial Injuries Disablement Benefit (IIDB) is to offer additional support to people who have developed a condition or suffered an injury in connection with their employment. Compared with other disability benefits, its role is partly compensatory as eligible individuals have suffered due to health and safety failures at work. It can continue to support people throughout their lives, including after their employers have ceased to trade.
- 6.11.2. It can also offer ongoing support many years after a lump sum compensation payment when a condition is lifelong. For example, one CAB adviser reported helping a client who had lost fingers in a sawmill accident 70 years ago get support from IIDB.

⁴¹ Disability and Poverty in Later Life p. 5-6 – Joseph Rowntree Foundation, August 2016
<https://www.jrf.org.uk/report/disability-and-poverty-later-life>

What is right with the IIDB scheme?

What is wrong with the IIDB scheme?

6.11.3. The Industrial Injuries Disablement Benefit scheme can provide crucial support for people who have been injured or developed a long-term condition from carrying out their jobs. In consultation with CAB advisers specifically on IIDB, a number of common themes emerged:

- **IIDB is not widely known about, and very little information is available about it, either for clients or advisers.** As a result, there is a common view that the benefit is under-claimed. CAB advisers have reported helping a number of clients to apply for the benefit who were eligible but unaware that additional support was available.
- **The criteria can be restrictive in some cases, and appear to exclude people unfairly.** Particular examples are the exclusion of pleural plaques (caused by work-related exposure to asbestos) being excluded, when pleural thickening (which develops from pleural plaques is. Some work-related conditions are restricted to claims from miners, which has led to people who developed the same conditions in other occupations being unable to apply.
- **In some cases there appears to be inconsistency in decision-making,** which results in decisions being overturned on appeal.
- **It can be difficult for people to prove cause-and-effect to make a claim,** which can put off some clients from pursuing an application.
- **Awards can only be backdated by three months, which was felt to be unfair,** due to the length of time it can take to prove a condition was work related, and due to the length of time that symptoms of a work-related condition taking to manifest themselves.

A South of Scotland CAB reports of a client who had initiated a claim for Industrial injuries Disablement Benefit. After an assessment, she had been classed as only '9% disabled', short of the 14% needed to qualify. The CAB helped the client to request a mandatory reconsideration, but this was also unsuccessful. Despite apparently having a strong case, the client was 'so stressed with being ill, compounded by the stress of claiming and challenging other claims for ESA and PIP, that she 'did not have the fight' to challenge them all.

A South of Scotland CAB reports of a client who had been in hospital for a heart operation. The client has recently been diagnosed by his GP as having Bilateral diffuse Pleural thickening of the lung and was advised to come to the bureau for support in claiming industrial injuries benefits. The client is 81 and had worked in civil engineering for ten years and remembers that he was regularly exposed to asbestos, chemicals and dust. The client had very few details about his work history as it is so long ago but he was able to fill in the type of work but no dates. The client subsequently called the bureau to say that he had received a letter from IIB saying that after his assessment that he is not entitled to it as he cannot prove that his condition was related to his past work conditions and environment.

A West of Scotland CAB reports of a client who has asbestosis, which he contracted through working on ships as a joiner with asbestos, and even though the client had won a compensation claim against the company, he has had a lot of problems applying for IIB. He had sent in a claim for IIB and had to put up with receiving more than one letter on the same day which all had different information on it, and despite struggling to breathe, he had to visit the bureau to give permission for the CAB to pursue the case with DWP. He also has been refused the benefit as they are stating he does not have asbestosis even though he has medical evidence. This resulted in the unwell client having again to visit the bureau to have a mandatory reconsideration form filled out and signed. The client is now appealing as he has been refused the benefit and has only one month to appeal but he has been taken into hospital with severe breathing problems and has not been discharged yet to fill sign the forms.

Should different approaches be taken for people with life limiting conditions compared to people with less severe conditions? (Yes/No) What would be the advantages or disadvantages of such an approach?

Are there situations where a one off lump sum payment would be more appropriate than a regular weekly IIDB benefit payment? (Yes/No) What are they, and why? What would be the advantages and disadvantages of such an approach?

6.11.4. Yes, in line with our responses to the equivalent questions regarding disability benefits in general, and those with terminal conditions, CAS would support people being given the option of a lump sum if they choose to do so. As IIDB is partly a compensation payment then this may be considered appropriate by some.

6.11.5. However, this would not come without risks, including an individual's money running out. CAS recommends that individuals considering taking a benefit payment as a lump sum should be referred for independent advice on their options.

Should the Scottish Government seek to work with the UK Government to reform the IIDB scheme? (Yes/No) If yes, what should be the priorities be? What barriers might there be to this approach?

6.11.6. Yes. One possible reform suggested by CAB advisers was to require employers who are responsible for industrial injuries and conditions to bear responsibility for the costs through corporate taxation, rather than the benefit being paid solely from general taxation. Other issues include any changes to IIDB having a knock-on impact on clients' income for the purposes of eligibility for reserved benefits, such as Employment and Support Allowance (ESA) or Universal Credit.

Severe Disablement Allowance

Do you agree with the Scottish Government's approach to Severe Disablement Allowance? (Yes/No) Please explain why

6.10.1. **Yes, CAS agrees that the Scottish Government should continue to pay Severe Disablement Allowance to current recipients.**

6.10.2. As Severe Disablement Allowance (SDA) has been closed to new claims since 2001, current recipients will have been in receipt of the benefit for at least fifteen years. By definition this is a group of people who have been unable to work throughout that time due to a long-term or permanent severe disability or condition. In addition, as the consultation document notes, most are likely to be older than the State Pension age by the time the benefit is devolved. The UK Government has no plans to transfer claimants to

Employment and Support Allowance (ESA), the benefit that replaced SDA for new claims, nor Universal Credit. Those benefits have not been devolved in the Scotland Act 2016, so would be outwith the Scottish Government's control.

- 6.10.3. Given those factors, there would be no advantage in removing SDA support from existing claimants, so CAS recommends the benefit remains after the transfer of responsibility.
- 6.10.4. One possibility for future consideration however may be to re-open SDA to new claims, given that Universal Credit does not include the Severe Disability Premium or Disability Premium that exist in legacy benefits for people unable to work due to ill-health or disability, receive a qualifying disability benefit⁴², live by themselves, and have no carer to look after them.
- 6.10.5. Following the rollout of Full Service Universal Credit to Musselburgh and Inverness, local citizens advice bureaux have reported advising a number of disabled clients currently claiming Employment and Support Allowance (ESA) who have been sent for a reassessment, failed the Work Capability Assessment, and are forced to claim Universal Credit pending a Mandatory Reconsideration.
- 6.10.6. However, even if they are successful in their appeal, they will remain on Universal Credit rather than returning to ESA, but without the Severe Disability Premium or Disability Premium that currently exist in legacy benefits.
- 6.10.7. This means that they receive quite a substantial amount less than they did previously – up to £94.10 less per week (almost £4,900 per year) if they also receive Housing Benefit. They receive no 'transitional protection', unlike people due to be migrated to Universal Credit in 2019.

⁴² Attendance Allowance, constant Attendance Allowance, the care component of Disability Living Allowance at the middle or highest rate or Personal Independence Payment daily living component at standard or enhanced rate

An East of Scotland CAB reports of a client whose ESA was withdrawn following reassessment, which had the knock-on effect of his Housing Benefit being cancelled. The client submitted a Mandatory Reconsideration and could claim Universal Credit in the interim, but this would be a permanent transfer to UC even if the reconsideration re-instates the original ESA categorisation. Financially this would result in a lesser award long term, with the client potentially losing £77.60 per week in severe and enhanced disability premiums.

The client had recently received a backdated PIP payment of £2,000, and decided to use this to 'weather the situation' and avoid being drawn into UC and losing out financially in the long term, but would not have been able to do so if they had not received the PIP award [which is not intended to cover essential living costs].

An East of Scotland CAB reports of a client who currently receives ESA with the severe disability premium. She has recently moved house and this change of circumstances triggered her being directed to claim Universal Credit. The client will be £61.56 per week worse off as a result of the change.

7. Carer's Allowance

- 7.1. This section of our response is informed by a consultation event with CAB advisers and questions in an online survey with 43 responses from advisers. It is also shaped by the views of CAB clients at focus groups organised by East Ayrshire, Parkhead, West Dunbartonshire and Clackmannanshire CABs, who were current or former carers.

Proposals for a future Scottish carer benefit

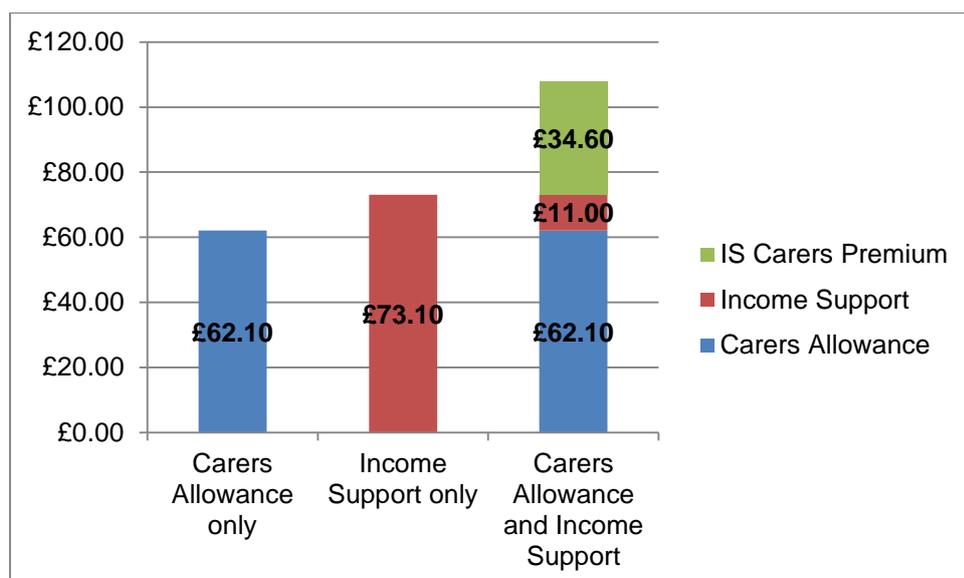
Do you agree with the Scottish Government's overall approach to developing a Scottish Carer's Benefit? (Yes/No) Please explain why

- 7.2. **Yes, Citizens Advice Scotland agrees with the Scottish Government's overall approach to developing a Scottish Carer's Benefit, subject to the comments outlined below.**
- 7.3. **The main purpose of carer's benefits should be equally to compensate carers for income that would have been earned through employment, and in recognition of the important role carers play.**
- 7.4. **CAS welcomes the Scottish Government's commitment to increase the level of Carer's Allowance to the same rate as Jobseekers Allowance. However, that rate is not sufficient to fully compensate carers for loss of income, nor fully recognise the substantial effort put into caring for a loved one.**
- 7.5. **CAS recommends that the Scottish and UK Governments set out jointly how they plan to make necessary changes to regulations to ensure that people receiving Carer's Allowance benefit in full from any increase in the payment rate, and do not lose out on any passported benefits because of the welcome change.**
- 7.6. We asked clients and advisers what they thought the main purpose of carer's benefits should be. In the 'Designing a Social Security System for Scotland' online survey, 23% of participants thought the purpose should be to 'compensate carers for income that would have been earned through employment', with 10% feeling the main purpose should be 'to recognise the important role carers play'. However, the majority of respondents (60%) felt that both of the above purposes were equally important.
- 7.7. This range of views about the purpose of carer's benefits was also reflected amongst the CAB advisers who took part in the consultation event, with a range of views on what the main purpose should be, with some participants feeling that 'the purpose depends on the individual'. Other participants felt that the benefit should reflect the considerable cost saving to the NHS and social care services.
- 7.8. A number of participants felt that Carer's Allowance was seen as a wage, and compared the rate negatively to the National Minimum Wage, or Scottish

Living Wage, pointing out that even with the Scottish Government’s proposal to increase the rate from £62.10 to £73.10 per week, carer’s benefit would still equate to £2.09 per hour. Participants that specifically commented on the level of carer’s benefits all felt that the rate was too low, with one client focus group feeling that even the increased level was ‘way short’ of what was required, ‘quite insulting’ to carers and ‘in no way would payment be seen as recognising the important role the carers play’ considering that a substantial number give up paid work to care for a loved one.

- 7.9. In some ways this diversity of views on the purpose of carer’s benefits reflects the fact that Carer’s Allowance is in some ways an unusual benefit. It is intended to be non-means tested and not intended as an earnings replacement benefit. However, its criteria exclude all but those on the lowest incomes, and those in work, unless working a relatively small number of hours at the minimum wage, giving the impression of being means tested, or being intended to replace income from employment.
- 7.10. Some participants commented on the complex interaction with other benefits, with others suggesting carers benefit should be a passport to enable access to a range of benefits. As discussed in more detail below, a common and consistent concern was that it was felt to be unfair that carers who received the State Pension were ineligible to claim Carer’s Allowance, despite having an ‘underlying entitlement’.
- 7.11. The most common ‘overlapping benefits’ with Carer’s Allowance are Income Support/Universal Credit for those of working age, and the State Pension and Pension Credit for those who have retired. As shown in figures 21 and 22 below, these operate in quite different ways.

Figure 21: The interaction between Carer’s Allowance and Income Support

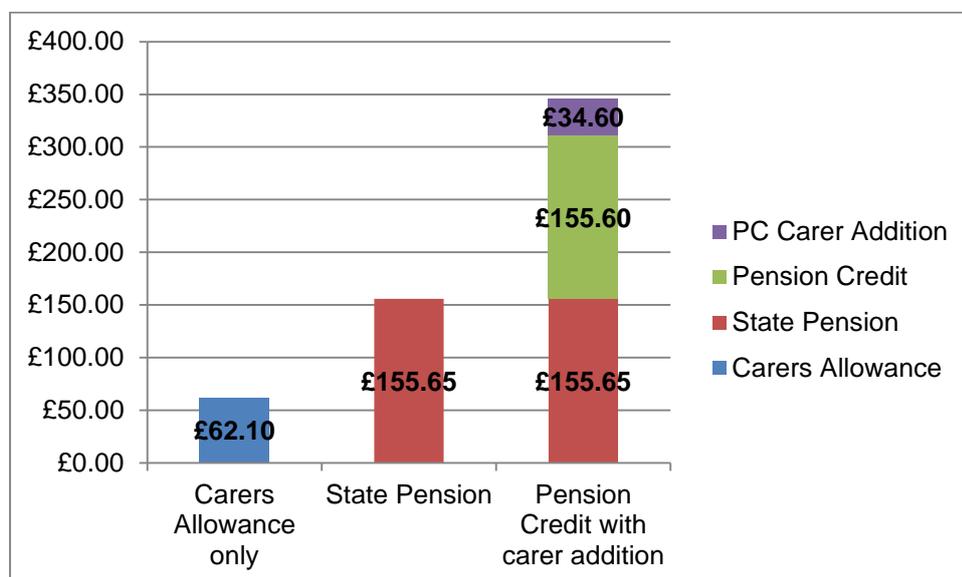


- 7.12. Carers of working age who are unable to work because they have full-time caring responsibilities are often eligible for both Carer’s Allowance and

Income Support⁴³, the income-replacement benefit for these purposes. Eligible carers will often not be aware they are able to claim both. Benefit rules mean that if they do so they receive Carer's Allowance, a top-up of Income Support representing the difference between the two benefits, plus an Income Support Carers Premium, giving them a total income of £107.70 per week.

- 7.13. Due to the criteria for Carer's Allowance, many carers will either be unable to claim any of the benefits, or will be entitled to both. There are only certain circumstances in which a person might be entitled to Carer's Allowance only, the most common being a person who cared full-time for a disabled child or elderly relative, but had a partner who is in full-time paid work. In theory, the introduction of Universal Credit may complicate matters further, as people's entitlement to housing support may also be affected by a change in earnings.

Figure 22: The interaction between Carer's Allowance, the State Pension and Pension Credit



- 7.14. Carers who have retired on the other hand, are only entitled to an 'underlying entitlement' of Carer's Allowance due to being in receipt of the State Pension. If they have a low level of income or savings (for instance having no private pension) they are entitled to Pension Credit, which includes a Carer Addition. This would give them a total income of £345.85 compared with a £155.65 State Pension with no additional payments to recognise their role as a carer. This was widely perceived as unfair amongst CAB clients and advisers and is discussed further in 'Eligibility' below.

- 7.15. These complexities are illustrative of some of the difficulties that may be faced in making changes to Carer's Allowance or creating a new Scottish Carer's benefit. Despite reassurances that the Fiscal Framework agreed by the Scottish and UK Governments guarantees that additional income for a benefit

⁴³ Income Support is being replaced by Universal Credit, but the levels of award remain the same for the equivalent elements (Standard Allowance and Carer Element)

recipient provided by the Scottish Government will not result in an automatic offsetting of entitlement to reserved benefits by the UK Government⁴⁴, advisers and clients who took part in our consultation were still concerned that people might inadvertently lose out, or would see no change to their income despite intentions to the contrary.

- 7.16. CAS recommends that the Scottish and UK Governments set out jointly how they plan to make necessary changes to regulations to ensure that people receiving Carer's Allowance benefit in full from any increase in the payment rate, and do not lose out on any passported benefits because of the welcome change.
- 7.17. Comments on the proposed Young Carer's Allowance can be found below.

Proposals for the short to medium term

Do you agree with our proposed short to medium term priorities for developing a Scottish carer's benefit? (Yes/No) Please explain why

- 7.18. **Yes, as outlined above, CAS broadly agrees with the Scottish Government's proposed short to medium term priorities.**
- 7.19. **CAS recommends that the Scottish Government continues to pursue the idea of a Young Carer's Allowance.**
- 7.20. **A Young Carer's Allowance should remove restrictions on carers in full-time education from receiving carer's benefits, if that is not done within Carer's Allowance itself.**
- 7.21. **For young carers under the age of 16, a package of financial support could be provided, along with an increase in support services and respite care. The package of financial support including grants for occasional costs, support for transport costs and additional tuition, a Trust Fund towards future costs, and support for leisure activities. Consideration should be given to whether a regular payment would be appropriate for young carers.**
- 7.22. **Non-financial support for young carers should be increased including additional funding for respite care and support services.**
- 7.23. As detailed above, CAS welcomes the Scottish Government's commitment to increase the level of Carer's Allowance to the same rate as Jobseekers Allowance. However, that rate is not sufficient to fully compensate carers for loss of income, nor fully recognise the substantial effort put into caring for a loved one.

⁴⁴ The agreement between the Scottish Government and United Kingdom Government on the Scottish Government's fiscal framework – February 2016
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503481/fiscal_framework_agreement_25_feb_16_2.pdf

- 7.24. CAS also recommends that the Scottish and UK Governments set out jointly how they plan to make necessary changes to regulations to ensure that people receiving Carer's Allowance benefit in full from any increase in the payment rate, and do not lose out on any passported benefits because of the welcome change.
- 7.25. As detailed below, the eligibility criteria for carer's benefits should be reviewed with a view to broadening it to ensure that carers do not unfairly lose out on support.

Young Carer's Allowance

- 7.26. The consultation document notes the Scottish Government's intention to explore the idea of a Young Carer's Allowance, although does not give specific details of what it would entail.
- 7.27. From a Public Petition to the Scottish Parliament from the Scottish Youth Parliament in 2013 which called on the Scottish Government to establish a Young Carers Grant for carers in full-time education or under the age of 18,⁴⁵ it was noted that young and student carers who were in full-time education were not eligible for Carer's Allowance and consequently faced hardship. This resulted in carers at college or university without access to sufficient financial support to study and perform their caring responsibilities, affecting mental health and risking them dropping out. Young carers at school faced hardship as a result of requiring help to pay bills and living costs, but in some cases being unable to receive Education Maintenance Allowance (EMA) as a result of having to miss school to fulfil their caring responsibilities.⁴⁶
- 7.28. In our 'Designing a Social Security System for Scotland' survey of CAB advisers, 73% of respondents thought that young carers should receive both additional financial and non-financial support, with a further 3% favouring them receiving additional financial support only. 20% of respondents favoured providing non-financial support only.
- 7.29. Amongst the CAB clients and advisers who participated in our consultation events and survey there was strong support for people in full-time education being entitled to support from carer's benefit. 69% of respondents to our survey of advisers supported carers in full-time education being made eligible for support. Removing the restriction on carers in education receiving Carer's Allowance was supported in our adviser consultation events and in all focus groups with CAB clients that discussed the issue. As participants in one client focus group put it:

"It was felt that young people miss out on life opportunities and educational and employment opportunities, their employment and education also suffer, their role as

⁴⁵ Scottish Parliament Public Petition PE01470

<http://www.parliament.scot/GettingInvolved/Petitions/petitionPDF/PE01470.pdf>

⁴⁶ Ibid.

young carers goes unrecognised by the state. It was felt that more practical support should be available to all young carers to enable them to participate in life to their fullest capability.”

7.30. The issue of whether young carers under the age of 16 should be entitled to carer’s benefits was somewhat more contentious. 47% of survey respondents thought that those under 16 should be able to receive Carer’s Allowance, and participants in events were equally divided in whether they thought under 16s should be eligible for benefit support.

7.31. Participants in one of the client focus groups were strongly in favour, noting the financial needs of young carers and that they *“could not understand why age was an issue for Carer’s Allowance criteria”* and thought it should be completely disregarded. Some of the respondents to our online survey thought that carer’s benefits should be provided to everyone providing care, and age should not be a factor.

“My father died when I was six. I left school and got a part time job to help my mother out. To say 16 is the qualification for CA is wrong”.

“You might not need the money but your child needs to be in the system for when he becomes an adult”.

“When the child becomes an adult that’s when the real problems start. If the child isn’t already in the system it’s a nightmare getting benefits”.

7.32. Others were more cautious. Participants in our adviser consultation event and two focus groups were concerned that making a regular benefit payment might impact on carers’ attendance at school, interfere with the ‘labour of love’ of caring and create additional pressures. As the payment would contribute towards the family income, some clients were concerned that problems may be caused if their parents had addictions.

7.33. Participants in two client focus groups independently suggested the idea of payments being made into a type of Trust Fund which would provide finance for young carers’ future which could go towards future fees and *“provide finance for their future which may have been compromised by caring”*. Advisers participating in our consultation event, one of the client focus groups, and some respondents to the online survey all raised the suggestion of in-kind support being provided, such as support with transport costs, vouchers for additional tuition, or vouchers for leisure activities, although some participants warned that this option should be pursued with caution to avoid any stigma being caused.

7.34. Some of the difference of opinion on this issue may be linked to the differing views over what the main purpose of a carer’s benefit should be – in recognition of the value of the care provided (suggesting that all those providing full-time care, regardless of age should be entitled to support), or to make a payment to replace lost income (which would not directly be the case for young people under the age of 16).

- 7.35. When asked about their views about particular types of financial support that could be provided to young carers, 74% of survey respondents support automatic entitlement for EMA, 51% supported a 'regular payment similar to Carer's Allowance', 51% a grant for one-off/occasional costs associated with caring responsibilities, and 51% a specific student bursary.
- 7.36. Based on these views, CAS would recommend that a Young Carer's Allowance would entitle carers aged 16 and over who are in full-time education to a carer's benefit payment equivalent to the adult rate, if this is not pursued within any Scottish replacement for Carer's Allowance, which may be a more straightforward option.
- 7.37. For young carers aged under 16, CAS recommends a package of financial support which could consist of grants for one-off costs associated with their caring responsibilities, discounted or free travel, payments towards a Trust Fund that could be accessed at a future date (possibly on leaving school or turning 16), support with the costs of additional tuition and vouchers for leisure activities. To avoid stigma being created, and in line with the strong support for choice outlined elsewhere in this consultation, CAS would support young carers being given the choice of a cash equivalent rather than vouchers. Consideration should be given to whether the Young Carer's Allowance should be a regular payment like Carer's Allowance.
- 7.38. Regardless of their views on whether financial support should be provided, almost all participants in our consultations felt that non-financial support for young carers could be increased. Similar to participants' views of what should be provided for older carers, the most common support options mentioned were increased respite care to give young carers a break from caring and *"allow them time to be children"*, and increased funding to enable support services that exist to be rolled out more widely. The Crossroads project in Orkney⁴⁷ and East Ayrshire Carers Centre⁴⁸ were cited as examples of projects that provide vital support to young carers that could be developed on and replicated more widely.

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

- 7.39. CAS recommends the application and assessment process can be improved by ensuring paper forms are available for applications, entitling carers to receive benefit whilst an application for disability benefit is being considered, ensuring appropriate levels of phone and face-to-face support for claimants, and ensuring that any changes to the eligibility criteria do not complicate the application process.**

⁴⁷ Crossroads Orkney <http://www.crossroadsorkney.co.uk/>

⁴⁸ East Ayrshire Carers Centre <http://www.eastayrshirecarers.org.uk/>

7.40. The consensus amongst the CAB clients and advisers who participated was that the current application process for Carer's Allowance was reasonably straightforward, particularly compared to the application process for some other benefits, although a few clients who participated found the forms complicated, but could find assistance to help them do this.

"It must be relatively easy to claim as I have only assisted with one application form in the last three years."

7.41. There were concerns about prioritising an online application process from both advisers and clients. Participants raised concerns about a substantial number of people who either did not have access to a computer or who did not have the skills to make a claim online. Participants were of the view that an option of a paper form should continue to be available, with an option of a telephone claim for those who require it.

7.42. A number of advisers and clients had encountered difficulties caused by the Personal Independence Payment (PIP) claim process for the person they cared for. Substantial delays of several months, and a loss of entitlement on re-assessment, as detailed further in the Disability Benefits section of this response. This resulted in full-time carers not receiving Carer's Allowance due to issues with the PIP award. Several participants were of the view that people should be entitled to carer's benefit whilst an application for disability benefit by the person they cared for was being considered.

7.43. Several participants reported issues with communications regarding claims for Carer's Allowance, such as lengthy hold times on phone lines. Further detail on communications between benefit agencies and claimants can be found in our response to the 'Delivering a Social Security System for Scotland' section of this consultation.

"Overall it works quite well. But communication between DLA/PIP and CA can be poor and slow. If the cared for person goes into hospital there are multiple calls to be made which is arduous and a process that rarely works well."

7.44. Some participants in our adviser consultation event expressed concern that changes to the eligibility criteria may cause the application process to become more complicated. Ensuring that they do not do so should be a consideration for the Scottish Government.

Should the Scottish Government offer the choice of exchanging some (or all) of a cash benefit for alternative support (e.g. reduced energy tariffs)? (Yes/No) Please explain why

What alternative support should be considered?

7.45. **Yes, people should be offered the choice of some of their benefit being given to provide alternative support, although this option is not**

considered as helpful for recipients of carer's benefits as for other benefits.

- 7.46. It is important that people are given a genuine choice between receiving this support or the cash equivalent and that attempts are not made to pressurise people into sacrificing part of their benefit for alternative support.**
- 7.47. Some participants felt that offering claimants the option of exchanging some of carer's benefit for goods or services in kind may be helpful in some circumstances. A number of participants at our adviser consultation event were from areas of the Highlands and Islands with high levels of fuel poverty, so felt that cheaper energy might be a useful service for some, for instance in the Western Isles where a community energy supplier is being set up due to issues with 'big six' suppliers.
- 7.48. One suggestion was for a 20% premium where recipients of carer's benefit could receive a higher number of energy units for every pound. Other suggestions included relaxation and goods for the person cared for, such as aids and adaptations or support for travel for young carers.
- 7.49. Others did not favour this option. Participants in one client focus group thought offering vouchers rather than cash was "demeaning" and "disgraceful". They raised concerns that some shopkeepers do not give change if the full value of a voucher is not spent and that discounted utility bills could be impractical, for instance if someone had a direct debit set up.
- 7.50. On the whole, there was not as much enthusiasm amongst participants for specific goods-in-kind as there was for disability benefits. Consideration would also need to be given to whether the goods offered were for the carer themselves, or for the person being cared for. As in our response to the equivalent question in other sections, it is important that claimants are not pressurised into accepting goods rather than cash – a genuine choice should be given to all recipients.

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

- 7.51. Ensuring that suitable support for carers as well as social security benefits is very important. The devolution of powers presents the opportunity to signpost and refer carers to services when an application for carer's benefit is made, or to highlight the availability of carer's benefit to people who use existing services for carers. Participants in CAB client focus groups, our adviser consultation event and online survey all emphasised the importance of providing sufficient carers services, and aligning them with carer's benefit.

This echoes one of the key findings in our 'Empowering Scotland' consultation in 2015.⁴⁹

- 7.52. Amongst the participants, the most frequently mentioned of what additional, non-financial support should be provided to carers were respite care and carers' support services, with either one or both of these options being mentioned by almost all respondents.
- 7.53. Particular examples of good practice were given by participants in client focus groups and the online adviser survey.

"More respite and practical support for young carers so that they can have some kind of childhood and also not lose out on their education or feel isolated. More information and links to organisations such as Barnardos and Young Carers Groups. Also for adult carers to break down the isolation. Many good carer groups out there but not everyone finds them. Volunteer help could be increased to support people who are struggling."

"Crossroads provide an excellent service to carers but this has to be paid for - perhaps some government funding for the service to reduce the charge to carers."

"The Carers Centre should be a channel between the carer and the government to identify the needs of carers. A replacement care service when carer needs a rest. Who cares for the carer? The government should provide the funding for replacement care not charities. Training for carers, carers who are employed by a care company or local authority are often restricted by what care they can actually provide."

Proposals for the longer term

Do you agree with our proposed long term plans for developing a Scottish Carer's Benefit? (Yes/No) Please explain why

- 7.54. **Yes, Citizens Advice Scotland agrees with the proposed long term plans for developing a Scottish Carer's Benefit. The eligibility criteria should be reviewed with a view to broadening it to ensure that carers do not unfairly lose out on support.**
- 7.55. **In particular CAS recommends that carers who receive the State Pension, carers in full-time education, and carers who earn the equivalent of 21 hours per week at the Scottish Living Wage should be entitled to receive carer's benefit.**

⁴⁹ Designing a Social Security System for Scotland: Disability and Carer's benefit – Citizens Advice Scotland, December 2015 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-disability-and-carers-benefit>

7.56. CAS would recommend the Scottish Government consider a number of other groups for support from a Scottish Carer's benefit, potentially as part of a two-tier structure with a higher and lower rate of award.

7.57. CAS would recommend that people in receipt of carer's benefit should continue to receive them whilst the person they care for is in hospital.

7.58. In our 'Designing a Social Security System for Scotland' online survey of CAB advisers, we ask respondents which groups, if any, should be eligible for carer's benefits in future. The results are shown in table 6 below.

Table 6: Currently the following groups of carers are ineligible for Carer's Allowance. Do you think any of them should be eligible for carer's benefits in future? (Please select all that apply).

Option	%	No. responses
Carers in full-time education	69%	25
People who spend between 28 and 35 hours a week caring for someone	67%	24
Carers who earn between £110 and £150 per week	69%	25
Carers under the age of 16	47%	17
Carers who are over state pension age	78%	28
Carers for people who don't receive a disability benefit	36%	13
People who spend less than 28 hours a week caring for someone	22%	8
Carers who earn more than £150 per week	28%	10
Total respondents		36

7.59. Focus groups with CAB clients and advisers broadly reflected these views, and suggested some additional groups for consideration. CAS would suggest the following should be priorities for changing the eligibility criteria.

Carers who receive the State Pension, but are ineligible for Pension Credit

7.60. As detailed above in our response to the question about the Scottish Government's overall approach, carers who have retired are not explicitly restricted from claiming Carer's Allowance, but in practice they would be prevented from receiving it by virtue of receiving the State Pension which is an 'overlapping benefit' (meaning that only the highest value of the two can be claimed).

7.61. Whilst people who are eligible for Pension Credit are entitled to a Carer Addition, people who are ineligible do not receive any additional payment to recognise the value of the care they provide. This can include people on reasonably low incomes – those with a "half-decent" private pension – as one respondent put it.

An East of Scotland CAB reports of a client who feels really strongly about not being able to claim Carer's Allowance and only being given an underlying entitlement. He cares for his wife 24/7 and says it would cost thousands of pounds for someone to come and do the job and he and his wife struggle with their old age pension. They are just over the limit for pension credit and don't get the disability premium. Because he is looking after his wife he says he feels like he is being penalised for being a pensioner and a carer.

7.62. This situation is widely perceived to be unfair. As detailed above, it was the most commonly selected option in our adviser survey, and participants at our adviser consultation event particularly raised this group as one who should be permitted to receive carer's benefits.

"Pensioners feel upset that there is no recognition of their caring responsibilities once pension kicks in due to overlapping – offer pensioners a 'carers energy premium' if you can't afford to financially reward all carer pensioners so they at least get recognition"

7.63. CAS would consider that people in receipt of the State Pension should be considered a priority for support from Scottish carer's benefits. This could either be at the full rate, or if a different approach is used, eligible for some support and recognition from the system.

Carers in full-time education

7.64. As discussed in detail in our response on a Young Carer's Allowance above, it was widely considered throughout our consultation activity that carers who are at, college, university, school (for 16-18 year olds at least) and other forms of full time education should be entitled to Scottish carer's benefits.

7.65. CAS would consider student carers to be a priority for support. This may be as part of a Young Carer's Allowance, or as part of a main Scottish carer's benefit. As their caring responsibilities will often restrict them from working alongside their studies, this would both recognise the value of their care and partly reflect lost earnings, CAS would recommend that they receive the same rate of carer's benefit as current recipients of Carer's Allowance would in a new system.

Carers who earn more than the current earnings threshold

7.66. Whilst some carers combine work with full-time caring responsibilities, they are often entitled to no recognition for their caring role from Carer's Allowance.

"My daughter works. She'd leave me in the morning with flask and sandwiches. My neighbours were the shops below me and they phoned up or popped in to check on

me. When she was finished she would be up cooking, cleaning, doing my washing. She worked full time and still managed full time with me”.

7.67. Across all methods of consultation, the consistent view of advisers and clients was that the current earnings threshold of £110 was too low.

“One participant highlighted the lack of support for carers who are currently working and caring. People who are working and earn more than the £110 per week threshold, but are coming home and caring for someone, are in a situation where they may have no access to support.

“Another participant felt that the £110 per week income threshold was, at present, a barrier to entry for carers looking to re-enter employment. She felt that more carers would welcome the opportunity to be able to access part-time work without the fear of their benefit being stopped due to the strict income rules.

“A third participant agreed with this, expressing her own frustration that when leaving work to become a carer, she had been offered two days’ work per week from her employer, but that ultimately it wasn’t worth it financially, and that more hours were not an option due to the fact it would have taken her over the £110 threshold.”

7.68. As shown in the above, 69% of advisers thought that the threshold should be raised to at least £150 (which was used for illustration, as a rounded-down version of 21 hours at the current National Living Wage).

7.69. A further issue that can arise for CAB clients is that because the threshold is set at a particular cash figure as opposed to a number of hours’ work, any increase in the National Minimum Wage/National Living Wage can cause problems. Advisers have reported that clients can lose their entitlement to Carer’s Allowance due to an increase in the minimum wage, despite working the same number of hours.

7.70. With the above issues in mind, CAS would propose that the earnings threshold for a Scottish Carer’s benefit is lifted from its current level, and pegged to a certain number of hours at a minimum wage in legislation, rather than a particular cash amount.

7.71. CAS would recommend the equivalent number of weekly hours a person is allowed to work and still receive carer’s benefit is raised to 21 (three full days). Tying this to the current statutory National Living Wage would be a 37% increase, but given the Scottish Government’s strong encouragement for employers to pay the higher voluntary Scottish Living Wage⁵⁰, that may be seen as a more appropriate metric.

7.72. Setting the earnings threshold as the equivalent of 21 hours per week at the Scottish Living Wage rate of the day would not only automatically take into account any increases, but would represent a considerable increase of 58% on the current level (£173.25 at current rates). This would also allow people

⁵⁰ Scottish Living Wage Accreditation <http://scottishlivingwage.org/accreditation>

earning less than the Scottish Living Wage to disproportionately benefit, particularly young people – it would allow minimum wage workers aged under 21 to work almost full-time without losing entitlement to carer's benefit.

- 7.73. There was some support in the online survey and two of the client focus groups for those who earn a higher amount than this, though this was generally based on a universal principle that anyone who cares full-time should be entitled to benefit.
- 7.74. Participants in one of the client focus groups suggested a sliding scale could be used for an earnings threshold. This may be possible if a Scottish Carer's Benefit is paid at different rates as discussed below.

Carers who spend between 28 and 35 hours caring for someone

- 7.75. Whilst there was limited appetite for carer's benefit to be paid to people who spend only a few hours caring for someone, there was majority support in the survey for carers who spent between 28 and 35 hours being entitled to benefit support, and some participants in our adviser consultation event also supported this approach. Other participants in client focus groups however felt that 35 hours per week was 'fair enough'.
- 7.76. There was minority support in the survey and events for a number of options, detailed below:
- 7.77. **Carers under the age of 16.** This is discussed in the section on a Young Carer's Allowance above.
- 7.78. **People who care for people who don't receive a disability benefit.** Participants in one of the CAB client focus groups also felt that there should be some flexibility in this area. There was not significant support for the suggestion, though as discussed above we would recommend that people who are caring for someone who has applied for disability benefit but not yet been awarded should be considered for a carer's benefit award.
- 7.79. As noted in the consultation document, **stoppages of Carer's Allowance when the person who is cared for is in hospital** were raised as a significant problem by participants in several client focus groups. This was seen as unfair, as the carer could not be expected to find work for a short spell, then leave it to returning to caring once the person was discharged. It was also viewed to be complicated.

"Transitions were unclear and "a bit of a minefield". For example, when you care for someone who goes into hospital or a care home, you have to declare this and benefits stop after 4 weeks, but you're still doing the same tasks when they're in hospital (paying bills, washing their clothes, even feeding them). "The role is different but you haven't stopped caring".

- 7.80. This is an issue that citizens advice bureaux frequently advise clients on. In some cases they do not receive full information or advice from the DWP.

An East of Scotland CAB reports of a client who contacted the Carer's Allowance contact centre and reported that his mother was in hospital for four weeks. They informed him that Carer's Allowance would stop but didn't tell him that Income Support would remain for a further eight weeks. The client was distressed and feared that he would be unable to manage.

7.81. CAS would recommend that people in receipt of carer's benefit should continue to receive it whilst the person they care for is in hospital.

7.82. Similarly, some clients raised the issue of **people who care for more than one person**, feeling it was unfair that they only received payment of Carer's Allowance for one, as it did not provide recognition of their role.

7.83. Other participants commented on situations where **more than one person was involved in someone's care**, and that this was not recognised by Carer's Allowance.

"We're parents of an autistic child. We had to get him dressed this morning and he's violent. It takes two of us. Why should only one parent be able to claim Carer's Allowance? Two parents are needed".

7.84. Issues with employers were also referred to by a number of participants in the client focus groups. This demonstrates the need for schemes like the Scottish Government's 'Carer Positive' referred to in the consultation document.

"Several participants spoke about the difficulties of combining working and caring. Employers were initially sympathetic but this began to wane and it was a constant hassle to arrange time off to attend hospital appointments etc.

"Had to change shifts and lost £100/week".

"Carers that work and care 24/7 have no life".

Possible structures of Scottish Carer's benefit

7.85. As above CAS recommends a number of groups of people should be entitled to any successor to Carer's Allowance, as their current exclusion would appear to be unfair, regardless of the structure the benefit takes. As outlined above participants in some of the client focus groups and adviser consultation event suggested that some form of sliding scale or different levels of benefit could be awarded.

"Huge savings from unpaid carers – this should fund a higher rate."

"Improvements suggested included increasing the carers earning threshold and/or introducing a three level Carer's Allowance – low, medium and high."

7.86. Given that carer's benefit is viewed as having two main purposes – providing recognition of a person's caring role, and to provide some form of income replacement, then one possible structure may be to award a Scottish Carer's

benefit at a higher and a lower rate. The higher rate could provide both recognition and earnings replacement, whilst the lower rate could exist to provide some recognition of a carer's role, and assist them in accessing non-financial support. An illustration of how this could operate, with reference to the groups mentioned above is shown in table 7 below.

Table 7: Possible structure of a Scottish Carer's benefit with two rates of award

Higher rate	Lower rate
<ul style="list-style-type: none"> • All those currently eligible for Carer's Allowance • Carers in full-time education (or Young Carer's Allowance at same rate) • Working carers who earn less than the equivalent of 21 hours per week at the Scottish Living Wage 	<ul style="list-style-type: none"> • Carers in receipt of State Pension who do not qualify for Pension Credit • Carers under the age of 16 (or Young Carer's Allowance package of support) • Carers who spend between 28-34 hours per week caring for someone • Carers who spend at least 35 hours per week caring for someone, but earn more than the earnings threshold • Carers who provide care to more than one person (in addition to higher rate) • People who share caring responsibilities for someone • People caring for people who have applied for disability benefit but have not yet received an award.

Do you have any other comments about the Scottish Government's proposals for a Scottish Carer's Benefit?

7.87. Citizens Advice Scotland would support moves to increase awareness of carer's benefit, as a number of clients are not aware of the support that may be available from Carer's Allowance, or that there may be premiums in other benefits, such as Income Support, Pension Credit or Employment and Support Allowance that may be available to assist them.

7.88. In general however, there are a substantial number of people who are providing care for someone who do not class themselves as 'carers', or realise that they would be, due to taking on the responsibility out of love for a partner or relative. The theme of 'invisible carers' who are in this situation but are not receiving any support from support services or Carer's Allowance was a recurring theme throughout client focus groups. Citizens advice bureaux have reported of clients who do not realise they are a carer when they come

in for advice because they are struggling financially due to being unable to work because of their caring responsibilities.

“One participant added that there are a lot of people out there caring for someone who wouldn’t necessarily class themselves as ‘carers’. Another participant agreed and suggested this again points to the problem of the ‘invisible carers’ in our society - individuals for whom caring is just part of their life and have never thought to seek support, or are aware that it exists...they highlighted the “invisible carers”, those in education, or under the age of 16 who are caring for someone and are not in the catchment for CA at present, and as a result may not be on the radar at all for any support schemes which are available.”

- 7.89. Any campaign to raise awareness of carer’s benefits should include general efforts to raise awareness amongst invisible carers that support may be available for people in their situation.
- 7.90. Advisers from citizens advice bureaux in remote and rural areas raised a number of issues due to the higher cost of transport. For instance, a carer who had to travel 5 - 15 miles to a carers meeting would have to pay a £15 taxi fare, 25% of their weekly Carer’s Allowance, due to lack of public transport. They felt that more should be done to recognise additional financial costs for carers in rural areas, including the possibility of a ‘rural top-up’ to Carer’s Allowance.

8. Winter Fuel and Cold Weather Payments

Do you have any comments about the Scottish Government's proposals for Winter Fuel and Cold Weather Payments?

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?

- 8.1. **CAS does not support a move away from universal provision of the Winter Fuel Payment (WFP).**
- 8.2. **CAS agrees with the Scottish Government's proposals to extend the WFP to families with disabled children on the higher rate of DLA and for the early payment to off gas households, as they are clearly vulnerable to the problems associated with high winter fuel bills.**
- 8.3. **CAS believes that currently, the eligibility criteria for Cold Weather Payments are broadly effective at targeting those in fuel poverty. However, CAS believes that the triggers for when CWP are made should be re-assessed to better represent Scottish consumers in certain rural areas.**
- 8.4. **CAS therefore strongly supports the Government's proposal to work with rural stakeholders and the Met Office to identify trigger points more suitable to Scottish conditions.**

Winter Fuel Payment

- 8.5. CAS does not support a move away from universal provision of the Winter Fuel Payment (WFP). While it is nominally related to fuel poverty, the WFP is in essence an old-age benefit, and plays a general role in the social security system in that regard. There is therefore a risk that a reduction in the WFP, or a restriction on who receives it, could result in a loss of income for some consumers. Therefore if any change is contemplated it is essential that there is a full cost benefit analysis of its impact. This will ensure that any consideration of change will take account of the consumer impact.

Known risks of selectivity or means-testing

- 8.6. In an evidence review by the Centre for Research in Social Policy,⁵¹ that fed into the development of Joseph Rowntree Foundation's anti-poverty strategy, it was suggested that means-testing benefits – or restricting support to those living in poverty – carries several risks. The authors argued it can:

⁵¹ Dimitri Gugushvili and Donald Hirsch (2014) *Means-testing or universalism: What strategies best address poverty?* A review contributing to Joseph Rowntree Foundation's development of an antipoverty strategy. Centre for Research in Social Policy, Loughborough University

- Stigmatise recipients
 - Create disincentives for those who most need to apply
 - Create a 'poverty trap'
 - Create poorly funded 'ghetto services'
- 8.7. For these reasons, moving away from universalism is far from straightforward, and may end up creating more problems than solutions if unintended consequences result. Fundamentally, it could result in some potentially vulnerable consumers not receiving payments that they rely upon.
- 8.8. This has been highlighted in evidence from the Centre for Economic and Social Inclusion, which found that around one third of eligible people in the UK were not claiming the means-tested benefits they were entitled to.⁵² It also found that take-up rates for income-related benefits had declined in the decade to 2009/10. The reasons usually given for this are similar to those already stated above: stigma, lack of knowledge, and the complexity of the claiming process.

Advantages of universalism

- 8.9. While there are known issues with universalism, such as the allocation of resource to people who don't necessarily need it, there are specific advantages that universal payments to targeted groups can bring. These include:
- Universalism ensures that everyone receives some support
 - It can bring about administrative efficiencies
- 8.10. Citizens Advice Scotland believes a universal approach within the target populations is the most effective and efficient means of achieving the desired outcome: maximising the incomes of low income and vulnerable households for help with their heating costs during the winter months. CAS believes that without sufficient evidence to suggest otherwise, the risks of vulnerable consumers not receiving payment with selective payment methods is too high. While this does mean that some households not on a low income will receive support, we suggest this is one of the many compromises required for decisions on social spending.
- 8.11. Where further work would be welcomed would be for the Scottish Government to consider extending eligibility to other household types not currently eligible for support, but who are struggling to affordably heat their homes. The feasibility of this should be assessed by a cost benefit analysis or similar approach. CAS does however support the Scottish Government's proposals to extend the WFP to families with disabled children on the higher rate of DLA

⁵² Dan Finn and Jo Goodship (2014) *Take-up of benefits and poverty: An evidence and policy review*. Centre for Economic & Social Inclusion

and for the early payment to off gas households, as they are clearly vulnerable to the problems associated with high winter fuel bills.

Cold Weather Payment

- 8.12. CAS believes that currently, the eligibility criteria for Cold Weather Payments are broadly effective at targeting those in fuel poverty. However, CAS believes that the triggers for when CWP are made should be re-assessed to better represent Scottish consumers in certain rural areas.
- 8.13. As highlighted in a CAS report published in December 2015,⁵³ many of the areas in Scotland with the greatest rates of fuel poverty (e.g. Western Isles, Orkney Islands, parts of the Highlands) do not record temperatures of 0°C or below for 7 consecutive days during a typical winter. So no CWP's are made to households struggling to heat their homes in those areas. Reasons typically given for this are that the climate and prevailing wind chill mean that it is extremely rare for temperatures to fall below freezing in those locations.
- 8.14. CAS therefore strongly supports the Government's proposal to work with rural stakeholders and the Met Office to identify trigger points more suitable to Scottish conditions.

⁵³ Designing a Social Security System for Scotland: Winter Fuel and Cold Weather Payments – Citizens Advice Scotland, December 2015
http://www.cas.org.uk/system/files/publications/designing_a_social_security_system_for_scotland_-_winter_fuel_and_cold_weather_payments.pdf

9. Funeral Payments

Funeral Cost Support International Comparators

9.1. Given the Scottish Government's stated intention that the devolution of social security is an opportunity to make a lasting difference and perhaps deliver things differently CAS have taken the opportunity to review some international examples of funeral support. Previous research on international comparators has been undertaken by the Centre for Death and Society at the University of Bath⁵⁴. The following pages provide an up to date summary of the systems in New Zealand, Ireland, Canada, Sweden and Iceland. All these systems share some characteristics or aims to differing levels with the DWP's current system which is why they were chosen for comparison.

Republic of Ireland

- 9.2. In 2014 the Republic of Ireland Government scrapped the Standard Bereavement Benefit. This benefit was not related to the ability to pay for the funeral and eligibility was based on social insurance contributions. This was a €850 grant paid directly to an applicant's bank account.⁵⁵ This grant could be seen as similar to the previous UK's Universal Death Grant of £30, paid to any applicant regardless of income, abolished in 1987⁵⁶.
- 9.3. Replacing this support was one-off "Exceptional Needs Payment" which is defined as a payment to meet exceptional expenditure which a person could not reasonably be expected to meet out of their weekly income. Funeral Costs are accepted as one of the costs that can be claimed.
- 9.4. This payment is decided on an individual basis and subject to a means test, however there is no requirement for a certain level of previous social insurance contributions or to meet a residency test⁵⁷. The amount differs between applications depending on need and each application is determined at a local office level on its individual merits. In some ways this mirrors the Scottish Welfare Fund system in design.
- 9.5. The Irish Government has stated in 2014 it provided 3,000 exceptional needs payments for funerals at a cost of €4.6million (an average of €1,500 per application). Giving specific figures in a question session in Parliament, the Minister of State revealed detail of two specific cases where €2,500 had been supplied towards a total funeral cost of €5,500 and €3,000 supplied for a funeral costing €6,845⁵⁸.

⁵⁴ [From Cradle to the Grave: Funeral Welfare from an International Perspective](#) - Valentine & Woodthorpe, Social Policy & Administration Vol 48 No.5

⁵⁵ [Standard Bereavement Grant](#) - Citizens Information Board Ireland

⁵⁶ [Parliamentary Statement on the Social Fund Bill](#) - Hansard, 5th February 1987

⁵⁷ [Exceptional Needs Payment](#) - Citizens Information Board Ireland

⁵⁸ [Exceptional Needs Payments](#) - Dáil Éireann Debate, 23rd April 2015

- 9.6. Concerns around Funeral Poverty have arisen in recent years in Ireland with prices for a standard funeral being placed at between €3,000 and €5,000 not covered by grants averaging €1,500⁵⁹. In addition payments made under the exceptional needs payment system have fallen from €5.5m for almost 4,000 funerals in 2011 to €4.6m for 2,953 funerals in 2014.⁶⁰

New Zealand

- 9.7. In New Zealand a “Funeral Grant” is paid to partner, spouse, parent or guardian of the person who died (or a third party if none of the above exists). It is both income and asset tested, requires to be a normal resident of New Zealand and there are different levels of qualification income depending on if the person had a partner and/or children.⁶¹ The income threshold ranges from \$24,900 (£14,000 approx.) for a young single person to \$36,000 (£20,000 approx.) for a sole parent of two or more children. In addition assets of both the deceased and surviving family member applicant over \$1,500 are taken into account.
- 9.8. A total grant of up to \$2,000 can be made but only for the following certain costs:
- Professional services in preparing the body
 - Casket
 - Newspaper Notice
 - Hearse
 - Purchase of a burial plot
 - Cremation Fees
- 9.9. The New Zealand Citizens Advice Bureau estimate the average cost of a funeral in New Zealand as between \$8,000 and \$10,000 (£4,500 to £5,600 approx.) but recognise this can vary substantially based on what is chosen⁶². There are additional support grants for veterans and victims of accidents/homicides.
- 9.10. Research in New Zealand⁶³ has highlighted similar concerns around lack of both planning their own funeral and knowledge of funeral costs as to that found in Scotland⁶⁴. Similarly concerns have been raised with regard to large annual increases regarding disposal costs charged by local councils.⁶⁵
- 9.11. Additionally, policy arguments that have been advanced in New Zealand to reform the current system include fixed maximum amounts that can be claimed for essentials funded by public grants and full cost of “disposal”.

⁵⁹ [Limerick councillor expresses concern over funeral costs](#) - Limerick Post, 25th April 2014

⁶⁰ [In modern Ireland, the pauper's funeral is not a thing of the past](#) - The Journal, 10th April 2016

⁶¹ [Funeral Grant](#) - Ministry of Social Development New Zealand

⁶² [Funerals & Registration of Death](#) - NZ CAB

⁶³ ['Is a Funeral a Right?' Exploring indigent funerals from Social Work perspectives](#) - Thomson & Yeung, Aotearoa New Zealand Social Work, 2015

⁶⁴ [Funeral Poverty, A Review for Scottish Government](#) – Citizens Advice Scotland, February 2016

⁶⁵ [Funeral Costs: The rising cost of Dying](#), NZ Daily Post, March 2014

Suggestions of welfare loans for the additional “optional” costs have also been championed by some.^{66 67}

Canada

9.12. Funeral Payments can be made from the national Canada Pension Plan which is based on national insurance contributions made⁶⁸. This is a one-time payment up to a maximum of \$2,500 (£1,480 approx.), a similar scheme operates for those living in Quebec.

9.13. In addition Canadian States may operate schemes to provide necessary funeral costs of a person who dies but whose estate or responsible person has no immediate resources to meet these costs. As an example, in British Columbia a Funeral Cost supplement will be paid to those eligible. There is no requirement for the recipients to be in receipt of another other state benefit nor have paid a level of taxation prior to the payment, however the funeral expenses are a debt and may be recovered by the state authorities⁶⁹. Under this scheme the state will provide⁷⁰:

- Disposal costs
 - o Burial not to exceed lowest available cost in area including grave opening and closing fees
 - o Cremation including Urn and cremation plot at cheapest cemetery
- Funeral Directors fees limited to:
 - o Transportation of body within British Columbia up to 32km
 - o Completing and filing the death registration
 - o Obtaining burial or cremation permit
 - o Professional services including co-ordination with legal representative of deceased and crematorium/cemetery
 - o Preparation of body including basic sanitary care and casketing
 - o Use of premises including preparation room, refrigeration, parking and service areas
 - o Transfer of deceased from funeral home to cemetery/crematorium
- Casket (a specific defined furnished casket is given invoiced at factory cost +20% mark-up plus delivery)

9.14. In 2013/2014 British Columbia reported that for the 2,000 funerals covered by this scheme \$3.2million was spent⁷¹. In Alberta this was a higher \$5.3million for 1,577 people, Alberta also provide a breakdown of why state funding was given in these cases:

- 1,515 had insufficient resources

⁶⁶ [Many Families struggle to meet funeral costs](#), Scoop Media, January 2015

⁶⁷ [Are we too poor to die?](#), Stuff Media, May 2012

⁶⁸ [Death Benefit](#) - Government of Canada

⁶⁹ [Funeral Costs](#) - British Columbia

⁷⁰ Full Details of what is covered is set out in Schedule F of the [Employment and Assistance Regulations](#)

⁷¹ [Provinces spend millions each year to ensure Canadians get a proper Burial](#) - National Post, October 2014

- 60 had no next of kin
 - 2 did have family who refused to get involved
 -
- 9.15. For those with means to pay high funeral package costs with hidden fees have received public criticism⁷² and increasing numbers are looking to alternative funeral arrangements from the norm with the import of Death Cafés and Green Burials from Europe⁷³.

Sweden

- 9.16. A universal support system is engaged for funerals in Sweden which is funded through a mandatory burial charge through taxation⁷⁴. This burial fee covers the following on the recipient's death and cannot be charged for⁷⁵:
- Burial plot for 25 years
 - Burial and/or cremation
 - Transportation of coffin
 - Premises to keep and view deceased
 - Premises for funeral ceremony
- 9.17. Additional services which the deceased estate/survivors pay for include:
- Coffin and dressing
 - Flowers
 - Obituary Notice
 - Pallbearers
 - Memorial service
 - Headstone
 - Grave maintenance
- 9.18. However for those without the resources to meet these additional costs local social service departments will fund grants up to €4,000, however uptake for this additional funding is reported to be as low as 5-7%⁷⁶.
- 9.19. In addition to financial support the Swedish State provides a standard planning document called the "Life File". This booklet provided at no charge, on request, provides space to make notes of important financial information that may be needed to be known on death as well as space to plan funeral wishes, organ donation wishes and care wishes if the person becomes unable to look after themselves⁷⁷.

⁷² [Grieving daughter critical of funeral costs](#) - The Chronicle Herald, October 2012

⁷³ ['Corporatization' of funeral industry drives quest for alternatives](#) - CBC News, May 2014

⁷⁴ [About funerals in Sweden](#) - Sveriges Begravningsbyråers Förbund

⁷⁵ About Funerals, burials and cremations - Church of Sweden, 2012

⁷⁶ [From Cradle to the Grave: Funeral Welfare from an International Perspective](#) - Valentine & Woodthorpe, Social Policy & Administration Vol 48 No.5

⁷⁷ [LifeArchive, English Translation](#) - The Swedish Funeral Homes Association

Iceland

- 9.20. Support for the costs of funerals is made through a grant (*útfararstyrk*) where an estate or family cannot afford the costs and is managed at a local level by municipalities subject to certain conditions.⁷⁸
- 9.21. As an example Akureyri City in northern Iceland provides financial support for residents including funeral cost assistance. A maximum grant of 250.000 kr (£1,700 approx.) is supplied for those with no means to cover the cost⁷⁹. It has not been possible to determine what threshold the income or assets of a family must be in order to qualify however it is stated in the grant rules that income will be assessed and the grant is means tested in nature. In addition there appears to be no guidance as to what is likely to be paid for and what is not covered up to the maximum grant. Support is however provided to all residents regardless of nationality based on six months of residency⁸⁰.
- 9.22. In addition trade unions provide grants to cover the cost of arranging a funeral for their members⁸¹.

Questions from consultation

Which of these elements do you think should be paid by the Funeral Payment?

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

- 9.23. **CAS believes the following should be covered by the Funeral Payment: disposal costs; professional funeral director fees; removal or collection of deceased; care and storage of the deceased before the funeral; coffin; hearse; travel arrangements to attend the funeral; fees associated with the ceremony.**
- 9.24. **CAS believes the following should be considered as additional optional expenditure and not covered by the payment: flowers; death notice in a newspaper; order of service sheets; catering/venue for wake; memorials.**
- 9.25. In International comparators highlighted earlier some systems provide a very prescribed list of what would be provided by a grant or loan (Canada, Sweden, New Zealand) while others had no specific goods or services listed (Ireland, Iceland).
- 9.26. CAS supports a move for the devolved social fund payment to cover a defined funeral with fixed costs agreed with industry. We believe that this would allow for families to better understand what the payment does and does not cover.

⁷⁸ [Burial practice in contemporary Iceland: Tradition and Conflict](#) - Silke Schurack, University of Iceland

⁷⁹ [Rules for Financial Assistance](#), Akureyri

⁸⁰ [Financial Aid](#), Multicultural and Information Centre

⁸¹ [Funeral Planning](#), Andlat.is

Currently the DWP's social fund funeral payments are opaque in the nature of how much will be provided and this does not help families when they are planning a funeral. The current DWP payment (capped at disposal costs plus a small allowance for extras) does not meet the full cost of a funeral on most occasions.

9.27. While some schemes have been set up to solely service this market at a price the DWP will cover (for example Coulbert Family Funerals in Oxford⁸², or the Cardiff City Funeral⁸³) this is not available on a widespread basis and to our knowledge no funeral director in Scotland has developed a similar arrangement. Currently it is a frequent occurrence that DWP Social Fund applicants have made an assumption that the fund will cover an entire funeral's cost⁸⁴, which is not the case.

9.28. We believe the following costs should be covered by a new Scottish payment:

Disposal Costs

- This may be cremation or burial depending on geography and personal wishes. The full cost of these should be met in line with what is currently provided by the DWP social fund funeral payment.
- CAS would support the Scottish Government in its wider Funeral Poverty work to engage with Local Authorities in looking at addressing the wide variation in the fees charged across Scotland⁸⁵ and how to reduce the charges or limit future increases.

Professional funeral director fees

- These fees cover administrative and advice provision as well as upkeep and maintenance of property and fleets etc. It would be useful as to what was expected to be set by the Scottish Government under this fee as this can differ between funeral directors. As highlighted in the example from Canada set functions have been defined that are allowed to be claimed for.
- We would support a similar set of limitations on fees to specified purposes; it would be helpful if this list is developed in conjunction with funeral directors and defined costs of what could be claimed for each set by the Scottish Government.

Removal or collection of deceased

- This is an essential service that requires to be met for the majority of people who are not handling the funeral themselves. However on comparing funeral directors it can be found that different distances of removal can charge

⁸² [Coulbert Family Funerals](#), 2016

⁸³ [Cardiff City Funerals](#), Cardiff City Council, 2016

⁸⁴ [Funeral Poverty, A Review for Scottish Government](#), Citizens Advice Scotland, February 2016

⁸⁵ [The Cost of Saying Goodbye 2016](#), CAS

different rates linked to distance travelled or a cap on the total mileage. In addition out of hours services can attract a premium cost depending on the funeral director chosen.

- CAS would support removal during normal hours and on a reasonable distance. It would be difficult to give a defined maximum distance in mileage due to Scotland's varied geography however within 30 miles for those who live in accessible areas of Scotland and flexibility for additional mileage for those in more remote communities who require it.

Care and storage of the deceased before the funeral

- CAS believes this should include basic sanitary treatment of the deceased as well as refrigerated storage. Given the different religious needs with regard to viewing of the deceased prior to a funeral or at a funeral we believe that dressing of the body should also be provided and viewing facilities made available.

Coffin

- We believe a standard wood effect coffin should be provided. Taking example from Canada the Scottish Government should define a specific coffin or coffin type that should be provided by the funeral director, this would ensure a coffin seen as respectful by most while keeping cost to a minimum. This coffin should also be furnished to a basic standard.

Hearse

- Transportation of the coffin to a cemetery or crematorium should be provided. This should be in a hearse of similar type vehicle in keeping with the expectations of a normal funeral in Scotland. We would not support the extension of the funeral payment to cover additional costs associated with any alternative types of transport (such as horse drawn carriage).
- Funeral Directors fees sometimes differ depending on if there is an intermediate stop such as a place of worship before heading onto a crematorium/cemetery. CAS are not fully informed as to the needs of different Faith groups for this and that should be considered in the development of the payment.

Travel arrangements to attend the funeral

- We would support the retention of the current DWP payment funding for next of kin to make a return journey to the funeral.

Fees associated with ceremony

- We agree that the celebrant fee whether a member of a religious or non-religious group should be covered.

9.29. In keeping with ensuring the maximum number of people benefit from the payments and in line with other international comparators we consider the following as additional optional expenditure not to be covered by the payment.

- Flowers
- Death notice in newspaper
- Order of service sheets
- Catering/venue for wake
- Memorials

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

9.30. **CAS recommends a defined system for deciding who is the responsible next of kin – the person who will be tested for eligibility is.**

9.31. CAS has seen a number of cases at bureaux where the current funeral payments system fails to meet the needs of those struggling to meet the costs of a funeral. Often it can be unclear to those claiming whether or not they will be successful in their claim and decisions can take a prolonged period of time. There is evidence that the unclear eligibility criteria and application process means there is a high refusal rate in applications. UK Government figures show there were 66,000 applications to the fund in 2012-2013 however only 53% were successful.

9.32. Added to this difficulty is the need for a deposit up-front (frequently £500-£1,000) to funeral directors regardless of whether the person organising the funeral will be successful in their application to the social fund. This is because of the uncertainty around whether the individual will be successful in getting an award even if it appears that they qualify.

9.33. A further complication with regard to social fund funeral payments is that, when considering an award, the DWP considers a wide number of family members' financial circumstances, even when these people are estranged from the applicant. Not only does this slow down the process of confirming any award but it can mean a refusal for payment despite the fact that the individual organising the funeral, who can be the closest relative, would be eligible.

A West of Scotland CAB reports of a client who is the next of kin and legal representative of his late father who died unmarried and had no other children. The client advises that there was no estate but only debts. The client has to borrow money to pay for the funeral for which he has accepted responsibility. The CAB is assisting him to make an application to the social fund.

- 9.34. CAS recommends a defined system for deciding who is the responsible next of kin – the person who will be tested for eligibility is. We would recommend using the ‘nearest relative’ test that is currently used in the Human Tissue (Scotland) Act 2006. This is the recommended test by the Burial and Cremation Review Group as to who should be responsible for disposal of a body. Any application process should allow for a deviation from this set list on reasonable grounds e.g. a son or daughter applies as the spouse is incapacitated or estranged.
- 9.35. We do not believe that fraudulent claims or families getting a certain individual to claim because they are on a qualifying benefit would be a common occurrence. This has been the main argument in maintaining onerous family background checks with regard to the funeral payment. Therefore the family member check should only be required where the person making a claim is further down the “nearest relative test” than another family member who is still living. For example if a parent of the deceased was making a claim while there was a surviving child, enquiries should be made as to why the child was not arranging the funeral. However where there are two relatives at the same level on the “nearest relative test” for example two siblings we do not believe further checks should be required.

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?

- 9.36. We believe the current list of qualifications should provide accurate aiming of the benefit to those who need the support the most. Any widening of the provision, while welcome, would need additional resources to ensure the payment met the full cost of a funeral. One possible addition however, may be to add recipients of a future Higher Rate of Scottish Carer’s Benefit, as suggested elsewhere in this response.

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

- 9.37. While the majority of applicants will apply within a short time scale we would propose lengthening the application process to a six month window to allow all eligible to put in applications. A bereavement can cause substantial upheaval in personal circumstances which may lead to an application not being completed on time. We believe therefore that a longer window of application of up to six months after the dates of the funeral would provide some leeway for those applicants with significant changes to their life or who are going through difficult grieving processes.

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

- 9.38. CAS would welcome any changes to the administration of the payment which would:
- Give certainty to the amount being paid allowing bereaved families to be certain of what will/will not be covered
 - A quicker decision or decision in principle that will give funeral directors and families the confidence they will receive financial support and allow funerals to proceed at the speed the family want
 - Reducing the need for, or alternatively the ability to refund once the grant cleared, deposits which we know cause families substantial concern and anxiety in trying to afford
 - Any fast-tracking for those with terminal illnesses to have arrangements in place before they die to better allow them to plan their own funeral should they wish
- 9.39. Specifically we would welcome fixed payment amount rewards and the removal of the need to check family relationships which we believe are the two most onerous parts of the current DWP benefit.

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?

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

- 9.40. **CAS agrees that contributions from the deceased's estate should contribute towards the cost of their funeral, but donations from family and friends and charitable grants should not be deducted.**
- 9.41. We agree that contributions from the deceased's estate should contribute towards the cost of their funeral. Therefore any money, including that paid out under insurance provisions on their death, should be deducted from awards made to applicants.
- 9.42. However the current DWP Funeral Payment also makes deductions for money which has been gathered to help pay for deposits, for example. This often can be done by donations from family and friends or even crowdfunding initiatives to a wider social network for example. We do not believe that donations to help pay for costs should be counted as "money available to the estate" given they have often been donated in good faith by those close to the deceased and/or bereaved family. We therefore support the Scottish Government's proposal that donations made to the bereaved family are not included in the calculation of the award made under a Scottish Funeral Payment.

- 9.43. In addition grants may be made from charitable sources to help pay funeral costs. Commonly used funds for this purpose in Scotland are linked to military service charities that provide small grants to the family of the deceased for the purposes of planning a funeral. We do not believe that such charitable grants should result in a deduction from a funeral payment award.

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

- 9.44. There are a number of current outlets where the funeral payment is promoted however knowledge of the payment among those eligible remains low.

- 9.45. We believe that the promotion of the payments needs to be a joint enterprise between private, public and the third sector. Key contact points where information could be shared with consumers include:

- Funeral Directors
- Registrars
- Advice services
- Bereavement support organisations
- Hospitals
- Hospices and other end of life support providers
- Carers
- Community nursing
- Life insurance providers
- Social workers
- Job centres

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

- 9.46. The cost of a basic dignified funeral has been allowed to increase at eye-watering levels over the past decade. The cost of an average basic funeral in Scotland can now range from £2,500 to £5,000. These costs can be completely unaffordable for many in society, especially those in low pay employment who may be paying for a funeral of a partner who was the main income earner in the household. CAS has been at the forefront of campaigning for rising costs to be addressed by the Scottish Government and others as a matter of priority.

- 9.47. We therefore welcome the work currently being undertaken by the Scottish Government to develop a funeral costs plan, the introduction of the Burial and Cremations (Scotland) Act 2016 and the appointment of an Inspector of Crematoria and forthcoming Inspectors of Funeral Directors. These combined with the reformed funeral payment provides a real opportunity to address many of the issues highlighted by our review into funeral poverty for the

Scottish Government⁸⁶ and we look forward to those being implemented in the near future.

⁸⁶ [Funeral Poverty, A Review for Scottish Government](#) - Citizens Advice Scotland, February 2016

10. Best Start Grant

- 10.1. This section of the consultation is informed by two focus groups held with CAB clients, one with parents at Central Borders CAB and one with parents of children ranging in age from pre-birth to 3 years at Airdrie CAB. CAS also consulted a group of CAB advisers at a consultation event, as well as including questions on the Best Start Grant in our online adviser survey.
- 10.2. In general, clients and advisers were positive about the changes and thought they would be helpful. Participants in one of the client focus groups commented that it mostly reflected the need for additional funds at the key stages in the first 5 years of a child's life, whilst 87% of advisers who responded to the online survey thought 'the proposed changes would be helpful for clients.'

Proposals for identifying eligible families

What are your views on who should receive the Best Start Grant?

- 10.3. **Parents in receipt of Tax Credits, Universal Credit, or any of the legacy benefits it is due to replace should be entitled to receive the Best Start Grant.**
- 10.4. **In addition, consideration should be given to whether any flexibility could be built into the system for parents in clear need who are not currently in receipt of a qualifying benefit.**
- 10.5. Amongst advisers and clients who participated there was a general consensus that the widest proposed criteria should be used, due to its inclusion of working parents. CAS would support the proposals in the consultation document for all parents in receipt of Tax Credits or Universal Credit to be eligible.
- 10.6. However, in all the focus groups and consultation events, a need for flexibility was stressed, due to examples of parents who would be ineligible as a result of not receiving a qualifying benefit.

“Currently clients who are not getting income based benefits, but aren't able to claim tax credits, are excluded from schemes such as Sure Start, HSV or free school meals even though they have a very low income. Example of Big Issue sellers who often have TCs stopped and [are then] investigated for [a] lengthy period due to [the] question of genuine and effective work. They have an income well below £6,000 but aren't getting any qualifying benefit.”

“One member talked very honestly about fleeing a domestic abuse relationship when her baby was 5 weeks old. She was on 'maternity pay from work' but needed lots of support, including financially at this time. She said she 'was lucky to have family but lots of people don't' so if they were not on a qualifying benefit, they could lose out on help and support during difficult times. The group felt that 'vulnerable people' can take many forms. One member said - 'No-one fits neatly in a box'”

Proposals on identifying who is responsible for a child

Should we continue to use the same system to determine who is responsible for a child for the purposes of the BSG application? (Yes/No) Please explain why

10.7. Yes, recipients of Child Benefit should be used to determine the eligibility, although consideration should be given to it being awarded to the person the child lives with, if that is a different person.

10.8. In both client focus groups, a similar discussion took place. There was a mixture of agreement that Child Benefit recipients should be used to determine who is responsible, although participants in both agreed the main factor should be 'the person that the child lives with'. Whilst this in most cases will be the same, participants raised the point that in some cases this may not be the case.

"One member commented that she claimed child benefit and did not hear from the benefit agency for 'another 16 years' so 'my son could have been on the other side of the world' and felt that more regular checks should be in place for child benefit to ensure the 'money is benefitting the child'. Some members added that if someone claims child benefit and then another person claims for the Best Start Grant, that this should alert someone to 'investigate further' to ensure the child is getting the right help."

Do you agree that each of the three BSG payments should only be made once for each child? (Yes/No) If no, what exceptions would you make to this rule?

10.9. Yes, each of the three payments should be made only once.

10.10. Participants in both of the CAB client focus groups agreed that this was a fair and reasonable system.

Proposals on the maternity payment

Should we continue to use the same method as the SSMG to determine whether a child is the first child in a household? (Yes/No) Please explain why. If no, what alternative method should we use?

10.11. Yes, the same method should be used.

10.12. In general, CAB advisers who responded to our online survey supported the Scottish Government's proposal to extend the scheme to second and subsequent children in a family with a reduced payment. 49% of respondents supported this approach, with 31% believing that the same amount should be

paid for each child. 21% of respondents thought the Grant should be for first children only.

Do you agree that we should retain the requirement to obtain advice from a medical professional before making a maternity payment? (Yes/No) Please explain your answer

10.13. Yes, parents should be receiving advice from a medical professional before a payment is made. This should take the form of a midwife or health visitor having to sign the application form, as is currently the case.

10.14. In our 'Designing a Social Security System for Scotland' online survey, two-thirds of respondents agreed that this should be the case, with 21% disagreeing. In the client focus groups, it was felt that this would encourage engagement with health services at each stage of a child's development.

10.15. However, in the adviser consultation event, and at one of the client focus groups, participants raised issues of inconsistencies with the provision of health visitors across Scotland.

"One group member felt that they 'had great support' from early pregnancy and this continues (her child is nearly 1 years old). Others felt they get 'little support' and one member with 3 children under 10 said 'I haven't seen a health visitor for ages'."

Proposals on the nursery payment

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)?

10.16. Whilst in general, the focus group participants thought that the three proposed timings for payment (maternity, starting nursery and starting school) were the times of highest pressure, a few examples were given of other times when families may face pressure.

- During times of illness (both for children and expectant mothers), such as the costs of travelling to medical appointments.
- At Christmas time
- Buying a bed when a child outgrows a cot
- Extra clothes when children are potty training

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?

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

10.17. Some participants felt that payments should be linked to the age a child is due to start a stage, rather than actually starting. In one group, participants were unclear what ‘starting nursery’ meant – did this mean, state-funded nursery place, or private nursery, for instance for childcare purposes? The group felt the term ‘start of nursery’ was ambiguous and could apply to any young child at different ages.

10.18. Another idea put forward by client focus group participants was to use the nursery payment when needed, as ‘costs of starting nursery is low’ and it may be used for ‘other purposes’ and ‘wasted’. The general consensus amongst the group that discussed it was that this should involve ‘choice’ and be based on ‘need’ and not necessarily at the same times for each child.

Proposals on the school payment

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

10.19. CAB clients who took part in focus groups agreed that this was an expensive time and felt that the school payment would be particularly helpful in contributing to the cost of school uniforms. In one area, the local authority school uniform grant was only £20, and in another it did not cover full costs.

“One parent commented that ‘my clothing grant was £45 from the Local Authority, and my child’s first school shoes cost £42’. This parent ‘felt buying cheap shoes was a false economy’”

10.20. Other initial costs on starting school discussed included bags, lunch boxes, stationery, sportswear, coats and indoor shoes.

10.21. However, group participants were of the view that costs for subsequent children were the same as “siblings are different shapes and sizes” so ‘hand-me-downs’ could not be relied upon. They also commented that this cost recurs every year, not just the first time children start school.

10.22. In some schools, participants raised the issue that homework was required to be done via an app, and wondered whether this was something that the ‘education establishment’ could provide funds towards, or whether parents would be expected to pay for a computer or device.

10.23. One participant suggested that it might be possible to split the school payment between July, for initial costs, and November for winter coats and boots.

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?

10.24. The school payment should be payable to all eligible children who begin primary school for the first time in Scotland. CAS does not consider there is any reason why an arbitrary age limit should be imposed.

Proposals for the application process

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

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

What are the advantages and disadvantages of this approach?

10.25. CAS agrees with the Scottish Government's proposal to extend the application window from three months after birth to six months.

10.26. CAS recommends that an integrated application process for the Best Start Grant and Healthy Start Scheme is established. The possibility of creating automatic entitlement should also be explored.

10.27. Clients who participated in our focus groups thought that the current application process for the Sure Start Maternity Grant could be improved. Some felt the application forms were complicated and that they needed support to complete them. However, the most common complaint in the focus groups surrounded the current cut-off for applying of three months after birth. Participants in both focus groups were of the view that this was too restrictive, with one participant commenting that this had affected them directly.

“One group member was not eligible for a ‘Sure Start Maternity Grant’ (SSMG) at the time she needed it as she was not on a qualifying benefit. She said ‘she really struggled’ when the baby was born and by the time she was eligible, the ‘3 months were up’ so as she had ‘managed’, she didn’t even ‘try to claim again’.”

10.28. In common with responses from participants on the application process for other benefits, there was consensus that a range of application methods for the Best Start Grant would be best, including a choice of paper forms, phone, online and face-to-face applications.

10.29. The suggestion of combining the process with the application for Healthy Start Vouchers was supported by advisers and clients who took part. One client focus group participant felt it seemed ‘daft’ that a separate application for both schemes has to be completed, with an adviser commenting that the Best Start

Grant application form should be enough 'rather than needing an additional stamp.'

- 10.30. Some CAB advisers who took part in our consultation event and online survey, suggested that the application process could be made automatic, either by connecting it to the Child Benefit system, or as automatic enrolment when a child's birth is registered.

Proposals for alternative support

Would the option to receive items rather than a cash payment as part of the BSG have benefits? (Yes/No) Please explain why

- 10.31. **Yes, people should be offered the choice of items in place of some of their benefit.**
- 10.32. **It is important that people are given a genuine choice between receiving this support or the cash equivalent and that attempts are not made to pressurise people into sacrificing part of their benefit for alternative support.**
- 10.33. Whilst participants in the client focus groups and adviser consultation events thought some options would be useful – being offered a pram was seen as particularly useful – there was a consensus that 'choice' was the most important factor. In one of the client focus groups, some felt that vouchers would ensure that the payment was spent on the child, but others felt that 'this was assuming that people will 'misuse the system' and that a new Scottish Social Security system should 'not start with this premise'.

Proposals for improving take up

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

- 10.34. **Awareness of the Best Start Grant should be promoted by midwives and health visitors as part of their engagement with young families. Information about it should also be included in the planned Baby Boxes.**
- 10.35. **An advertising or marketing campaign should be conducted to promote awareness of the Grant.**
- 10.36. Responses from both advisers and clients who took part in consultation events focussed on two areas – information from health professionals and the NHS; and advertising and marketing to promote the Best Start Grant.
- 10.37. Participants felt that awareness of the Sure Start Maternity Grant was currently low, with only a few of the clients having knowledge of it. Several participants commented that whilst there was information about Child Benefit

in the Bounty Pack⁸⁷, there was nothing about the SSMG. Another participant had tried to find out information from Jobcentre Plus, but no information was available there either. There appeared to be very little information available from health professionals.

10.38. A number of CAB advisers who took part in our 'Designing a Social Security System for Scotland' online survey emphasised the role of health visitors and midwives in informing new parents of the existence of financial support from the Grant. Other participants in client and adviser consultations felt that an advertising campaign would be helpful, including TV and radio advertising, a social media campaign and leaflets made available. One of the groups also suggested putting information packs into the universal Baby Box to raise awareness of the Best Start Grant.

⁸⁷ Bounty packs <http://www.bounty.com/about-bounty/bounty-packs>

11. Discretionary Housing Payment

Operation of the existing benefit

Could the way that DHPs are currently used be improved? (Yes/No) Please explain why

Could the administration of DHP applications be improved? (Yes/No) Please explain why

- 11.1. **Yes, improvements can be made to the administration of Discretionary Housing Payments. CAS recommends the Scottish Government and local authorities review processes to ensure that delays are minimised, and that claims not related to the underoccupancy charge are treated fairly at all times of the year.**
- 11.2. Whilst CAB clients affected by the underoccupancy charge have generally received payments in the manner intended by the Scottish Government, citizens advice bureaux have reported some administrative problems with Discretionary Housing Payment (DHP) claims for other issues. The most common problems are unreasonable delays between claims, decisions and payments.

An East of Scotland CAB reports of a client who had made an application for DHP support to pay for a deposit on a new tenancy. When the CAB adviser called the Council's DHP team, they were told that the claim had been refused "as it was deemed she had enough income to pay the shortfall in rent" which was not what the client had applied for. The delay caused increased anxiety for the client.

An East of Scotland CAB reports of a client who waited three months for the client to receive a decision. The application was made 27 April and the decision was dated 25 July. During the wait for a decision, the client had received a demand from their housing association requesting payment of rent arrears within five days. The delay in decision-making from the DHP had led to no housing payment being paid to the landlord, hence the arrears demand.

- 11.3. Citizens advice bureaux have also advised clients applying for DHP support who are affected by the underoccupancy charge (and therefore not guaranteed to have their claim accepted) who have had their claim rejected or

delayed unfairly. This seems to happen most commonly at the start and the end of the financial year, apparently due to budget pressures.

A North of Scotland CAB reports of a client who was currently on remand but expects to be liberated when his case returns to court. He was on Housing Benefit and had rent arrears, but the client's housing officer had been discouraged from making an application for DHP due to pressure on the budget, with the Council's operations team suggesting he apply to the Scottish Welfare Fund instead.

- 11.4. In addition, CAS recommends that local authorities and the Scottish Government review the way that non-underoccupancy charge cases are treated, due to an expected increase in the number of DHP applications for other reasons, because of imminent changes to the UK social security system as detailed below.

***Does the guidance for local authorities on DHPs need amending? (Yes/No)
Please explain why***

- 11.5. **Yes, CAS would recommend the guidance for local authorities on DHP should be amended to ensure that Housing Benefit and Universal Credit claimants who are affected by the underoccupancy charge should be able to receive a DHP mitigating their full losses until such time as it is fully replaced by Universal Credit and the Scottish Universal Credit flexibilities are fully operational.**
- 11.6. **CAS recommends that people affected by the Benefit Cap are considered a priority for DHP support, with guidance updated to reflect this.**
- 11.7. **Guidance should also be reviewed to ensure that administrative issues, such as delays and differential treatment of claimants at the beginning and end of the financial year are minimised.**
- 11.8. The devolution of Discretionary Housing Payments gives the Scottish Government an opportunity to revise existing guidance⁸⁸ for their award. In addition to making changes to try and minimise administrative issues detailed above, the guidance should be amended to ensure that people who will be affected by imminent changes to the social security system do not face delays or unfair treatment if the number of DHP claims for non-underoccupancy charge issues increases.

⁸⁸ Discretionary Housing Payments Guidance Manual – Department for Work and Pensions, August 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/453392/discretionary-housing-payments-guide-aug-15.pdf

- 11.9. In particular, CAS recommends that particular attention is paid to people who will be affected by the reduction of the Benefit Cap in November 2016.
- 11.10. Households affected by the Benefit Cap are also able to make a claim for a DHP, with some funding from the Department for Work and Pensions being allocated for this purpose. At present, the numbers affected by the Benefit Cap in Scotland are relatively low, with 729 households being affected in February 2016 and who had their Housing Benefit reduced by the equivalent amount - in Scotland up to £250 per week⁸⁹.
- 11.11. However, following the UK Government's plans to significantly reduce the Benefit Cap from £26,000 to £20,000 per year (from £18,200 to £13,400 for single people), many more households in Scotland will be affected⁹⁰, and those already capped face a further reduction in their income of £6,000 per year.
- 11.12. This will also mean that the number of households affected by the Benefit Cap will increase – according to the latest official estimates 5,000 households in Scotland will be affected, with an average reduction of £60 per week.⁹¹ This is likely to lead to a considerable increase in applications for DHP support from people affected by the Benefit Cap.
- 11.13. The groups most likely to be affected at the moment are larger families and lone parents, as well as the children who live in the households. At the moment 85% of capped households in Scotland had at least one child and 38% had five or more children. 53% of capped households constituted a lone parent with children.⁹² This is mainly a combination of a need for large houses with high rents, as well as claiming children's benefits which are not exempted from the cap.
- 11.14. From the UK Government's Impact Assessment, it is forecast that 66% of those affected by the lowering of the Cap will be single women, compared with 13% single men, and the majority will be aged 25-44.
- 11.15. Guidance should also be reviewed when future changes, such as the reduction of Housing Benefit to the level of Local Housing Allowance come into force. However, some groups of people who may be affected by social security changes will not be eligible for support under the terms of the Scotland Bill – for instance 18 to 21 year olds who will no longer be entitled to Housing Benefit, or people who incur rent arrears because of the six week waiting period for a first Universal Credit payment.

⁸⁹ Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

⁹⁰ Welfare Reform and Work Act: impact assessment for the benefit cap – Department of Work and Pensions, August 2016 <https://www.gov.uk/government/publications/welfare-reform-and-work-act-impact-assessment-for-the-benefit-cap>

⁹¹ Ibid.

⁹² Stat-Xplore tool – Department of Work and Pensions <https://stat-xplore.dwp.gov.uk/>

12. Job Grant

What should the Scottish Government consider in developing the Job Grant?

- 12.1. In developing the Job Grant, Citizens Advice Scotland recommends the Scottish Government should consider initial costs faced by young people starting work; how the application and decision-making process can be made as straightforward as possible; who should administer the Grant, including exploring whether it could be included in the Scottish Welfare Fund; the eligibility criteria; whether any conditions are attached to the Grant that would require it to be repaid; the possibility of multiple grants to be made to a single individual; the availability of public transport in rural areas, and options for young people where none is available; and how the benefit can be used to promote Fair Work.
- 12.2. CAS would also recommend the Scottish Government keeps options for new and 'top-up' benefits in addition to the Job Grant under consideration.

General value of proposal

- 12.3. To inform Citizens Advice Scotland's response to the proposal for the Job Grant, we discussed the proposals with CAB advisers as part of a consultation event in September 2016, and included questions about the Grant in an online survey of 43 advisers.
- 12.4. Respondents to the online survey were generally supportive of the proposal. 72% of respondents thought the Job Grant would be 'very helpful' for clients who qualify, with a further 23% considering it 'somewhat helpful'. Just 5% thought the Job Grant would not be helpful.
- 12.5. Some survey respondents added supportive comments, although qualified in some cases. However, participants at the consultation event were somewhat more sceptical about the overall value of the Job Grant.
- 12.6. Of those who commented in support of the proposal, there was recognition of the upfront costs faced by young people at the outset of employment, and that the Job Grant had the potential to address this, at least in part.
- 12.7. Those that were cautious about the Grant pointed out that there remained issues relating to the quality of employment, or who felt the group intended to benefit from the Grant (16-24 year olds starting work who had been unemployed for six months) were not the highest priority group in need of support.

Initial costs faced by young people starting work

- 12.8. Participants raised a number of initial costs that young people who are starting a job after being unemployed for six months or more face. These costs include:
- A gap between benefits ending and wage starting (the 'lying-in' period)
 - Purchasing suitable work clothes
 - Upfront childcare costs (such as deposits or registration fees)
 - Bus or train fares to travel to work
 - Tools or other equipment required for particular jobs.
- 12.9. Participants commented that there was potential to reduce reliance on food banks in some cases. Some survey respondents felt that the free travel in particular would be helpful, as paying for transport to work had been an issue for clients they had advised.
- 12.10. Two survey participants suggested that goods, such as clothing vouchers might be more helpful in some cases, such as where an individual has children who they may be tempted to spend money on rather than on the costs identified above.

How can the application and decision-making process for the Job Grant be made as straightforward as possible?

- 12.11. We asked CAB advisers how the application process could be made as easy as possible for eligible people to receive support in a timely manner. Several options were suggested by participants:
- 12.12. A number of 'Designing a Social Security System for Scotland' survey respondents thought that **an automatic application system** would be best. They generally suggested the payment should be triggered by an eligible person closing their JSA claim if the reason is due to finding employment, or alternatively through making a phone call in response to an automated offer, through completing an application or receiving a note at their last visit to the Jobcentre.
- 12.13. This option was also initially favoured by participants at the consultation event, although further discussion revealed a number of drawbacks. Participants had advised clients who had been made apparent offers of work which were subsequently withdrawn or 'did not materialise'. They were concerned about those moving into temporary work or 'pushed into self-employment'.
- 12.14. In addition whilst CAS did not directly ask advisers who should administer the Job Grant, an automated system would appear to require close information sharing from DWP, if not directly administered by them. It would be difficult to see how an automatic system could operate without the agency administering the system having access to benefit 'off-flow' data, as well as personal information about the claimant (such as their age and length of claim).

12.15. Other survey respondents emphasised a **simplified application process**. Several respondents emphasised the need for simple, straightforward and clear application forms. One respondent felt that the claim should be made online or by phone without forms, with another suggesting a face-to-face interview in a local office, such as a council office.

12.16. One respondent suggested what the application process could ask:

*“Have they been unemployed for 6 months? YES/NO
Do they have needs to make the transition into employment? YES/NO
Do they require a travel pass? YES/NO
Do they require clothing? YES/NO
Do they require tools/equipment? YES/NO
Any other relevant needs? YES/NO
Just have set questions and yes/no answers and a £100 or £200 grant available.”*

12.17. Following discussion, a specific application that was as straightforward as possible was also the preferred option of consultation event participants.

12.18. Other participants felt that **making the criteria as simple as possible** would be the best way to ensure effectiveness and high take-up of the Job Grant.

“The criteria should be clear and straightforward to help those the most in need. You should not make it so the young person has to jump through too many hoops.”

12.19. Some respondents suggested that the **application could be done through employers**, for instance through a standard letter for employers, or for employers to provide information about the Job Grant. Others however raised concerns that there were risks that employers would not co-operate with the scheme, or that young people might miss out on support because an employer did not respond to requests for information.

Who should administer?

12.20. As mentioned above, we did not directly ask participants who should administer the Job Grant. A small number of survey respondents commented on the assumption that it would be administered by the DWP and Jobcentre Plus. Others suggested that Jobcentre Plus should not be involved in delivery, that third sector organisations could have a role, or that local authorities could be involved, at least by conducting face-to-face applications for the new benefit.

12.21. Participants at our consultation event suggested one way of effectively delivering the Job Grant would be to **extend the Scottish Welfare Fund** to cover the extra costs of unemployed people moving into work. Participants felt that bureaux sometimes refer people to the SWF for money to help with clothes and travel in those circumstances.

12.22. They felt that combining it with the existing SWF would mean that the Grant could most effectively target those in most need, and all those in hardship

across all ages and circumstances, rather than any 'arbitrary' criteria or for instance, to jobseekers who have a partner in work. The participants felt that childcare costs could be included as an eligibility criterion for a higher award from the SWF under this model.

Eligibility criteria

- 12.23. A number of the participants in our consultations with CAB advisers felt that the Job Grant would be more effective with different eligibility criteria. Participants in our consultation event commented that the age range (16-24) and timescales (six months or more unemployed) were somewhat 'arbitrary'. A number of respondents to our online survey, as well as some consultation event participants, felt that the Job Grant could be helpful to all workforce returners, regardless of age, and that people aged 25 and over should be eligible as well.
- 12.24. Other survey respondents felt that the lower age should be increased from 16 to 18, to encourage those aged 16 to continue with their education. Others commented on the link to precarious work, and felt that those who were on zero hours contracts or other forms of insecure employment should also be eligible if they have worked less than a certain number of hours. One respondent felt that young people in work at the National Minimum Wage, or on zero hours contracts who are struggling may see it as unfair.

Conditionality and repayment

- 12.25. One consideration for the Scottish Government at the outset of the Job Grant will be whether it would be required to be repaid if the recipient were not to remain in work for a specified period after receiving the Grant.
- 12.26. This issue provoked discussion at our consultation event and a number of advisers who responded to our online survey spontaneously raised the issue. A number of respondents felt that the Grant should become repayable if the individual did not remain in work for a certain number of months after receiving the Job Grant (six months was suggested by one respondent), which they felt would prevent any abuse of the system. Another respondent suggested that the Job Grant should be linked to obtaining financial capability advice to help them manage their funds in future and help them pay priority bills.

Potential for multiple grants to be awarded to one individual

- 12.27. Another issue that was frequently raised by survey respondents was the possibility of multiple grants being made to a single individual. They pointed out that people between the ages of 16 and 24 often find themselves in and out of work, or gain temporary work which quickly comes to an end, and that theoretically people could be eligible for multiple Job Grants which could make the benefit more expensive than originally envisaged.

12.28. Restricting it to one Job Grant for every six month period of unemployment could be one way of ensuring individuals do not receive numerous grants, but the possibility still remains of individuals facing multiple periods of long-term unemployment between the ages of 16 to 24. The Scottish Government should consider its approach to dealing with applications for Job Grants from people who have previously received one.

Availability of public transport and related administration issues

12.29. In general, participants welcomed the offer of free public transport, but raised considerations of administration of the scheme, and what support could be offered to young people in rural and remote areas, where public transport is not available.

12.30. A number of survey respondents commented that in some areas of Scotland, free public transport will not be helpful, “if people live rurally with no buses”. They suggested alternative support should be available for young people who cannot afford to travel to their new job, but would be unable to do so on public transport due to lack of availability. Another respondent commented that administering the free local travel across a variety of private bus operators “is a brilliant idea, but could be tricky”.

Quality of work and employer issues

12.31. Several participants raised the issue of the quality of work entered into by young people who have been unemployed for six months or more. Participants at our consultation event raised concerns about employers not co-operating with the scheme, not putting job offers in writing, withdrawing job offers, as well as general concerns about young people entering jobs where unfair or poor employment practices were carried out.

12.32. Decent work, or fair work has been an ongoing concern for Citizens Advice Scotland, based on the large quantity of advice on problems at work that citizens advice bureaux provide. CAS has previously reported on the employment issues that bureaux advise on⁹³ and have contributed evidence⁹⁴ to the Fair Work Convention⁹⁵ and UWS-Oxfam Scotland’s research on priorities for low-paid workers⁹⁶. CAS would recommend the Scottish Government explore ways to use the Job Grant to advance the Fair Work agenda and promote decent work, to ensure that young people can access jobs that guarantee fair pay, reasonable job security and where they are treated with dignity and respect.

⁹³ Fair Enough? Protecting Scotland’s Workers From Unfair Treatment – Citizens Advice Scotland, February 2015 <http://www.cas.org.uk/publications/fair-enough>

⁹⁴ Seeking Decent Work: An analysis of employment advice provided by Scotland’s CAB network – Citizens Advice Scotland, April 2016 <http://www.cas.org.uk/publications/seeking-decent-work>

⁹⁵ Fair Work Framework 2016 – Fair Work Convention, April 2016 <http://www.fairworkconvention.scot/framework/FairWorkConventionFrameworkFull.pdf>

⁹⁶ Decent Work for Scotland’s Low-Paid Workers: A job to be done – UWS-Oxfam Partnership, September 2016 <http://policy-practice.oxfam.org.uk/publications/decent-work-for-scotlands-low-paid-workers-a-job-to-be-done-619740>

Other considerations

12.33. Other issues raised by survey respondents for the Scottish Government to consider included the speed of processing applications, to ensure that claimants have access to money at the time it is needed. Another participant thought that a lump sum may be difficult for recipients to manage and raised the possibility of it being split into two payments. They also suggested a flat rate of £200, regardless of whether a person had children or not, as parents would likely be receiving at least one child-based benefit.

Use of power to create new and ‘top-up’ benefits generally

12.34. A number of commentators have noted that the Job Grant is one of the only proposals put forward by the Scottish Government that would use the powers in the Scotland Act 2016 to create new benefits in areas of devolved responsibility, and to make discretionary payments to ‘top-up’ reserved benefits. As noted above, there was some evidence from our consultations with CAB advisers that suggested that they did not consider the group intended to benefit from the Job Grant as the highest priority for support from these benefits.

12.35. A range of suggestions for how the powers could be used have been made by various organisations and stakeholders. CAS has recommended that the power could be used to make an ‘Assessment Payment’ to people who would otherwise spend six weeks without income whilst waiting for a first Universal Credit payment, if the UK Government did not take action in this area⁹⁷. In general, CAS would consider assisting people who are left destitute or requiring emergency support from a food bank as a result of having gaps in income as a high priority for action⁹⁸. Other suggestions have included a £5 per week top up to Child Benefit⁹⁹, and a destitution fund for refugees and migrants who find it difficult to obtain support from elsewhere¹⁰⁰.

12.36. Citizens Advice Scotland plans work, separate to this consultation, to analyse the options and assess the priorities for action using these powers based on evidence from Scotland’s CAB network. In general however, CAS would recommend the Scottish Government keeps options for new and ‘top-up’ benefits in addition to the Job Grant under consideration.

⁹⁷ Learning From Testing Times: Early Evidence of the Impact of Universal Credit in Scotland’s CAB Network – Citizens Advice Scotland, October 2016 <http://www.cas.org.uk/publications/learning-testing-times>

⁹⁸ Living at the Sharp End: CAB Clients in Crisis – Citizens Advice Scotland, July 2016 <http://www.cas.org.uk/publications/living-sharp-end>

⁹⁹ Use new powers to invest £5 a week in every child, say child poverty campaigners – Child Poverty Action Group in Scotland, April 2016 <http://www.cpag.org.uk/content/use-new-powers-invest-%C2%A35-week-every-child-say-child-poverty-campaigners>

¹⁰⁰ Securing Women’s Futures: Using Scotland’s New Social Security Powers to Close the Gender Equality Gap – Engender, June 2016 <https://www.engender.org.uk/content/publications/Securing-Womens-Futures---using-Scotlands-new-social-security-powers-to-close-the-gender-equality-gap.pdf>

13. Universal Credit flexibilities and housing element

Proposals for Universal Credit flexibilities

Should the choice of managed payments of rent be extended to private sector landlords in the future? (Yes/No) Please explain why

- 13.1. **Yes, the choice of managed payments of rent should be extended to private sector landlords.**
- 13.2. The rollout of Universal Credit (UC) in Scotland has caused a substantial number of CAB clients to fall into rent arrears and is one of the most common issues related to Universal Credit.¹⁰¹ In a number of cases this is because of the six week waiting period for a first UC payment. Whilst many of these cases relate to tenants in social housing, bureaux have also advised tenants in the private rented sector who have accrued rent arrears as a result of Universal Credit.

An East of Scotland CAB reports of a client who lived in private rented accommodation who was made redundant in January and was originally put on JSA, but in April, after the client missed a sign on date, the Jobcentre asked him to apply for Universal Credit. After a delay of six weeks he finally got his first payment of UC at the end of June. At this point he was so broke that once he had repaid friends who he had borrowed money from he had no money to pay his rent. His rent, £360 per month, was paid by HB, but is now due on 1st of each month. He intends to pay July's rent once he gets his UC at end of July. Last week he received a small claims summons from the sheriff court for two months (June and July) unpaid rent (£720).

¹⁰¹ Learning from Testing Times: Early Evidence of the Impact of Universal Credit in Scotland's CAB Network – Citizens Advice Scotland, June 2016 <http://www.cas.org.uk/publications/learning-testing-times>

A North of Scotland CAB reports of a client who was on Universal Credit, lived in private rented accommodation and took a temporary job which finished on 29 March. He has been told that he will not receive his next payment of Universal Credit until 22nd May - 8 weeks after his work finished. He used most of his wages to pay off rent arrears and is now destitute. He requested assistance. He has a child with an estranged partner but is unable to pay transport costs to allow the child to visit him.

- 13.3. Citizens Advice Scotland has previously supported using the Scottish Government's flexibilities to make direct payments for housing costs directly to social landlords¹⁰² and with clients in private rented accommodation facing similar problems, we would support extending the option of direct payments to landlords for this client group too. When asked about this issue at a consultation event, CAB advisers who participated unanimously agreed that the option should be available for private tenants.

Should payments of Universal Credit be split between members of a household? (Yes/No) Please explain why

- 13.4. **Yes, CAS recommends couples and families who claim UC are given the choice of whether they would prefer a single household payment, or individual payments to each partner.**
- 13.5. If a couple are both eligible for Universal Credit, then they must make a joint claim. Their entitlement is calculated on a household basis, and they are paid one single household payment. This can be to a couple's joint account, or one of the partners' individual accounts.
- 13.6. This feature of Universal Credit has caused concern from a number of organisations about possible scenarios that may occur. These concerns include potential loss of independent income for women¹⁰³ or making it more difficult for a claimant to leave an abusive partner¹⁰⁴. Partly in response to these concerns, the Smith Agreement¹⁰⁵ proposed devolving the power to vary the payment arrangements that would make it possible to split couples' Universal Credit payments into individual payments to each partner.

¹⁰² Designing a Social Security System for Scotland: Universal Credit Flexibilities – Citizens Advice Scotland, December 2015 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-universal-credit-flexibilities>

¹⁰³ The Gender Impact of Welfare Reform – Scottish Government Communities Analytical Services Division, August 2013 <http://www.gov.scot/resource/0043/00432337.pdf>

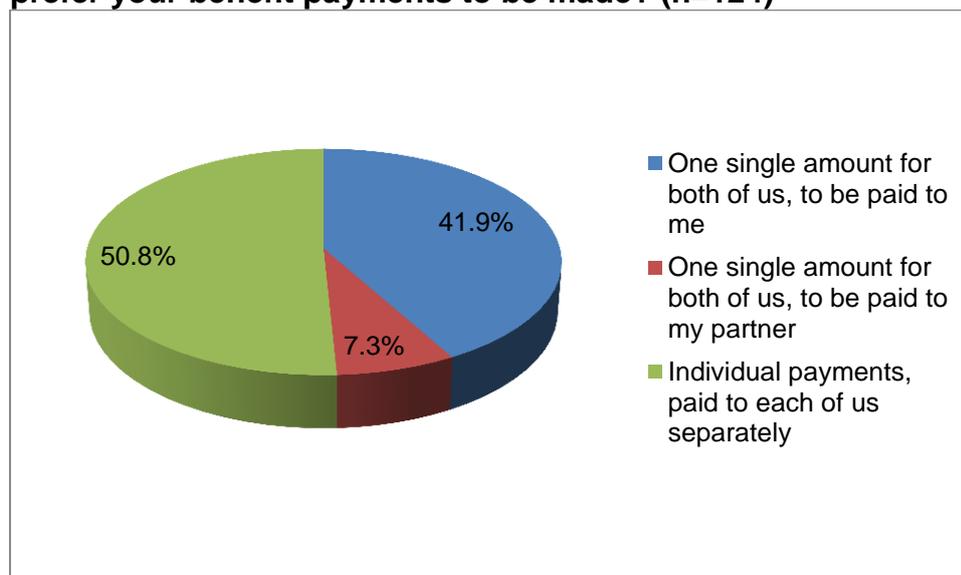
¹⁰⁴ Housing Policy and Welfare Reform – Women's Aid <http://www.womensaid.org.uk/page.asp?section=00010001001000320002§ionTitle=Housing+Welfare>

¹⁰⁵ Report of the Smith Commission for further devolution of powers to the Scottish Parliament – November 2014 <https://www.smith-commission.scot/smith-commission-report/>

What arrangement would claimants prefer?

- 13.7. As part of a survey of 601 CAB clients in August 2015, we asked respondents who also had a partner who claims benefits whether they would prefer payments to be made as one single amount, to be paid to the respondent; one single amount paid to their partner; or as individual payments made separately. It is worth noting that for the vast majority of respondents this did not apply, with only 124 of 601 respondents (20.6%) also having a partner who claims benefits.
- 13.8. There was a very even split between respondents who wanted single household payments and individual ones. 49.2% of respondents would prefer a single payment, with most of those preferring the payment to be made to them (41.9%) and only 7.3% wanting it to be paid to their partner. A narrow majority (50.8%) would prefer individual payments, paid to them and their partner separately. This is illustrated in Figure 23.

Figure 23 – If you have a partner who also claims benefits, how would you prefer your benefit payments to be made? (n=124)



- 13.9. From our respondents, women were slightly more likely than men to prefer a single household payment. 53.8% of female respondents would opt for a single payment if they had the choice, compared with 45.5% of male respondents. For both genders, the vast majority would prefer the payment be made to them, rather than to their partner. Men were slightly more likely to choose individual payments (54.5% of male respondents) compared with women (46.2%).
- 13.10. This indicates that whilst single household payments would not be the choice of around half of claimants with a partner, there is still support for them. However, given the preference of the slight majority of respondents for individual payments, CAS believes it should be made easier to facilitate this. We would support claimants being given the choice of a household or

individual payment at the outset of their claim, with the option to switch to the other option at any point.

- 13.11. A number of organisations have raised concerns that this system may exacerbate situations of domestic abuse or financial abuse and make it harder for claimants to leave an abusive partner.^{106 107 108} There may also be significant problems caused if one partner struggles with a drug or alcohol addiction and is in receipt of a single household payment.
- 13.12. Under current rules, where domestic or financial abuse has occurred and a couple decide to stay together an Alternative Payment Arrangement can be applied for, providing for split payments.¹⁰⁹ This would also be possible if, as we propose, claimants are given the choice of whether to have individual payments or single household payments.
- 13.13. However, where abuse is ongoing it may not be possible for a person to safely inform the DWP to put this arrangement in place. It would be extremely difficult if a couple were attending the Jobcentre together for an abused partner to tell a Work Coach that they would prefer an individual payment. Whilst this was not directly covered in our client survey, CAS recognises the concerns raised and would endorse further work in this area.

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 (Yes/No)

b) automatic household payments, with the option to choose individual payments? (Yes/No)

- 13.14. Whilst CAS would prefer claimants to be given the choice of whether they receive an individual or household payment, (which would also be consistent with other Scottish Government proposals for flexibilities relating to frequency of payment and destination of housing costs), if a default position were required, CAS would prefer automatic payments to individuals. This would help avoid some of the situations referred to in the previous answer.

¹⁰⁶ Housing Policy and Welfare Reform – Women’s Aid
<http://www.womensaid.org.uk/page.asp?section=00010001001000320002§ionTitle=Housing+Welfare>

¹⁰⁷ Welfare Reform Bill – Universal Credit payment issues – Briefing from Women’s Budget Group (WBG), September 2011 <http://wbgroup.org.uk/pdfs/0-Universal-Credit-payment-issues-Sept-2011-revised.pdf>

¹⁰⁸ The Gender Impact of Welfare Reform – Scottish Government Communities Analytical Services Division, August 2013 <http://www.gov.scot/resource/0043/00432337.pdf>

¹⁰⁹ Personal Budgeting Support and Alternative Payment Arrangements Guidance – Department for Work and Pensions, March 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418485/personal-budgeting-support-guidance.pdf

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?

13.15. CAS' preferred option would be for each element of Universal Credit to be paid to the member of the couple to which it relates (for instance the Limited Capability for Work element to the individual to which it applies, the child elements to the primary carer) then any remaining elements should be split 50/50. However, in practice this will depend on how the DWP intends to split payments for the equivalent UC Alternative Payment Arrangement given it will be made using the same IT system, details of which do not appear to have been made public.

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

13.16. **Citizens Advice Scotland recommends the Scottish Government uses its administrative flexibility over frequency of Universal Credit payments to give claimants the choice of being paid weekly, as well as fortnightly or monthly.**

13.17. As part of our survey of 601 CAB clients, we asked respondents whether they would prefer to receive their benefits payments weekly, fortnightly or monthly.

13.18. As shown in Figure 24 below, the majority of all respondents (52.2%) would prefer their benefits to be paid on a weekly basis. 28.1% would choose fortnightly payments, with 16.2% opting for a monthly payment. The remaining 3.5% did not choose an option as they did not claim benefits.¹¹⁰

13.19. Amongst the respondents who claimed a legacy benefit or Universal Credit, the preference for both weekly (55.2%) and fortnightly (31.6%) payments increased. Just 13.3% of respondents would prefer a monthly payment given the choice. This is shown in Figure 25.

¹¹⁰ This proportion is lower than the proportion of respondents who took part in the survey and did not claim benefits. However, it should be noted that the n for this question was around 100 lower than the surrounding questions, so it appears that others who did not receive benefits will have not answered.

Figure 24 – Would you prefer to receive your benefits payments..? (All respondents) (n= 431)

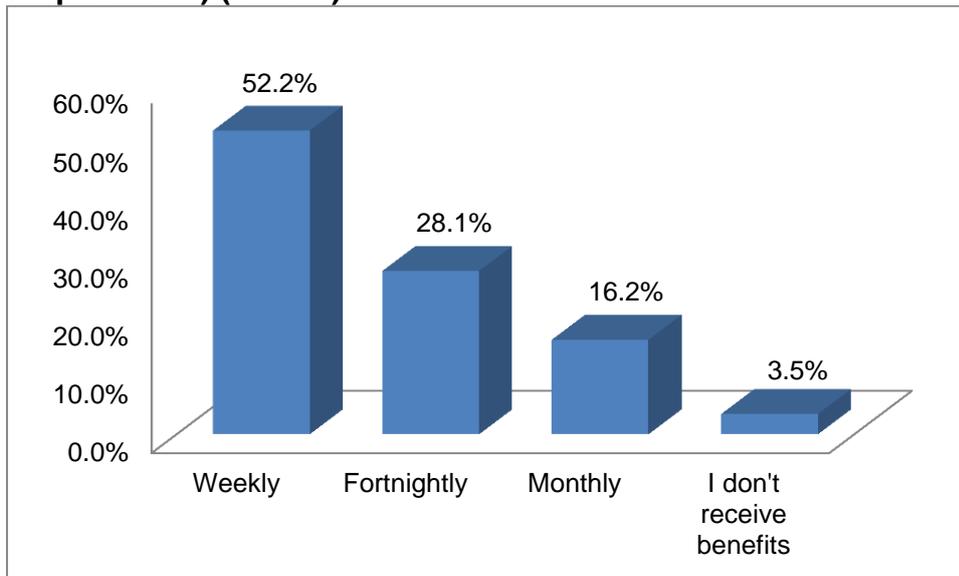
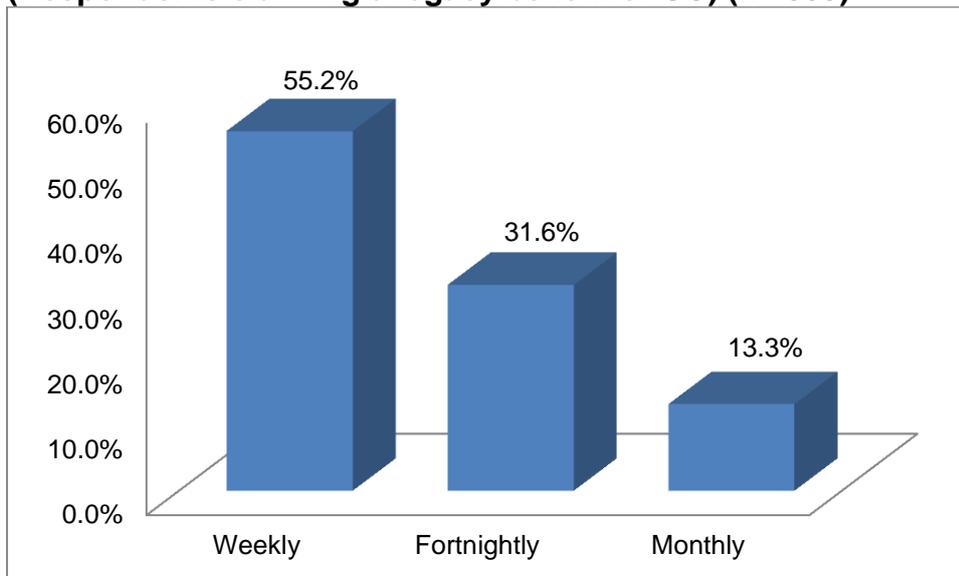


Figure 25 – Would you prefer to receive your benefits payments..? (Respondents claiming a legacy benefit or UC) (n= 339)



13.20. Perhaps unsurprisingly, respondents were most likely to prefer their benefits to be paid according to how they currently budgeted, with 73% of weekly budgeters preferring weekly payments, 53% of monthly budgeters preferring monthly payments and 50% of fortnightly budgeters preferring fortnightly payments – although only a few more than the 48% of fortnightly budgeters who would prefer a *weekly* payment. Weekly payments were most likely to be preferred by those who planned day-to day (66%), didn't budget (57%) or didn't know how they planned their money (46%).

13.21. Weekly payments were preferred by the largest number of those who said they currently managed their money well (38%) and the majority of those who managed quite well (51%), often ran out and have to borrow money (71%)

and those who often ran out and have to get Crisis Grants or go to a food bank (70%).

13.22. Based on this, it would appear that future Universal Credit claimants have a range of preferences for how frequently they would prefer to receive benefit payments, to fit in with their existing budgeting strategies or would be more comfortable for them. On this basis, the Scottish Government's proposal to give claimants the choice of how frequently they are paid appears to have the potential to help people manage their Universal Credit payments without running out of money.

13.23. However, weekly payments were the most popular choice, with a majority of respondents indicating they would select this given the opportunity. Extending current Scottish Government plans to include a weekly option should be given serious consideration to fit in with the wishes of claimants, and given the potential to avoid the knock-on impacts of people having to borrow money or rely on Crisis Grants and food banks.

Universal Credit housing element

Do you have any comments about the Scottish Government's powers over the housing element of Universal Credit?

13.24. CAS recommends the Scottish Government remove the underoccupancy charge from Universal Credit when it has the power to do so, in line with our previous evidence on the issue.¹¹¹ In addition, CAS recommends the Scottish Government investigate whether exemptions could be made to the Shared Accommodation Rate, to extend the same support to private rented tenants.

¹¹¹ Designing a Social Security System for Scotland: Universal Credit Flexibilities – Citizens Advice Scotland, December 2015 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-universal-credit-flexibilities>

14. Advice, representation and advocacy

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

- 14.1. **CAS welcomes the Scottish Government's recognition of the benefits of and the need for an adequately funded independent advice sector in Scotland. Independent advice plays a key role in a well-functioning social security system, including support with entitlement, take-up, applications, complaints, appeals, access to information, outreach and continuous improvement.**
- 14.2. **The development of the new Scottish Security System offers a unique opportunity to harness and support the key role of independent advice in Scotland, both to ensure access to quality independent advice through citizens advice bureaux, but also to support the aims of the new system. In order to achieve this role, sustainable funding must be in place to ensure that the existing CAB infrastructure of advice, outreach and partnerships continues to support the people across Scotland that rely on it.**
- 14.3. Citizens Advice Bureaux are already a critical part of the existing social security system. Their independent and holistic advice supports hundreds of thousands of people in Scotland to claim their entitlement, to understand their rights and responsibilities, to have representation when they need it, and to resolve problems when things go wrong. Ultimately, this advice supports many of the most vulnerable people in Scotland.
- 14.4. Issues relating to benefits and tax credits are the most common area of advice provided by citizens advice bureaux, with over 227,000 new issues advised on in 2015/16, representing 39% of their work. This equates to 873 new benefit issues for each working day of the year. Additionally, bureaux advised on 117,836 *repeat* benefit and tax credits issues over the year, where the issue required ongoing advice. This means that bureaux provided advice on 344,836 new and repeat benefit and tax credit issues in 2015/16.
- 14.5. Almost a third of these issues (74,000 new issues) related to social security powers that are being devolved to the Scottish Parliament – see table 8:

Table 8: Number of advice issues relating to devolved benefits in bureaux

2015/16	New issues	% of benefits advice
PIP (Daily living)	24,401	10.7%
PIP (Mobility)	20,416	9.0%
Attendance Allowance	7,614	3.3%
Carers Allowance	6,375	2.8%
DLA (Care)	5,297	2.3%
DLA (Mobility)	4,170	1.8%
Discretionary Housing Payments	2,839	1.2%
Sure Start Maternity Grant	1,002	0.4%
Funeral Payments	829	0.4%
Industrial Injuries Disablement Benefit	614	0.3%
Winter Fuel Payments	317	0.1%
Severe Disablement Allowance	142	0.1%
Cold Weather Payments	117	0.1%
TOTAL	74,133	32.6%

- 14.6. Given the central importance of citizens advice bureaux to the current social security system, it is essential that this role is built into the development of a new Scottish system. This includes using the expertise and experience of the bureau network to inform the design and delivery of benefits, but also to ensure that the essential role of bureaux in providing advice and support is in turn supported by the new system.
- 14.7. Part of this role is currently funded by the Scottish Government’s Welfare Reform Mitigation Funding, which has been critical in ensuring that bureaux have been able to meet the ongoing demands caused by changes in benefits. This funding provides advice to over 8,000 additional clients each quarter, many of whom have significant vulnerabilities and are very likely to have struggled to obtain advice. The funding has been provided on a local basis, with each bureaux able to prioritise the resources – such as specialist staff, more outreach, more volunteers – that will best meet demand in their communities. Core funding from local authorities – which is vital but decreasing – provides the main other source of funding for social security advice. Apart from a small number of local partnership projects, the Citizens Advice Service does not receive funding from the DWP for benefits advice.
- 14.8. The following paragraphs outline the role of independent advice in more detail:

End to end advice

- 14.9. Citizens advice bureaux support clients through the whole process of claiming benefits, from benefit checks to supporting the claimant through the application, collecting supporting evidence, resolving problems when things go wrong, representing claimants in communications with the benefits agency, and representing clients in appeals. The direct financial gain as a result of our

advice on benefits is £60m each year, but the benefits to a client's wellbeing can be priceless.

Information

- 14.10. Bureaux play a vital role in preparing communities for any changes to the social security system by ensuring that people are adequately informed of their rights; supporting, advising and representing people throughout the process; and helping to tackle the stigma around claiming the benefits to which they are entitled. Bureaux also regularly undertake local and national campaigns to inform clients of changes to their rights or to raise awareness of current or upcoming issues. These campaigns have reached thousands of people in person and hundreds of thousands of people online.
- 14.11. The devolution of social security powers to Scotland represents an opportunity for the Scottish Government to create systems which better meet the needs of those who use them. The introduction of these devolved benefits will require information to be provided to CAB advisers to help them to support clients to transition to a new system, as well as awareness-raising to ensure that people take up their full benefit entitlement and the development of our public advice website to include these changes. Bureaux are in a unique position to be able to relay and promote information on the new Scottish Social Security System to current and potential claimants.

Benefit checks/income maximisation

- 14.12. Bureaux play a hugely important role in maximising the income of clients, ensuring that they are claiming all the benefits that they are entitled to. In many instances, clients may be seeking advice about another issue (eg. debt), with the bureaux able to improve their financial circumstances through ensuring that they are claiming the right benefits. In 2014/15, the client financial gain as a direct result of advice on benefits and tax credits was almost £60m.
- 14.13. Figures from the Welfare Reform Mitigation Project, run by CAS and CAB and funded by the Scottish Government, also show the value of this role. In the three month period between April and June 2016, the Project supported 7,440 clients who had a financial gain of over £3 million.

Face to face and other forms of advice

- 14.14. A fundamental strength of the bureaux network is its capacity to provide face to face advice. Advice was provided on a face-to-face basis on almost 290,000 occasions in 2014/15, showing both the demand for this form of advice and the network's capacity to provide it. Between 2011/12 and 2014/15, face-to-face enquiries increased by 9% across the Service. In our experience, the complexity and personal nature of benefit cases means that the majority of clients seek such advice in person.

14.15. It should also be noted that the CAB network is ideally placed to provide advice through various other communication channels, including by telephone (164,000 occasions in 2014/15), letter (32,000) and email (20,000). In addition, there are over 4 million hits on our self-help website *Advice for Scotland* each year, with 'benefits and tax credits in work' (66,466 hits) and benefits for people who are sick/disabled (63,031) among the most visited pages.

Applications

14.16. Citizens advice bureaux play a key role in supporting clients to make benefit applications. In 2014/15, bureaux completed over 22,000 benefit forms on a client's behalf, including initial applications, mandatory reconsiderations and appeals. Bureaux also support clients to put together supporting evidence where required. This work helps ensure that clients who are or feel unable to complete an application – whether through a health condition, literacy issue or lack of confidence – are able to access the benefits to which they are entitled. This support is likely to continue to be needed as services move online, with a recent survey of CAB benefit claimants in 2015 showing that 76% would need support in making a claim online.¹¹²

Conduit between claimants and social security system

14.17. Bureaux play a hugely important role in representing claimants when things go wrong, for example if a payment doesn't come through, an overpayment is claimed, errors are made in calculations, or important documents are lost. In these circumstances, bureaux are able to resolve the problem on behalf of the claimant, helping the administration and accuracy of the social security system in the process. While we don't record statistics on this area of bureau work, the majority of benefit issues will require an adviser interacting with the benefits agency to query or resolve an issue.

Appeals and representation

14.18. Bureaux advised clients on 11,087 new issues related to Mandatory Reconsiderations and 11,304 new issues related to Appeals in the social security system in 2015/16. Bureaux therefore advised on around 86 new issues each day where a client was challenging a decision made in the social security system.

14.19. There are 125 paid advisers in bureaux whose role includes being a Benefit Tribunal Representative. These advisers represented clients at 1,823 tribunals in 2015/16, but it is also important to note that they would have prepared papers and collected supporting evidence for many more clients making appeals. This type of advice is typically much more resource intensive than other areas of advice, involving completing applications, collating supporting evidence from different sources, reviewing official papers,

¹¹² Bridging the Digital Divide – Citizens Advice Scotland, May 2016
<http://www.cas.org.uk/publications/bridging-digital-divide>

preparing legal arguments and reviewing case law, writing a submission to the tribunal, meeting the client on a number of occasions, supporting the client at the tribunal itself, and taking action to ensure that the tribunal decision is implemented.

- 14.20. This type of advice is fundamentally important to the social security system – it helps ensure that claimants get the right decision and support, and also aids in the continuous improvement of the system as any poor decisions picked up in tribunal can be fed back to decision makers. This is also a critical access to justice issue, in which bureaux are ensuring that claimants have their case heard, where otherwise they may have lacked the capacity to bring the issue themselves.

Expertise

- 14.21. The Scottish CAB Service has huge expertise and experience in relation to benefits and tax credits. In 2014/15, there were 261 paid advisers in citizens advice bureaux who provided specialist welfare rights advice, 125 of whom were also Benefit Tribunal Representatives. These specialist advisers have detailed and practical knowledge of the social security system, which is essential in helping clients to navigate the system. In total, there are over 3,000 paid staff and volunteers in the Service, the majority of whom have been trained in providing basic benefits advice.

- 14.22. All volunteer advisers and trained staff are supported by the *Advisernet* system, which is written and updated by information specialists at Citizens Advice Scotland, and which ensures advice on the ground is consistent and up-to-date. The quality of benefits advice is maintained by a national quality assurance programme, while CAS provides award-winning training to advisers. Clients can therefore expect the same standard of advice in any location where advice is provided by the Service, whether it is in Glasgow, Nairn, Kelso or Lerwick.

Holistic advice

- 14.23. The CAB service supports the person, not just looks at the issue. The holistic nature of the service means that clients can be advised on any other issues they present with, to ensure that as well as dealing with crisis problems, clients leave with a better understanding of their situation and, where possible practical steps they can take to ensure that they maximise their income and prepare for future events.

- 14.24. It is often the case that a client seeking advice on a benefit has multiple issues - such as debt, housing or fuel poverty - which also need to be addressed (in the welfare reform mitigation project, the average number of issues per client is 2.7). For example, 11% of clients with benefit issues also seek advice on at least one debt issue, while 10% also have an issue related to tax (mainly council tax). The holistic nature of advice means that the root cause of a person's problems can be addressed, not just the effects. One

bureau commented succinctly that the added value of projects being delivered by the Scottish CAB Service is:

“...the resources within bureaux which enable us to provide a one-stop shop regarding benefits, debt, housing, relationship issues. For example in a recent case of a young client who had been diagnosed with a terminal illness, we could deal with his NHS issues sensitively and quickly and assist with accessing benefits during the same appointment which made it an easier experience for him and his distraught family.”

Reach

14.25. It is essential that information and support is available to all clients that are potentially vulnerable due to their personal circumstances or their geographic location. This is important for the new social security agency, but also necessary for independent advice services.

14.26. Bureaux are already providing advice to many vulnerable clients groups throughout our extensive network in Scotland, with bureaux providing advice in over 250 offices and outreaches across the country. This includes 151 paid advisers in bureaux who provide home visits, and 152 who provide advice in outreaches across local communities. Our statistics evidence this reach:

- **Disabilities:** 41% of clients who receive advice on benefits are unable to work due to ill health (compared to 15% of the population). 70% of benefit clients consider themselves to have a disability.
- **Deprived communities:** 58% of benefit clients live in the bottom two quintile areas of the Scottish Index of Multiple Deprivation (SIMD) (compared to 42% of the population)
- **Rural communities:** 15% of benefit clients are from remote areas compared to 10% of the population
- **Social rented accommodation:** 43% of benefit clients live in social rented accommodation compared to 24% of the population.
- **Single adult households:** 60% of households are single or divorced/separate/widowed (compared to 45% of the population)

14.27. However, it is worth noting that bureaux serve all parts of their communities. For example, almost 1 in 10 benefit enquiries are brought by a client living in a 20% *least* deprived area, almost a quarter live in owner occupier accommodation, and a fifth are in employment.

Working with local partners

14.28. A key benefit of citizens advice bureaux are their links within the local community. Whether it is working with the local authority on housing benefit or debt problems, setting up partnerships with local organisations such as mental health charities or food banks to make sure clients can access the right support, or local campaigning to raise awareness of local issues or changes to rights and responsibilities, bureaux are able to work with local partners to get the best results for clients. This is particularly important on

social security issues, where bureaux can not only ensure that clients get the best advice and are able to resolve their issue, but also so that they are connected into the most appropriate other forms of support that are in the community.

14.29. The Welfare Reform Mitigation Funding provides very good examples of how vulnerable clients have been supported by the local partnerships that bureaux have developed. Over 190 local partnerships have been reported in the project, helping to raise awareness of welfare reform issues in the local community and, where appropriate, provide two-way referrals. This enables clients to access advice and support in a place that suits them, and widens the range of support available to clients.

14.30. Across the 190 partnerships reported, health-related organisations were the most popular for new partnerships over the last quarter. These accounted for 33% of all new arrangements reported by bureaux (versus only 18% of existing partnerships). The other areas of focus were employment support; specialist targeted relief centres (e.g. furniture renewal, energy advice, etc.) as well as broad-based community meeting places (including libraries, youth centres, MP/MSP surgeries, etc.).

Recent Examples of local partnerships

Nairn CAB works with the local midwifery team to offer a referral to CAB for a benefit check. This means the client is more likely to engage with CAB and has also seen an increase in the uptake of Healthy Start vouchers and in employment-related enquiries at the outreach.

South West Aberdeenshire CAB carries out carer entitlement calculations and other advice through a partnership with the local Kinship Care service of Aberdeenshire Council.

North Ayrshire CAB has established a partnership with a number of other local advice agencies to provide joint staff training and an increased awareness of each other's service. This has enabled it to understand how they can work more effectively together and agree referral pathways.

Citizens Advice and Rights Fife join with other agencies to provide a holistic service for clients at the Scottish Autism One Stop Shop.

Maryhill & Possilpark CAB is deepening an existing partnership by linking in with a digital volunteer support service at the local library. This means a two-way referral process is now in place and clients can get support in completing online forms and accessing benefit information.

Cumbernauld & Kilsyth CAB made contact with a local welfare-to-work programme. This initially involved job shadowing and has developed into attendance at group sessions, leading to one-to-one interviews where appropriate. Clients have commented that they didn't realise how much help and support was available through CAB, and 12 of the 15 clients seen were new.

Trust and independence

14.31. CAS believes that claimants must be able to access advice and support that is independent of the service that they may be experiencing a problem with. For example, if a person is experiencing rent or Council Tax arrears, they are very likely to want to seek advice that is independent of the Local Authority if they are unable to reach an agreement with the council. Equally, claimants very often seek advice from citizens advice bureaux due to its independence from the DWP. Clients trust in the independence and confidentiality of the Citizens Advice Service, which is a major factor in the Service being by far the leading provider of advice in Scotland.

14.32. Independent advice must be trusted for it to be effective. In March 2016, Ipsos Mori interviewed over 1,000 members of the public about the Scottish CAB Service:

- 97% were aware of citizens advice bureaux
- 96% think we are an important community service
- 62% said that citizens advice bureaux are important to them personally
- 94% would use a bureaux in the future if they required advice

14.33. The Citizens Advice Service has a high profile and huge levels of trust with members of the public, making the Service ideally placed to provide independent advice on social security.

National Support

14.34. While bureaux are able to plan and coordinate their work in local communities, there is a significant national support structure provided by Citizens Advice Scotland (CAS). CAS provides a range of services and support to bureaux, including providing the internet based information system for bureaux, the public advice website, the Adviser Training Programme, IT support and infrastructure, Quality Assurance, specialist support in advice giving, bureau management and funding support, and social policy work. This support enables bureaux to provide the best quality advice and support to communities across Scotland.

Continuous improvement

14.35. CAS supports the Scottish Government's intention of *'putting the user experience first to ensure continuous improvement of national and local policies, and processes and systems that support delivery of advice, demonstrating that processes and services put in place to deliver the right advice are efficient and offer value for money.'*

14.36. The expertise and evidence that the Citizens Advice Service holds will be vital for the new social security system in understanding how its policies and processes are working. This consultation response – based on hundreds of

thousands of advice enquiries, over 150 claimant viewpoints, and the expert experience of 70 advisers – is testament to this point. At a local and national level, CAS and CAB should be treated as a trusted partner, where issues of concern are shared between the two agencies and treated as a priority for change where necessary.

14.37. This works both ways. If the social security agency was keen to seek improvements to its system through provision of communications or changing systems, CAB would be in the position to assist this process. The Citizens Advice Service is therefore in an ideal position to support and partner with the Scottish Government in achieving continuous improvement and positive user outcomes. This includes helping to achieve the social security vision, but also will support the outcomes of the Fairer Scotland Action Plan and Child Poverty Strategy, amongst others.

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

14.38. CAS undertook consultation with citizens advice bureaux advisers to better understand the likely impact of the transfer on both claimants and advice services. speaking in person to around 70 advisers/managers at five events in Perth, Edinburgh, Glasgow and Inverness, while receiving electronic input from 43 advisers.

14.39. Advisers generally agreed that the need for publically funded advice would increase in the short to medium term. This was for a number of reasons:

- The introduction of a new system in Scotland – alongside the UK system – will increase complexity for claimants
- Changes to benefits make clients concerned, as recent changes have involved reassessments and/or reductions in payments
- Two substantial benefit changes – Universal Credit and Personal Independence Payment – are still be rolled out to hundreds of thousands of claimants in Scotland. Demand for advice on these issues will inevitably increase at the same time as the new Scottish system is embedded
- Tens of thousands of claimants are likely to be worse off as a result of the UC and PIP roll out
- The impact of the changes to the Benefit Cap and the ESA WRAG group are yet to impact in Scotland
- The move to digital public services will cause access problems to those who lack online access and skills

14.40. Advisers commented on the impact that these factors would have on the demand for their services:

“More confusion and help needed, with separate systems running in parallel. Clients now do not always know what benefits they are receiving so the new powers will add complexity.”

“The confusion resulting from the changes will mean much greater numbers seeking advice and help.”

“They will be anxious about losing their benefits or having to claim again under a new system. They will also be worried that they will be paid less or there will be a delay in payment.”

“Even more complicated for advisers to give correct advice.”

“This will definitely lead to an increase in enquiries as clients try and get used to another new benefits system and more financial resources will be required by CABx without having hopefully to go through all the extra work we have to do to access funding.”

14.41. While advisers were very clear about the impact of changes on the need for advice, they also saw opportunities to improve the system that would help to support their work and potentially to reduce the need for advice. However, it must be noted that advisers saw this as a long-term ambition. Advisers commented:

“I believe that, so long as we adopt a caring and holistic approach, then the benefits to clients (and CAB) will be huge.”

“If the proposed changes are made it is likely benefit enquiries would increase in the short term but ideally long term we'd see more people out of poverty and potentially lower demand on services.”

14.42. The changes to the UK benefits system from 2010 may provide a relevant example of the impact of changes to benefits on the demand for advice. In the period, 2011/12 to 2014/15, bureaux advised on **93,000 additional new issues** compared to what would have been expected under 2011/12 levels – this equates to around **600 additional benefit issues every week** since the implementation of the welfare reforms. In that three year period, bureaux advised on over 666,000 new benefit issues in total.

14.43. Issues that saw the highest increases in advice need in this period included benefits that have been part of welfare reforms, including Housing Benefit (+38%), JSA (+44%), Child Tax Credits (+36%) and Child Benefit (+30%).

14.44. Welfare Reform Mitigation Funding from the Scottish Government has enabled bureaux to deal with some of the increased demand for advice that welfare reforms have entailed. This includes almost 25,000 additional clients advised in 2015/16. **Without this funding, bureaux would have to cut back severely on advice to these clients or to clients with other equally important issues.**

14.45. Bureaux have also had to deal with the consequences of welfare reforms, such as increased debt and need for food parcels. These issues include Crisis Grants (144% increase compared to 2011/12), local authority rent arrears (+50%) and charity applications (mainly food parcels) (+323%). The vast

majority of the increase in issues since 2011/12 can be attributed to either increases in benefits advice or advice on the consequences of benefit cuts.

14.46. The information above provides examples of what we think the impact will be and an example of how previous benefit changes have impacted on claimants and advice services. In terms of next steps, it is important that the Scottish Government considers the wider context of funding for independent advice services, which is explored more under the following question.

14.47. It is also fundamentally important that the Scottish Government doesn't just understand the likely impact, but works to influence and mitigate this impact before it occurs. The following question also provides details of practical actions that the Scottish Social Security System could take that would mitigate this impact.

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

14.48. The development of the new Scottish Security System offers a unique opportunity to harness and support the key role of independent advice in Scotland, both to ensure access to quality independent advice through bureaux, but also to support the aims of the new system. In order to achieve this role, sustainable funding must be place to ensure that the existing infrastructure of advice, outreach and partnerships continues to support people in need.

14.49. The most important factor raised by bureaux across all of our consultation events is **the need for reliable long term funding for independent advice**. The likely increase in demand for advice on social security, and other advice areas, comes at a time when core funding for bureaux advice is decreasing. Between 2012/13 and 2014/15, core funding for bureaux in Scotland decreased by almost 10%. Since then, substantial budget cuts have affected bureaux in North Ayrshire and North Lanarkshire (a 50% reduction), both local authorities with significant areas of multiple deprivation and related advice demand. In a recent survey of 34 bureaux on CAB funding, 79% of bureaux who responded expected cuts to their core funding in the next financial year. Bureaux have in many cases sought and achieved funding from other projects or funders, however the majority of this funding is aimed at issues not directly related to social security benefits. It should also be noted that bureaux do not receive funding from the DWP for advice provided on benefits.

14.50. The Welfare Reform Mitigation funding provided by the Scottish Government, and other funding provided through the Scottish Legal Aid Board, have allowed bureaux to not only meet the myriad of challenges that welfare reform has ensued, but also to improve the provision of social security advice. These sources of funding have enabled bureaux to provide advice on an additional 55,000 issues per year – a total that would have been impossible without the dedicated funding. Given the factors already discussed that will increase benefit demand – such as the continued roll out of Universal Credit and PIP;

the new Scottish Social Security System; and continued cuts to UK benefits – it is expected that this level of advice demand will continue and may rise.

14.51. CAS would therefore argue that funding needs to be provided on a longer-term basis to support the provision of independent advice during the implementation of the Scottish Social Security System and the newly devolved benefits. This will support the significant benefits that CAB advice holds for hundreds of thousands of people across Scotland, as well as supporting the aims and operation of the new system in Scotland. The alternative would be to lose much of the expertise, experience, outreach, and trust that has been developed, while thousands of claimants would be unable to access advice and consequently have a poor experience of the social security system (or not access it at all). We would welcome discussions with the Scottish Government about how this can be achieved.

14.52. Whilst the delivery of advice on social security benefits by citizens advice bureaux is already very strong, practical improvements in the delivery of benefits would support the provision of advice. When we consulted with welfare rights advisers about how the new system should interact with independent advice providers, they suggested that the following would improve the advice process:

- CAS and CAB should be recognised as a key partner of the Social Security Agency
- CAB advisers should be provided with regular opportunities to feedback to Scottish Government about how the new system is working, with funding to assist a specific focus on the devolved benefits.
- There should be dedicated phone lines for advisers direct to decision makers, and a single point of contact.
- There should be escalation routes for advisers, with advice agencies on a “trusted partner” list to allow them to talk on a client’s behalf, and the use of implicit consent with common sense security questions.
- Staff should be trained alongside the new agency staff, so there is a common understanding as to how each works.
- Information should be shared between agencies, with up to date computer systems for both CAB and benefits agencies.
- There should be one core IT system so Social Security Agency staff can see full case details of each client. This would reduce the need for phone calls to several different departments.
- There should be a ‘Tell us Once’ system as a model – a point of contact that can pass on to different agencies

- Any changes in policies and practices should be communicated to advice providers well in advance of implementation, to ensure that training and advice provision is accurate and up-to-date
- Local partnerships should be developed between the agency and CAB with opportunities to raise local issues and get them addressed early.
- Specific liaison roles to be created to sit between the different agencies.
- Potential partnership projects with the new agency
- Advisers given access to online benefits portal so they can see agency decisions.

14.53. The suggestions above – which came directly from advisers at the frontline – are practical steps in which advice and the provision of benefits can be brought together for the benefit of claimants.

Do you think that Independent Advocacy services should be available to help people successfully claim appropriate benefits? (Yes/No) Please explain why.

14.54. **Yes, we believe that independent advocacy can have successful outcomes for claimants, particularly those with specific needs and vulnerabilities. However, it must be recognised that advocacy is most effective when it is undertaken in partnership with independent advice services. While advocacy is important, it cannot operate well without quality independent advice.**

14.55. When asked about advocacy services, most bureau advisers had had a positive experience of working with them. This was particularly the case when the advocacy organisation had a specialism, such as mental health or learning disabilities. Some bureaux had worked in funded partnerships or projects with advocacy organisations in the past, with some positive outcomes, while others had referral agreements in place. There was consensus that specific funding to support claimants in assessments would be useful.

14.56. However, advisers had some concerns about whether advocacy services had the level of knowledge and expertise required to take a claimant through the whole process, with some questioning whether they had the same quality controls as bureaux. Advisers were therefore of the opinion that advocacy works best when it is undertaken in partnership with independent advice services, to ensure that the claimant and advocate has access to high quality advice and information. While advocacy is important, it cannot operate well without quality independent advice. The Scottish Government should therefore look at the opportunities for partnership between advice and advocacy, rather than looking at advocacy services as a completely separate service.

14.57. Bureaux were also of the opinion that their services covered the vast majority of the social security system, including face-to-face support with applications, supporting evidence, representation to the social security agency, mandatory reconsiderations and appeals. In many instances, the adviser develops a close relationship with the client and an in-depth understanding of their personal circumstances, particularly when cases go to appeal. Empowerment is also a key principle of the Service which we hold in common with advocacy services, where bureaux aim to ensure that the client has a better understanding of their rights and is in a better position after advice than before they approach the bureaux. The main advocacy function that bureaux do not routinely undertake is accompanying clients to assessments, although 17% of advisers in our 'Designing a Social Security System for Scotland' online survey stated that they did undertake advocacy.

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?

14.58. As previously discussed, a number of factors will increase the demand for advice on social security issues, including the roll out of UC and PIP; the implementation of devolved benefits and the new social security system; and continued UK benefit changes such as the Benefit Cap. These are factors which will also affect advocacy services in Scotland. In particular, the continued PIP reassessment of disability claimants will likely prompt the most demand for advocacy services.

14.59. It should be noted, however, that transfer of the devolved benefits is very likely to have a much bigger impact on independent *advice* services than on advocacy services. Bureaux serve all members of the community that require advice, therefore changes in something as fundamental as social security will almost automatically increase the number of people seeking advice. Some of these clients would benefit from advocacy services – in partnership with advice services – but *all* clients stand to benefit from advice.

15.Complaints, reviews and appeals

Current arrangements

Do you agree that we should base our CHP on the Scottish Public Services Ombudsman's 'Statement of Complaints Handling Principles'?

- 15.1. **CAS generally agrees that the Complaints Handling Procedure (CHP) on the Scottish Public Services Ombudsman's (SPSO) 'Statement of Complaints Handling Principles' should be adopted by the Scottish Social Security Agency.**
- 15.2. **CAS welcomes the general approach of the SPSO's statement of CHP principles**
- 15.3. **CAS recommends that users should have the right to raise a complaint directly to a visibly independent feedback/complaints team that are able to investigate the matter, rather than having to go through a frontline member of normal service delivery staff if they do not feel able or willing to raise their complaint through this means.**
- 15.4. **CAS agrees that the SPSO is best placed to be the final option of escalation to have the complaint determined independently and free of charge.**
- 15.5. **CAS believes the best ways to overcoming barriers to complaining are by ensuring that service complaints are proactively identified and handled by the Agency within all procedures, including internal reviews, without requiring the user to expressly ask to raise a separate service complaint; by establishing a separate feedback/complaints service team that users can contact directly; and by training all frontline staff on complaint handling procedures.**
- 15.6. CAS generally agrees that the Complaints Handling Procedure (CHP) on the Scottish Public Services Ombudsman's (SPSO) 'Statement of Complaints Handling Principles' should be adopted by the Scottish Social Security Agency. It will be positive to have the Agency adopt a CHP in-line with other public bodies in Scotland and to build on the work already done to improve CHPs in this area.
- 15.7. It will be important for the Agency, when developing and implementing their CHP, to recognise the unique challenges faced by users of the social security system. A new culture of complaints handling must be created within the Scottish social security system as part of an overall service that instills principles of openness and trust in its users. Many people coming into contact with the Agency are likely to have reservations, and potentially a distrust, of the system. This could stem from prior experience of dealing with the wider social security system, or due to a number of other factors.

- 15.8. Having a strong CHP that is user-focused, accessible, and effective has the potential to distinguish the new system, make a new start, and show users that the Agency genuinely wants to get it right.
- 15.9. Users must see willingness, at all points of contact with the Agency, to have their feedback heard and valued. To allow this, the Agency should:
- Ensure that service complaints are proactively identified and handled by the Agency within all procedures, including internal reviews, without requiring the user to expressly ask to raise a separate service complaint
 - Establish a separate feedback/complaints service team that users can contact directly
 - Ensure all frontline staff are well trained on the complaint handling procedures

SPSO's Statement of Complaints Handling Principles

15.10. CAS welcomes the general approach of the SPSO's statement of CHP principles:

User-Focused: it puts the person who is complaining at the heart of the process

Accessible: it is appropriately and clearly communicated, easily understood and available to all

Simple and timely: it has as few steps as necessary within an agreed and transparent timeframe

Thorough, proportionate and consistent: it should provide quality outcomes in all complaints through robust and proportionate investigation and the use of clear quality standards

Objective, impartial and fair: it should be objective, evidence-based and driven by the facts and established circumstances, not assumptions and this should be clearly demonstrated

Seek early resolution: it aims to resolve complaints at the earliest opportunity, to the service user's satisfaction wherever possible and appropriate.

Deliver improvement: it is driven by the search for improvement, using analysis of outcomes and support service delivery and drive service quality improvements.

15.11. One area of the SPSO's guidance model for CHP that CAS has some concerns around is the two-tiered internal complaints handling process. The first-tier of the procedure seeks to deal with as many complaints as possible at first contact through apology, explanation or action by 'any member of

staff'. This is referred to as 'frontline resolution'. This is in comparison to the second-tier process, or 'investigation' stage, which is for more complex or serious issues requiring further investigation.

- 15.12. This approach has the desirable objective of ensuring complaints are resolved as efficiently as possible. It is also acknowledged that this approach is used in other areas of the Scottish public sector, including for local authorities. It is important however to recognise that many users of the Scottish Social Security Agency will not wish to raise their complaint directly with the person they are dealing with regarding their benefit application. This can be for a number of reasons, including concerns that raising a complaint to the same person they are dealing with could affect their benefit decision.
- 15.13. The CHP adopted by the Agency therefore needs to ensure that users have the right to raise a complaint directly to a visibly independent feedback/complaints team that are able to investigate the matter. Complainants should not have to go through a frontline member of normal service delivery staff if they do not feel able or willing to raise their complaint through this means. If a user wishes to go directly to an independent complaints handling team, this team should still be able to determine whether the complaint is best dealt with through a "frontline" approach (seeking to resolve it 'on the spot', or within no more than 5 working days) or through a fuller investigation (seeking to provide a definitive resolution within 20 working days and with senior management sign off).
- 15.14. Careful consideration will also need to be considered on how complaints are categorised as appropriate for either a first- or second-tier approach. Currently under the SPSO's guidance a factor that may make a complaint high risk and therefore appropriate for an investigation is where the complaint involves "a vulnerable person". Given the nature of the devolving benefits it is very foreseeable that a high proportion of people coming into contact with the Agency will be potentially vulnerable due to ill health and/or disability. However, that is not to say that a number of complaints potentially raised could not be best dealt with through a quicker first-tiered approach.
- 15.15. Where complaints cannot be resolved internally by the Agency to the satisfaction of the complainer, CAS agrees with the Scottish Government's position that the SPSO is best placed to be the final option of escalation to have the complaint determined independently and free of charge.

Barriers to complaining

- 15.16. CAS hosted a focus group with welfare advisers to ask them what the main barriers their clients face which discourage those clients from raising a complaint under the current social security system. Their responses are discussed below.

Biting the hand that feeds you

- Not wishing their complaint to influence any pending decisions on benefits

- Fear of being sanctioned or jeopardising the benefits they rely on
- Not wanting to complain about frontline delivery staff who they may need to continue to deal with, such as members of staff at their local Job Centre Plus

15.17. One adviser at the focus group raised the point that if you are unhappy with the way you have been treated by a doctor in hospital, you might be reluctant to complain while your treatment was ongoing, but most people would have faith that the NHS would not suddenly stop providing them with medical services if they chose to raise a complaint after they left hospital.

15.18. The adviser spoke of how this differs from a scenario where you have cause for raising a complaint against a social security service provider. You may well still be awaiting a decision regarding your benefit entitlement, and there can be a real perception that complaining could be biting the hand that feeds you. Even if you ultimately receive the benefit, you will be wary of raising a complaint as you will have an on-going reliance on your benefit and feel that you need to 'protect' it. In addition, you may have had great difficulty in getting your benefit (such as going through a mandatory reconsideration and appeal procedure) and after that you would understandably be very cautious of doing anything that had the (perceived) potential to jeopardise the benefit you have finally received.

An East of Scotland CAB reports advising a single parent who was unable to work due to long term ill health and who was in receipt of Employment and Support Allowance (ESA).

The client came to CAB after receiving a letter from the DWP telling her she was due a backdated payment of her ESA. The letter also advised that the DWP's system stated she potentially owed them for an overpayment. They were investigating this and asked the client, if she did not hear from them within 5 days, to contact their helpline.

The client did not hear from them, and after the 5 days she came to her CAB for support calling the helpline. After waiting on the phone for over 2 minutes to speak to someone, it transpired the letter had been sent in error. A calculation had been incorrectly applied by their system, and this had caused the letter to be sent out.

CAB advised the client on her right to raise a complaint about the service she had received. Despite this, the client did not want to raise a complaint because she was too concerned it might affect her ESA entitlement.

15.19. Other barriers highlighted were:

What's the point?

- Not feeling like there would be anything to gain from raising the complaint
- Not expecting to be listened to
- The experience of receiving poor service in and of itself can discourage claimants from wanting to complain, as this would prolong their dealings with the service

An East of Scotland CAB reports of advising a client applying for a Scottish Welfare Fund (SWF) Crisis Grant. The client is the only carer for her husband and their three children. The husband is in severe pain due to ill health, and this is having a huge impact on the family dynamics. The client is very emotional about her situation, and is anxious and stressed about the process of dealing with the SWF.

The client said that she had been made to feel like a 'thief' or a 'liar' when the SWF asked her questions. She felt their tone and line of questioning was mistrusting, and implied they felt she was just trying to get money without having any grounds for it. The person she spoke with commented during their conversation that the client and her husband 'have enough money anyway'.

The CAB advised the client that she could complain about the SWF's attitude towards her, and that she should not have been made to feel this way. The client however said that she had no willpower left to complain. She just wanted them to leave her alone.

Not knowing how to complain

- Claimants not knowing their options around:
 - the ways they can raise a complaint
 - what they can complain about, or
 - what they can ask for (in terms of redress)
- Difficulty setting out their complaint in a comprehensive manner
- Not wanting to ask the person they want to raise a complaint against how to access the complaints procedure

Additional challenges

- Service complaints are often not a priority

15.20. Where there is a strong case to raise a complaint because things have gone wrong, claimants will often need to focus on submitting a mandatory reconsideration or appeal, in addition to getting crisis support such as applying for a crisis grant and accessing foodbanks.

- Time pressures

15.21. This is particularly a concern for vulnerable claimants and those who require a higher level of support to engage with the social security system. These claimants will often need advice from an advice agency such as their local

CAB who will have a limited amount of time and resources. Where there has not been time to raise a separate complaint alongside a Mandatory Reconsideration in a single appointment, claimants may be reluctant or feel unable to return to the bureau for a repeat appointment for further help to raise a separate complaint

- Claimants may think they have already raised a complaint as part of their mandatory reconsideration or appeal, and not realised that the matter needs to be raised separately to be recognised as a service complaint
- Concerns around service providers and complaint handlers' ability to deal with users looking to complain who may face additional challenges such as mental health issues or substance addiction
- Difficulty articulating their complaint

Overcoming the barriers to complaining

15.22. Advisers from the consultation event were asked what actions the Scottish Government could take to improve their clients' ability and willingness to raise complaints in the social security context. These recommendations were then taken to advisers who were asked through our 'Designing a Social Security System for Scotland' online survey to select the top three options they felt should be prioritised to ensure claimants are empowered to raise complaints.

15.23. Thirty-four advisers responded to the question, and the three most supported recommendations were:

- Ensuring that **service complaints are proactively identified and handled by the Agency within all procedures**, including internal reviews, without requiring the user to expressly ask to raise a separate service complaint (67.6%¹¹³)
- Establishing **a separate feedback/complaints service team** that users can **contact directly** (61.8%)
- **Training all frontline staff** on complaint handling procedures (50%)

15.24. There can be many reasons why claimants will not raise a service complaint. These have been discussed above in relation to the barriers CAB clients face. The best way to address these concerns, from the experience of our advisers, would be to establish a means of ensuring service issues raised indirectly by users can be identified as service delivery complaints. The onus should be on the Agency to proactively identify service complaints where possible.

15.25. One example is where a claimant has raised an internal review. Within their application for internal review they refer to the Agency losing paperwork such

¹¹³ 67.6% of advisors selected this as one of their top three priorities for the Scottish Government to take action on to improve complaints handling

as medical evidence and how this has caused them to suffer as a result. The claimant will feel like they have raised their complaint as they have told the Agency directly about their issue, despite not having stated expressly that they “want to raise a service complaint”.

- 15.26. Another example might be where a client has to call the Agency after being told they would receive correspondence within a set time frame, but did not. When they call to ask what is happening with their application, they might never expressly ask to raise a service complaint about the poor level of communication. There has however clearly been a service delivery issue that should be identifiable to the Agency, and which should be recorded and addressed appropriately.
- 15.27. To meaningfully achieve the Scottish Government’s guiding principle that the Scottish Social Security System will strive for continuous improvement, it is essential that the Agency gets a full picture of service delivery issues. They should not limit their view to considering only the issues raised by claimants who have felt able to expressly and directly ask to raise a separate service complaint.
- 15.28. The second recommendation is to establish a visibly independent, and directly contactable, feedback/complaints service team. Creating this would go a long way to showing users of the new system that the Agency genuinely welcomes feedback and wants to improve.
- 15.29. Consumers are accustomed to services actively encouraging feedback. In supermarkets, for example, one of the first things you normally see when entering a shop is a customer services helpdesk. Posters, leaflets, badges, and messages printed on the bottom of receipts all ask: “How are we doing?” There is no reason why this level of openness cannot be replicated within the new social security system in Scotland.
- 15.30. CAS also considers that creation of a separate and directly contactable feedback/complaints team would help to mitigate some users concerns that raising a complaint might affect their benefit entitlement.
- 15.31. The third recommendation recognises the importance of fully training all frontline staff in the complaints handling procedures. This is consistent with the approach taken under the SPSO model. This should include training on how and when staff should proactively identify service issues.
- 15.32. CAS’s further recommendations to improve the CHP are:
- Establishing in **legislation and/or a claimant’s charter that current claims will not be prejudiced** by service feedback or complaints (41.2%)
 - **Publicising that current claims will not be prejudiced** by providing service feedback or raising a complaint (35.3%)

- **Staff / forms should give information** to users on the feedback/complaints procedure **at every contact** (23.5%)
- **Staff / forms should give information** to users on the feedback/complaints procedure **from the outset** (11.8%)

15.33. It is not enough to simply say you have an open complaints policy. This needs to be seen in practice. The above recommendations would help to put these good intentions into practice. The right to complain, and for this to not affect your benefit entitlement or rights in any way, should be expressly acknowledged in the Charter and well publicised thereafter.

15.34. Information provided to claimants, through all outlets including telephone conversations and forms, should be open and directly acknowledge the user's option to provide service feedback. The Agency must make it clear to users:

- what they can provide feedback and raise complaints about
- what they can ask for in terms of redress
- the timeframes they can expect a resolution within, and
- how their feedback will be used to help improve the service for others in the future.

15.35. This openness also needs to be reflected in the procedures once complaints have actually been raised. Users who have raised complaints should have their complaint acknowledged (especially where it may take longer for a definitive response to be provided due to an investigation needing to take place). Users should be told definitive timeframes in which they should have a response by, and what their options are when they receive this.

15.36. CAS's recommendations will help to improve trust - not only in the complaints handling procedure, but in the Agency and system overall. It will help to show the new system will have an entirely different culture, and one which is user-focused and trustworthy.

Internal Reviews

15.37. **CAS recommends that the new Scottish Social Security system should include an internal review process in order to reduce the demand on the appeals service, and to help claimants to receive the right decision and have their issues resolved as quickly as possible.**

15.38. **CAS recommends that the Scottish Government publishes regular statistics on the performance of its internal review process.**

15.39. However, this internal review process should differ in a number of ways from the current mandatory reconsideration process. Although mandatory reconsideration has achieved its purpose of reducing demand on the HM

courts and Tribunals Service¹¹⁴ by reconsidering more decisions internally, CAS is concerned that the process has discouraged people from appealing entirely, effectively preventing the right to an independent appeal and acting as a barrier to justice. Problems with the MR process include:

- That there is no statutory time limit with which a mandatory reconsideration decision notice must be returned to the claimant;
- The timeframe within which someone must challenge a decision does not allow enough time to gather relevant evidence or access advice and support;
- Benefit claimants are not in receipt of payments during the mandatory reconsideration process, which can lead to financial hardship;
- CAS evidence suggests that decision makers do not always base decisions on a fair and accurate appraisal of all the available evidence.

15.40. Below, CAS has recommended a number of ways in which the internal review process could be changed to improve the user experience. However, the best way to reduce demand on both the internal review process and the appeals process is by improving the accuracy of initial decisions, and recommendations around how to do this have been made throughout the consultation response.

15.41. One way in which the Scottish Government can improve the accuracy of decisions is by designing into the system an approach to analysing feedback that allows for learning and continuous improvement. We have already mentioned how this can be achieved through a well-designed complaints process, but it is equally important to ensure that any decisions that are overturned at the internal review stage can be fed back to the decision maker or the official responsible for overseeing the process, as a tool for training and improvement. As has been recommended in the Independent Advice and Scrutiny section, continuous improvement of decision making standards should be overseen by an independent Committee.

15.42. Finally, the DWP have only ever published ad-hoc statistics on mandatory reconsideration, which has made it difficult to assess departmental performance. CAS recommends that the Scottish Government publishes regular statistics on any internal review process that it introduces.

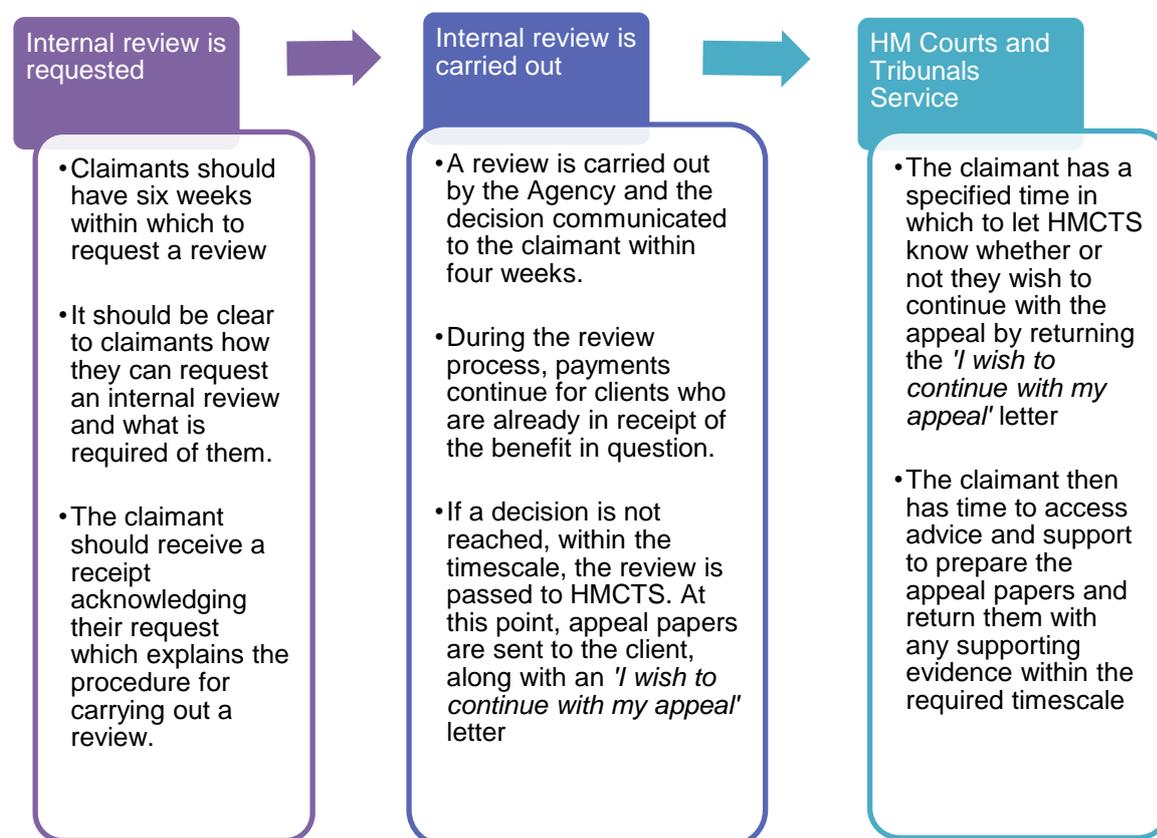
How should a Scottish Internal Review Process Work?

15.43. CAS recommends that the claimant receives an acknowledgment of their request for an internal review which clearly explains the process.

¹¹⁴ Statistics published by the Ministry of Justice show that the number of appeals to the First-tier Tribunal (Social Security and Child Support) had fallen by 86 per cent in the first quarter of 2014, compared with the previous year. While there are likely to be a number of factors responsible for this fall, including the backlog of cases being assessed for ESA and PIP, the introduction of mandatory reconsideration has had a significant impact.

- 15.44. CAS recommends that, during the review process, payments continue for clients who are already in receipt of the benefit in question.**
- 15.45. CAS recommends that decision notices provided to claimants following an internal review make reference to all evidence received and taken into account.**
- 15.46. CAS recommends that the review decision be passed directly from the Agency to HM Courts and Tribunals Service, rather than the claimant having to lodge an appeal themselves.**
- 15.47. The internal review process needs to allow for claimants to challenge any or all aspects of a decision, and to guide them clearly through this process.**

Figure 26: How the internal review process should work



Reducing the perception of complexity – a single process

- 15.48. The complexity of the current system of reconsiderations and appeals has the potential to deter people from appealing and act as a barrier to justice. Part of the problem is that the claimant must have their decision reconsidered internally by the Department, and then, if they disagree with the reviewed decision, undergo the additional step of lodging an appeal.**
- 15.49. CAS is of the view that, even if an internal review process does exist, it must be perceived as part of one seamless process from the perspective of the**

claimant. In our view, the best way to do this is to have the review decision passed directly from the Agency to HM Courts and Tribunals Service, rather than the claimant having to lodge an appeal themselves. At this stage the claimant would be sent a *'Do you wish to continue with your appeal?'* letter, which they must return to HMCTS within a given time frame. This allows an opt-in, but is less onerous on the claimant, and would help to make the claimant feel that they were on one journey of challenging the decision, rather than two distinct processes.

Method of requesting an internal review

15.50. Under the DWP's mandatory reconsideration process, claimants are informed that they can request a mandatory reconsideration over the telephone or in writing. SSAC's¹¹⁵ analysis of DWP statistics¹¹⁶ on how claimants request a mandatory reconsideration shows that, when the 'unknown' category is excluded, 65 per cent of MRs were requested by telephone, with a further 26 per cent requested by letter. Although there are benefits to allowing a number of different communication methods and ways in which a claimant can request for a decision to be reconsidered, CAS is concerned that part of the reason for the low proportion of decisions being changed at mandatory reconsideration stage is due to the communication method used.

15.51. In order for the internal review process to be an effective way to reduce the number of cases going to appeal, it is necessary that a meaningful statement is given by the claimant at this stage (for example, specifying the activities and descriptors for which they feel they ought to have additional points), and that any supplementary evidence is provided to the agency. If an internal review is requested over the phone, the claimant may not appreciate that they are engaging in a dispute resolution process and not provide the necessary detail.

15.52. Another potential problem when claimants request an internal review by telephone is that the claimant and even staff, are not always aware that an internal review is what is being requested. If someone says 'I disagree with that', it can be ambiguous whether they are wishing to challenge the decision, make a complaint or simply express their frustration. This was a common view in our consultations with CAB advisers.

"If a MR is worded correctly, then it will influence the outcome in cases where the Decision Maker has not fully appreciated the difficulties faced by the client."

15.53. It is important that the Scottish Government considers carefully the communication methods allowed for requesting an internal review in order to

¹¹⁵ Decision Making and Mandatory Reconsideration: Occasional Paper No. 18 - Social Security Advisory Committee, July 2016

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/538836/decision-making-and-mandatory-reconsideration-ssac-op18.pdf

¹¹⁶ Mandatory reconsiderations of DWP benefit decisions: data to October 2014 – Department for Work and Pensions – December 2014 <https://www.gov.uk/government/statistics/mandatory-reconsiderations-of-dwp-benefit-decisions-data-to-october-2014>

design a process that is at once accessible and transparent to claimants but also effective at gathering the necessary information to ensure that it is a meaningful exercise and not simply an additional hurdle prior to appeal.

Multiple requests regarding different aspects of a decision

15.54. In some cases, claimants are unaware that there is potentially more than one decision that they can challenge/appeal. The SSAC has also drawn attention to this problem:

“Where claimants are dissatisfied with an outcome, there may be multiple aspects of a decision they are challenging, all of which must be changed to get the outcome that is sought. However, they may unknowingly only raise an MR about one aspect of their decision, leaving them unable to dispute the other important aspects within the time limits.”¹¹⁷

15.55. Any internal review process needs to allow for claimants to challenge any or all aspects of a decision, and to guide them clearly through this process.

Consideration of evidence

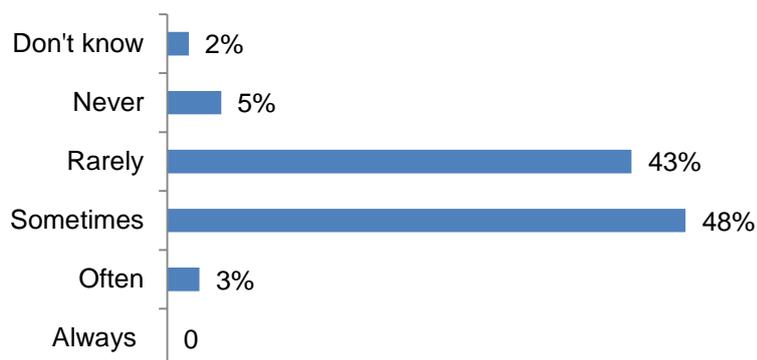
15.56. The Scottish Government must ensure that any internal review process is designed to allow adequate consideration of all the available evidence. In response to a survey of CAB advisers in August 2016¹¹⁸, almost half (48%) of survey respondents said that DWP decision makers ‘rarely’ or ‘never’ make decisions based on a fair appraisal of all the available evidence. This may be due to a number of factors, including timeframes within which to make a decision, issues around training, and issues around decision-maker bias, as comments from CAB advisers highlight.

¹¹⁷ Decision Making and Mandatory Reconsideration: Occasional Paper No. 18 - Social Security Advisory Committee, July 2016

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/538836/decision-making-and-mandatory-reconsideration-ssac-op18.pdf

¹¹⁸ CAS carried out an adviser survey in August 2016 which received a total of 61 responses from 40 CAB offices. Response to Second Independent Review of Personal Independence Payment, Citizens Advice Scotland, September 2016 www.cas.org.uk/publications/cas-response-personal-independence-payment-call-evidence

Figure 27: Do DWP decision makers make decisions based on all the available evidence?



“Particularly in relation to PIP, I have seen incredibly poor adjudication upheld by DMs in recent months. These are cases where additional, very detailed, medical evidence from specialists was provided by the claimants when they sought a Mandatory Reconsideration and then, apparently, ignored by the second DM. Had these cases been considered by competent, objective DMs, PIP would've been awarded without the need for appeal.” – Welfare Rights Adviser, Citizens Advice and Rights Fife

“[There should be] better decision making by the DWP [and] better use of additional evidence. DWP DM's often ignore the claimants and other professional's information leaving it for the HMCTS to review this info then overturn the decision.”

15.57. It is important that the decision notices provided to claimants following an internal review make reference to all evidence received and taken into account. If any evidence has been discounted, the decision notice should clearly state the reasons why. It is also of utmost importance that high quality training and guidance is provided to decision makers to ensure consistency, and that decisions are periodically audited for quality assurance.

Payment pending a decision

15.58. A major concern regarding the mandatory reconsideration process has been that disputed benefit entitlement is not payable pending a mandatory reconsideration. For example, those in receipt of ESA who wish to challenge a decision regarding their entitlement to that benefit, or which group they should be in, are no longer entitled to receive benefit payments at the assessment rate during the reconsideration process, and must instead claim Jobseekers Allowance (JSA). However, many ESA claimants are reluctant to claim JSA, or experience a delay in making a claim, and therefore experience (sometimes severe) financial hardship as a result.

15.59. In October 2015, CAS received responses from 15 CAB welfare rights advisers to a survey which included two questions about Mandatory Reconsideration. When asked about the impacts of Mandatory Reconsideration, 13 respondents mentioned the fact that clients are not in receipt of the benefit during the reconsideration period, and ten mentioned the

financial impact that this can cause and used words like “hardship”, “poverty” and “reliance on foodbanks”:

“The main impact is loss of income. If a claim for ESA is subject to Mandatory Reconsideration then claimants lose out on potential components on an ongoing basis. It is alright to say that if the decision is overturned then the claimant receives a backdated payment of benefit, however the claimant has had to survive without it in the meantime.” – Western Isles Citizens Advice Service

“Clients either are unable to afford essential living expenses or end up deeply in debt. As one claimant said - you can't walk out of the Co-Op telling them you'll backdate payment for your groceries.” – Skye CAB

15.60. Although neither ESA, JSA or UC are being devolved, this issue still has the potential to affect those in receipt of disability benefits, as people in receipt of disability benefits often rely on this income to supplement other forms of income (whether from income-replacement benefits or other sources), and to abruptly stop these payments when a decision regarding entitlement is being challenged, can have a serious detrimental effect on the financial security of that individual and their household.

15.61. Therefore, CAS is of the view that, when the internal review concerns a decision regarding entitlement to a benefit, those *already in receipt of a benefit* should remain in receipt of benefit payments as they undergo the internal review process. However, this should not be the case for those who are newly applying for a benefit.

15.62. For example, if someone is in receipt of a disability benefit and is undergoing a reassessment because their condition has changed, and wishes to challenge the outcome of that reassessment, they should remain in receipt of the benefit payments during the internal review process. Conversely, if someone is making an initial claim for Carers Allowance, for example, and they are found to not be eligible for the benefit, they can challenge that decision, but should not be entitled to receive payments of the benefit in question while the decision is being reviewed. If they are successful however, their benefit should be backdated to the date they made the original claim.

15.63. The justification for this distinction is that the individual already in receipt of disability benefits who is challenging the decision would experience financial detriment if their payments stopped, and there is a higher likelihood that the decision might change, if not on review, then potentially on appeal. It is true that there is a danger of the individual accruing overpayment debt and needing to repay the agency if the decision remains the same, but CAS is of the belief that the risks associated with financial hardship when benefits are stopped outweigh the risks of potentially having an overpayment debt to repay.

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

15.64. CAS recommends that, under the new Scottish Social Security System, there should be statutory time limits within which the department must return an internal review decision to the claimant. Decisions should be returned as soon as is practicably possible, but no longer than four weeks.

15.65. CAS recommends that an internal review request should be returned to the Agency within six weeks of the date on the decision letter.

“There is a general lack of understanding regarding the MR process in its entirety. It is often explained on the phone when claimants have been told that their benefits are being stopped – they do not take it in. By the time they engage with CAB, the deadlines have expired or are near expiry.”

15.66. CAS has previously raised concerns that no statutory time limit exists within which the DWP must provide a decision in response to a mandatory reconsideration request¹¹⁹. The DWP indicated that a mandatory reconsideration should be processed within 14 working days, although data on the time taken to reach a decision has been described by the Work and Pensions Committee as “sporadic and incomplete”¹²⁰. The most recent official statistics, published in December 2014, show that 75% of ESA decisions are overturned within 30 days, and that the average timescale is 13 calendar days.¹²¹ However, Department ‘targets’ do not constitute a time limit, and in reality claimants can wait weeks to receive a decision. This presents a problem both for claimants and for advice agency staff, who do not know how long to wait before contacting the DWP regarding a reconsideration request.

A South of Scotland CAB reports of a client who had had no communication from the DWP since requesting a mandatory reconsideration in September 2015, five months previously. The CAB made contact with DWP about the delay and was told that the client’s case had not been looked at by a Decision Maker. The Mandatory Reconsideration letter had been received but no further action had been taken. There was no explanation as to why it had taken five months for a reply. The adviser will resend MR to a decision maker and this could take another six weeks.

15.67. Under the new Scottish Social Security System, there should be statutory time limits within which the department must return a decision to the claimant.

¹¹⁹ Response to Social Security Advisory Committee Consultation on Decision Making and Mandatory Reconsideration – Citizens Advice Scotland, March 2016 <http://www.cas.org.uk/publications/social-security-advisory-committee-consultation-decision-making-and-mandatory>

¹²⁰ Benefit delivery: Fourth Report of Session 2015-16 – UK Parliament Work and Pensions Committee www.publications.parliament.uk/pa/cm201516/cmselect/cmworpen/372/372.pdf

¹²¹ Mandatory Reconsiderations, requests and decisions to October 2014, Great Britain: Experimental Official Statistics – Department for Work and Pensions, December 2014 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387871/MR_adhoc_fin_al.pdf

Decisions should be returned as soon as is practicably possible, but no longer than four weeks. As has been detailed above, if a decision is not reached within the four week time limit, the case should be passed to the HM Courts and Tribunals Service, with a letter sent to the client to notify them of this.

15.68. Another area where there is room for improvement is the timescales within which a claimant must challenge a decision. Under the current system, claimants have 28 days within which to challenge a decision, but this is often not enough time to gather meaningful supporting evidence and access advice and advocacy support. In the Mandatory Reconsideration survey carried out by CAS, two advisers raised their concerns:

“There is not enough time to get supporting evidence [at mandatory reconsideration stage]. The onus is on the client but a lot of health professionals will not supply a letter unless it is requested. Clients are disadvantaged as they feel they are not believed so need to get medical evidence but are unable to do so.”

“Unfortunately the majority of cases are not successful at mandatory reconsideration without medical evidence (and more than 50% are won at tribunal).”

15.69. As the Scottish Government has recognised, advice and advocacy will play a key role in supporting the new Scottish Social Security System, so processes must be designed with this in mind, allowing enough time for people to access services and book appointments with advisers.

15.70. Although it is important to ensure that there is enough time to gather supporting evidence and access advice, it is also important that a timescale exists, otherwise claimants will be less likely to act on a decision while it is still relevant to their current circumstances and condition. Therefore, CAS recommends that an internal review request should be returned to the Agency within six weeks of the date on the decision letter. In addition to this, as is the case under the current mandatory reconsideration process, if the six week deadline is missed then the Agency should use its discretion to allow reasonable late requests.

Appeals

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

15.71. CAS is of the view that a Tribunal should continue to be the forum for final dispute resolution within the Scottish Social Security System. If an individual disagrees with the Scottish Social Security Agency decision following internal review, they should be able to appeal to a Tribunal.

15.72. CAS, in a survey of CAB advisers in October 2016, asked:

“Should a tribunal be used as the forum for appealing a decision made by the Scottish social security system?”

- 15.73. Thirty-six advisers responded, with 72% of advisors (26 advisors) confirming they feel the Tribunal is the best forum. Only five advisers (14%) responded “no”, with a remaining five advisers saying they “did not know”.
- 15.74. CAS believes a Tribunal would be the most proportionate route of appeal given the decision under challenge could be about a person’s long-term entitlement to a benefit. They should therefore be given the opportunity to have the decision considered by a panel of experts and present their arguments and evidence in the way which best supports their position.
- 15.75. The existing Social Security and Child Support Tribunal (SSCST) currently hears appeals in Scotland from a multitude of benefits, some of which are due to be devolved while others will remain reserved. Once the Tribunal has transferred into the Scottish Courts and Tribunals Service, it will continue to hear appeals on reserved benefits.
- 15.76. While there are technicalities around how the SSCST can hear appeals on devolved benefits, it is essential that these technicalities do not impede any users looking to lodge an appeal. CAS would welcome, at a later date when the legal mechanisms to transfer powers of the SSCST are being considered in more detail, the opportunity to provide further feedback on said mechanisms.

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

- 15.77. CAS believes any internal review decision should be passed directly from the Agency to the Tribunal, rather than the claimant having to lodge an appeal themselves.**
- 15.78. CAS feels that one of the most important actions that must be taken to ensure the Tribunal offers a fair and proportionate means of appealing a decision is to guarantee proper diversity of panel composition for appeals.**
- 15.79. CAS recommends there should be improved communication and direct feedback from the Tribunal to Agency Decision Makers**
- 15.80. CAS recommends that the Scottish Government takes steps to guarantee that where an appeal at a Tribunal has been successful, the Agency implement the Tribunal’s decision, and make any payments due, without delay.**
- 15.81. CAS welcomes the Scottish Government’s proposed principles of a fair appeals process:
- **Right first time** – a strong focus is placed on initial decision making to minimise erroneous decisions

- **Access to independent scrutiny** – when a service user has concerns which are not resolved after an internal review, then they should be able to appeal
- **Learning from experience** – lessons are learned from experience to ensure continuous improvement
- **Transparency** – service users fully understand and are kept informed at each stage of the process
- **Certainty of timescale** – service users can predict with a degree of certainty the likely timescale for resolution
- **Accessibility** – the needs of the service user are central and the administrative burden placed on them is minimised
- **Minimising the burden on the user** - the process of challenging and appealing decisions does not place an excessive administrative burden on applicants

15.82. In order to put these principles into reality, CAS has a number of recommendations:

Improved links from Internal Reviews to Appeals

15.83. As has already been discussed in the above section on Mandatory Reconsiderations, CAS is of the view that, even if an internal review process does exist, it must be perceived as part of one seamless process from the perspective of the claimant.

15.84. In our view, the best way to do this is to have the review decision passed directly from the Agency to the Tribunal, rather than the claimant having to lodge an appeal themselves.

15.85. At this stage the claimant would be sent a 'Do you wish to continue with your appeal?' letter, which they must return to the Tribunal within a given time frame. This allows an opt-in, but is less onerous on the claimant, and would help to make the claimant feel that they were on one journey of challenging the decision, rather than two distinct processes.

15.86. This letter would also include clear and accessible information about the process to allow claimants to understand what has happened. It should explain that the Scottish Social Security Agency have reviewed their decision but not changed their decision. The claimant now has the right to have an independent Tribunal look at the matter, if the claimant confirms they want this to happen.

15.87. The correspondence will need to explain in clear and accessible terms:

- what is expected of the claimant
- the timeframes involved
- that support and advice is available from organisations such as CAB free of charge
- that they have a right to provide additional information and evidence for the Tribunal to consider

- 15.88. There should be no requirement on the appellant to repeat information that they have already provided to the Agency for their internal review application. It is hoped that by improving the links and referral means between the Agency and Tribunal will take away some of the burden currently placed on appellants.
- 15.89. It may be necessary and/or appropriate for appellants to provide further information or evidence for the Tribunal to consider. It is essential that this is made clear to the appellant, and that they are given a reasonable amount of time to access advice and support, and obtain any required evidence for these purposes.
- 15.90. As was also discussed in the above section on internal reviews, if the Agency do not manage to review a decision within the set statutory timeframe (as recommended by CAS) the appeal should similarly be passed from the Agency to the Tribunal automatically at the expiry of that timeframe. The “Do you wish to continue with your appeal” letter would be adapted to explain that the Agency had failed to reconsider their decision in the required timeframe, and that the Tribunal can now look at the decision if the claimant confirms that they want this to happen.

Protecting the diversity of the panel composition

15.91. CAS feels that one of the most important actions that must be taken to ensure the Tribunal offers a fair and proportionate means of appealing a decision is to guarantee proper diversity of panel composition for appeals.

15.92. It is essential that appeals regarding health and disability benefits are not heard in isolation by a legal member with no personal or professional experience of living with health difficulties and/or disabilities. It is essential that the diversity is protected and such appeals are heard by a legal member, a medical expert, and a member with expertise of disabilities.

15.93. While it is acknowledged that it could be less expensive to have some appeals considered by a single member, the potential detrimental effect to the appellant and the potential to undermine the expertise and fairness of the overall Tribunal outweigh any potential cost saving benefit.

Improved communication and direct feedback from Tribunal to Agency Decision Makers

15.94. Currently Decision Makers have no means of learning from decisions that have been overturned at appeal by a Tribunal. There may not always be a lesson to learn, for example where additional evidence has been provided by the claimant for the Appeal which was the key factor in the original decision being overturned.

15.95. In many instances however, there could be lessons to learn. It is acknowledged that a “blame” culture is not desirable and for every appeal to

be read out to the decision maker. However, one of the Scottish Government's key guiding principles for the whole Scottish security system is to look to continually improve and learn. Improving the feedback mechanisms between the Tribunal and Agency could significantly help to achieve this guiding principle. This is also particularly important where often the Agency may not be represented at the Tribunal.

- 15.96. There should be key anonymised cases published by the Tribunal. These cases should feed into regular training for Agency staff. If the Tribunal is seeing multiple cases being successfully appealed on similar grounds, there should be an early warning communication line where the head of the Tribunal can flag the area or matter that is of concern to the Agency.

Effective enforcement

- 15.97. Finally, CAS recommends that the Scottish Government takes steps to guarantee that where an appeal at a Tribunal has been successful, the Agency implement the Tribunal's decision, and make any payments due, without delay. The Agency should make payment as soon as possible, but not longer than a set timeframe. The onus should not be on the claimant to chase their entitlement.

A West of Scotland CAB reports of a client who was successful at his Appeal Tribunal. He was represented by a Social Work representative.

He received a letter informing him that he would receive his ESA arrears within 6 weeks. He did not receive payment within this timeframe. He phoned the Social Work Representation Unit about this and was advised to go to his local CAB for help.

CAB phoned the Tribunal who confirmed the decision, and that the decision had been emailed to DWP on the same day it was decided.

CAB phoned DWP who checked the client's file and reported that there was no update on the Tribunal's decision. The DWP's advice was to send in a copy of the decision letter. CAB helped the client send this to a Mail Handling Site with a covering note asking for it to be dealt with as soon as possible.

- 15.98. When a claimant has already been through an application, internal review and appeal – further delay of implementing their payment can elongate and exacerbate issues they may be dealing with as a result of the appeal process,

including negative effects to their physical and mental health and overall wellbeing. A mechanism or procedure should be implemented whereby Tribunal decisions are communicated directly from the Tribunal to the Agency to trigger payment to be made within the most efficient timeframe possible. From the date of the decision being communicated to the Agency, which in most cases should be on the date of the decision, payment should follow within one week.

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

15.99. The key principles for the whole system, including treating people with dignity and respect, must also be included within the appeals process of the system. The appeals process, in particular the Tribunal, must be accessible and enable claimants to provide the required information and evidence to support their position in the best possible way for them. There has been a move in England and Wales to modernise the Justice system which includes plans to make the Tribunals “digital by default”¹²². For many claimants this will not provide them with a satisfactory or fair procedure to have the Agency’s decision independently scrutinised under. By moving online it will place a real barrier to justice for them.

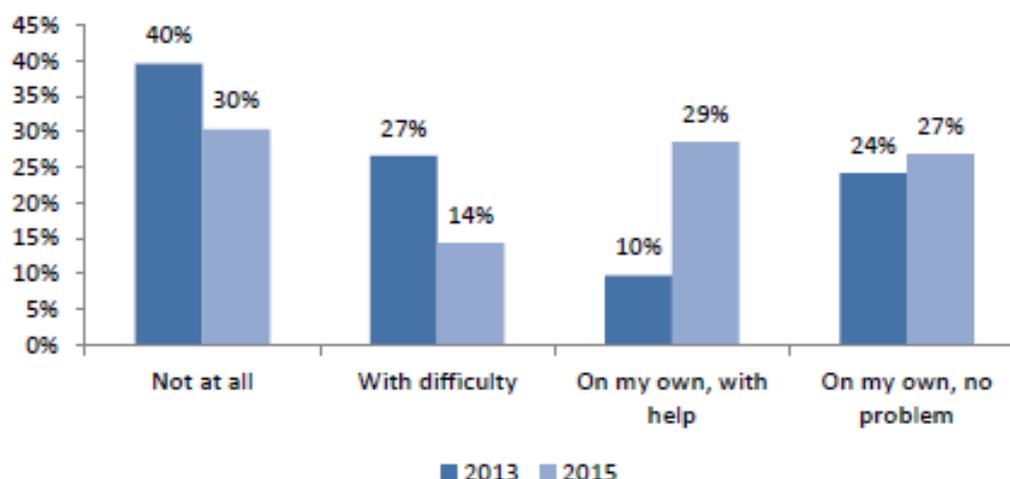
15.100. During August 2015 clients who presented with a benefits issue in one of 28 participating CABs were asked to complete a paper-based survey about digital and online use and ability¹²³. The responses were compared to similar report “Offline and left behind” CAS conducted in May 2013¹²⁴.

¹²² Transforming Our Justice System – Ministry of Justice, September 2016
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf at page 15

¹²³ Bridging the Digital Divide – Citizens Advice Scotland, May 2016
www.cas.org.uk/publications/bridging-digital-divide

¹²⁴ Offline and Left Behind – Citizens Advice Scotland, 2013 www.cas.org.uk/publications/offlineand-left-behind

Figure 28: Could you make an application for a benefit online?



15.101. While the trend amongst CAB clients would appear to be going in right direction, it is important to note that less than one third of CAB clients felt that they would have been able to complete a benefits application online without assistance. So while modest improvements can be seen, there are still large numbers of CAB clients who feel unable to apply for benefits online. 30% of those surveyed in 2015 felt that they wouldn't have been able to do so at all.

15.102. Therefore not only the application procedures, but also the appeal procedures, must ensure that there is fair access to those who lack computer skills and for those who may never be able to use digital services due to illiteracy, disabilities or other complex needs.

15.103. Often a key factor in a number of successful Tribunal appeals is having provided the claimant with an opportunity to be heard in person and to explain their position to a diverse panel with expertise in law, health and disability. Indeed, the very reason the matter may have progressed to the stage of a Tribunal could in part be down to the claimant having difficulty properly expressing themselves in paper/online to the Agency up until that point. Therefore, the Scottish Tribunal must protect access to justice as a paramount consideration whenever considering any moves towards innovative approaches or modernisation of the Scottish system in the future.

16. Residency and cross-border issues

Residency and ‘habitual residence’

Should the Scottish benefits only be payable to individuals who are resident in Scotland?

- 16.1. Yes, CAS recommends that Scottish benefits are paid to individuals who are present and resident in Scotland. However, the definitions of presence and residence need to be flexible to include, for example, those working offshore or overseas.**

Defining the common travel area

- 16.2. The legislation and case law that applies to UK social security benefits provides that, to be habitually resident, one must be resident in the common travel area and have the intention to make the common travel area home for the immediate future. The common travel area is defined as the UK, Ireland, the Channel Islands and the Isle of Man. This is a geographically broad area which cannot apply for devolved Scottish benefits. A minimum requirement of a Scottish social security system is that it defines those who do qualify, based on residency, and those who do not. Therefore, the Scottish Government will be required to re-draw the boundaries of the common travel area to include only the Scottish mainland and its islands.
- 16.3. It is possible that different definitions of the common travel area could be used for different aspects of the residency rules. For example, the past presence test could use the definition which currently applies to reserved benefits, whereas the habitual residence test could use the new Scottish definition of the common travel area. What this would mean in practice is that someone who had been living in both England and Scotland (or any other area currently defined as within the common travel area) would pass the past presence test, whereas to pass the habitual residence test, the individual would need to show that they had an intention to make Scotland their home for the foreseeable future.

Definitions of residence

Table 9: Current residency rules for the benefits to be devolved

	Disability and Carers Benefits		Social fund payments			
	IIDB*	DLA, AA, PIP, CA	Funeral Payments	Winter Fuel Payments	Cold Weather Payments	Sure Start Maternity Grants
Presence						
Past presence					Unknown	
Ordinary residence			**		Unknown	
Habitual residence		***		****	Unknown	
Right to reside					Unknown	

* Being an employment-related benefit, Industrial Injuries Disablement Benefit has no residency rules attached.

** Specific rules apply regarding where the funeral takes place

*** For these benefits you are treated as present and habitually resident if you are abroad in your capacity as a serving member of the forces, or you are living with someone who is and s/he is your spouse or other member of your family. Also, if someone's claim for AA, DLA or CA began before the 8 April 2013, the previous requirement to be ordinarily resident rather than habitually resident continues to apply unless your award is revised or superseded.

**** Someone may be entitled to a Winter Fuel Payment if instead of being ordinarily resident in Great Britain they are habitually resident in another EEA country or Switzerland

16.4. Under the current system as detailed in table 9 above and in Appendix B, habitual residence is not defined in the primary legislation. However, there is a considerable amount of case law on the meaning of 'habitual residence'. To count as 'habitually resident in fact':

- The claimant must be resident in the common travel area
- The claimant's residence must be voluntary
- The claimant must have a settled intention to make the common travel area his/her home for the time being based on evidence of:
 - the reasons for coming to the common travel area;
 - the steps taken to prepare to come to the common travel area;
 - the strength of ties to the common travel area (e.g. family, work).
- In most cases, you must have resided in the common travel area for an 'appreciable period of time' (this is not a set period of time, it depends on the individual circumstances).

16.5. In general, this definition is a common sense approach. However, the Scottish Government should consider how definitions of presence and residence impact on the following groups:

- People with a home in Scotland but who work in England, Wales or Northern Ireland

- Those who live in two homes
- Those spending time abroad for medical reasons
- Travellers
- UK service personnel
- Clients whose home is provided with their employment
- People working offshore
- British Nationals living and/or working overseas
- Merchant seagoers

What are your views on the habitual residence test currently used in the UK by DWP?

- 16.6. The Habitual Residence Test that is applied to the devolved benefits should be common sense and if on balance of probability it seems that the individual *is* habitually resident, the requests on that individual to provide evidence should be reasonable and not overly onerous.**
- 16.7. The majority of the Habitual Residence Test (HRT) cases that citizens advice bureaux in Scotland deal with are with regards to means tested benefits which remain reserved. For these benefits, the right to reside aspect of the test is one of the biggest hurdles for people appealing the outcome of the HRT. However, for the benefits to be devolved, the right to reside test does not currently feature in the Habitual Residence Test. Key problems associated with the HRT for means tested benefits are:
- Clients being misinformed by DWP staff that they are eligible for Income Support, when in fact the client does not meet the requirements of the Habitual Residence Test. This leads to a – sometimes very long – break in benefits, which can cause severe financial hardship (because the client could have been claiming income related JSA all along). This also affects client’s right to reside, and entitlement to HB and CTR.
 - Lack of timescales for DWP mandatory reconsideration decisions lengthening the time a client has to wait without receipt of any benefit.
 - Examples of poor administration including delays for HRT decisions, and loss of evidence relating to HRT.
- 16.8. CAS has limited evidence on the application of the HRT for the benefits which are to be devolved. However, the test that is applied to the devolved benefits should be common sense and if on balance of probability it seems that the individual *is* habitually resident, the requests on that individual to provide evidence should be reasonable and not overly onerous. For example, they should not be required to provide two years’ worth of pay slips to show that they have been employed in Scotland for that period of time.
- 16.9. It will also be necessary that high quality training and information is made available to staff in the DWP and Scottish Social Security Agency on any differences between how the HRT applies to reserved benefits and devolved benefits.

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

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

- 16.10. It is important to note that there are upcoming changes to the political landscape which will have a significant impact on this area of policy: notably, the UK's pending exit from the European Union and the consequences this would have on the reciprocal agreements regarding freedom of movement that the UK currently holds with other countries in the European Economic Area (EEA). This would also have an impact on the application of the EU co-ordination rules for social security. Given the magnitude of this change, the Scottish Government may need to consult further on immigration status and residency rules at a later date, when there is more certainty regarding the impact that the UK's exit from the EU will have.
- 16.11. It is also important to consider how the residency rules for devolved benefits will interact with the residency rules for reserved benefits. For example, if someone does not meet the residency rules for UK benefits but does for devolved benefits, this not only has the potential to cause confusion but could also have some unforeseen consequences in terms of how the two benefits systems interact. The simplest way to resolve this is for the Scottish Government to introduce a principle of parity into the residency rules, meaning that the residency rules for Scottish benefits are the same as those for UK benefits. However, CAS is concerned that in the shifting political landscape of 'Brexit' and changing UK immigration policy, doing so would leave the Scottish Government open to applying principles that are at odds with its own.
- 16.12. In the consultation document, the Scottish Government has asked about residency rules, but not about the rules regarding immigration status, presumably because immigration is reserved to Westminster and the UK Government. However, the Scottish Government should 'futureproof' the legislation in a way that allows for clauses on immigration status to be included at a later date.
- 16.13. CAS also recommends that the Scottish Government consult further on residency rules for Scottish benefits once further information about the UK's future relationship with the EU is known, given the impact that changes are likely to have in this area.

How can the Scottish Government ensure that no-one either falls through the cracks or is able to make a 'double-claim'?

16.14. It will be clear for the vast majority of people where they are solely or mainly resident. It should be based on where someone lives (their address), even if they live in a houseboat or caravan.

16.15. For some, however, it may be difficult to decide where they are mainly resident. This may be because the client lives in two homes. For example, s/he may live with family at weekends and in another town during the week where s/he works. The main factor for deciding where someone is mainly resident should be how much time they spend in each place. Other factors that could be considered are:

- Where the claimant's family live
- Where the claimant keeps the majority of their possessions
- Where the claimant is employed
- Where the claimant's children go to school
- Where the claimant's GP is
- Where the claimant has his/her bank account
- Where the claimant is registered to vote

16.16. It will not be necessary to gather all this information from the claimant when they make an initial claim, but may be necessary if any investigation is required.

16.17. Ensuring that no-one misses out but also that they are not able to make a double claim will require close working between the Scottish Social Security Agency and the DWP, and is likely to require a degree of information sharing of non-sensitive data.

17. Managing overpayments and debt

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

- 17.1. Yes, improvements could be made to the way in which overpayments are recovered from benefit claimants.
- 17.2. CAS recommends that there should be a ‘tell us once’ system in which information on changes of circumstances gets shared between different agencies.
- 17.3. CAS recommends that more clarity is introduced into communications around the rules of entitlement so that claimants know what is expected of them.
- 17.4. CAS recommends that the agency promptly acknowledges receipt of information regarding changes in circumstances and acts on this information as quickly as possible.

Problems with the current system

- 17.5. CAB advisers and clients told CAS that there are problems with the way in which overpayment debt is recovered under the current system, and that there is too little flexibility in the approach that the DWP currently takes.

“The attitude that HMRC and DWP can take away at source, misses the point of the reason that people need benefit in the first place.”

- 17.6. Under the current system, when a benefit claimant experiences overpayments, it is possible for the DWP to recover the debt repayment directly from the benefit at source. This is known as direct deductions. The amount directly deducted from the benefit payment can be up to 25% without the claimant’s consent, and even higher if the claimant does consent to it.¹²⁵ A JSA or ESA claim with 25% deducted will reduce the payment to £54.80 per week, the equivalent of £7.83 per day. Direct deductions can also be applied to recover rent and utility arrears, Social Fund Loans, Short Term Benefit Advances and court fines.
- 17.7. CAS research exploring the causes and impact of gaps in income found that direct deductions from benefits was shown to be both a trigger of acute income deprivation, and also a consequence of it: following a situation in which the clients involved in the study had to seek crisis support or emergency food aid, they were then faced with a period of reduced benefit payments, which in some cases meant surviving on as little as £7.83 per

¹²⁵ Help paying bills using your benefits - The Department for Work and Pensions www.gov.uk/bills-benefits

day.¹²⁶ Under Universal Credit, an overpayment is recoverable via a 25% deduction from benefits at source, even when the error is a departmental error rather than an error on the claimant's part.

Minimising error

17.8. Departmental error can lead to overpayments as well as underpayments. For example, if a claimant communicates a change of circumstances but the Department do not record this information effectively, or act on the change of circumstances, it can mean that claimants continue to receive payments after they have let the department know about the change. There is also lack of knowledge and understanding of the rules around eligibility and which changes of circumstances need to be communicated. Advisers told us that the most common causes of overpayments is when people are unaware of what is expected of them. Circumstances noted by advisers in which people are more likely to be unaware of the rules or their responsibilities in relation to them included:

- Confusion when it comes to HB and housing providers. Many clients think that they should inform the housing provider with relevant changes rather than the council who is responsible for issuing the payments.
- Not understanding the rules around capital.
- Those who are undergoing relationship breakdown/reconciliation and do not realise they have a responsibility to contact the agency about the change of living arrangements.

17.9. There needs to be clear communications around the rules so that claimants know what is expected of them, and more could be done to raise awareness around which kinds of information it is necessary to communicate.

17.10. Advisers also noted that there is sometimes fear around reporting changes in circumstances, because the claimant knows that the award will be stopped immediately. The Scottish Government may need to raise awareness of the consequences of not reporting a change of circumstances and make it as easy as possible for people to do so by providing clear guidance. Sometimes, when claimants do call to report changes in circumstances, agencies do not log these communications:

“Sometimes, people report changes in circumstances, but the records are not updated to reflect these changes. The system needs updated and simplified.”

Improving communications and information sharing

17.11. Claimants often assume that if they inform one agency of a change in circumstances, other relevant agencies will also be informed. Ideally, there should be a ‘tell us once’ system in which information on changes of

¹²⁶ Living at the Sharp End: CAB Clients in Crisis - Citizens Advice Scotland, July 2016
<http://www.cas.org.uk/publications/living-sharp-end>

circumstances gets shared between different agencies, as participants in the adviser consultation events emphasised.

“Clients need to know that they need to tell ALL agencies if there are changes in their circumstances. Data sharing would remove that need as telling one means all will have that information.”

17.12. The Agency needs to acknowledge receipt of information regarding changes in circumstances, and act on this information quickly to avoid overpayments occurring.

Investigating circumstances

17.13. CAS recommends that the Agency uses a tiered approach in deciding whether or not an overpayment needs to be recovered from the claimant (see figure 29). Tier one is where the error was made by the Agency, and has led to an underpayment or an overpayment. In this circumstance, the Agency should pay the claimant any underpayment or backdate the payments accordingly, and the claimant should *not* be required to repay the overpaid benefit.

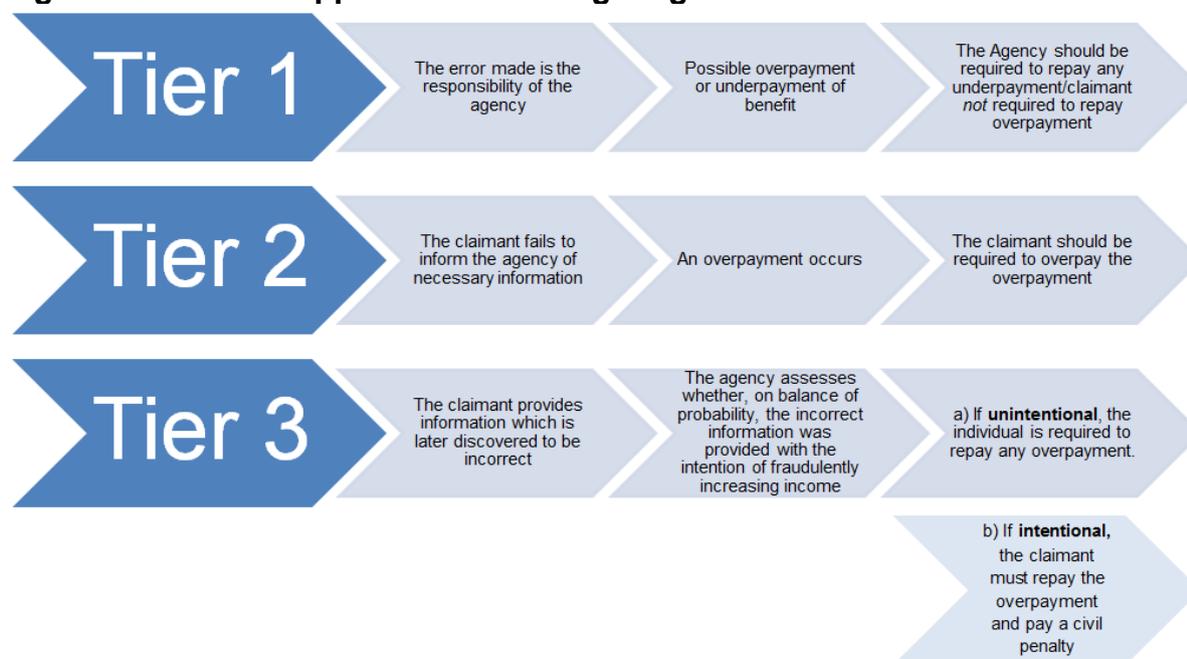
17.14. Tier two is where the claimant has failed to inform the agency of necessary information. In this scenario, the agency must make an assessment of whether the claimant should be required to repay the overpayment, and/or should be issued with a civil penalty. It is likely that the claimant *will* be required to repay, but there should be a degree of discretion and leniency. For example, if the claimant was admitted to hospital at short notice, and there was no opportunity to inform the agency and while they were an inpatient the claimant was in no fit condition to make contact, the agency may wish to waive the debt. There should be guidance for decision makers outlining the circumstances in which someone might not be required to repay the overpayment.

17.15. Tier three is for situations in which the claimant has provided information which is later discovered to be inaccurate. In this circumstance, the Agency should assess whether, on balance of probability, the incorrect information was provided with the intention of fraudulently increasing income. If unintentional, the individual would (in the majority of circumstances) be expected to repay the overpayment. However, there may be circumstances in which discretion is applied. For example, if the claimant in question has learning difficulties or a mental health condition, and as a result provided inaccurate information on the claim form, and recovering the overpayment would cause financial hardship for that individual, the agency may decide to waive the debt. If, on balance of probability, it is decided that the claimant provided the information intentionally, the overpayment should be recovered and a civil penalty applied.

17.16. The Agency should not seek to recovery of historic debt which was accrued more than 5 years previously. It is likely to be a matter of decades before this rule will apply to the new Scottish social security system, but it should be

considered at this early stage in its development. Similarly, overpayment debt should not be carried over from one benefits system to another. For example, if someone has historic debt related to any of the benefits being devolved, the Scottish social security agency should make no efforts to recover this debt on behalf of the DWP.

Figure 29: A tiered approach to investigating the circumstances



Debt recovery

17.17. CAS recommends that the Scottish Government explore use of a Common Financial Statement to assess an individual's ability to repay.

17.18. CAS recommends that direct deductions from benefits should be an option for the claimant and should never be deducted at more than 10% of their total benefit entitlement.

17.19. As with other debts, there needs to be flexibility in how overpayments can be recovered. People should be assessed on an individual basis, and not on general principles. The latter leads to financial detriment, as people often have several deductions from their benefits at one time. The agency needs to be open to negotiations around reducing the amount owed and the Scottish Government should explore use of a Common Financial Statement to assess an individual's ability to repay.

17.20. Direct deductions from benefits should be an option for the claimant and should never be deducted at more than 10% of their total benefit entitlement. The Scottish Government must work closely with the DWP to ensure that an individual is not in financial hardship due to overpayments being recovered from reserved benefits and devolved benefits simultaneously.

17.21. Allowing one month before any overpayment begins to be recovered is a good system, allowing claimants the opportunity to challenge the decision. Recovery should not commence immediately, as is the case under Universal Credit.

Ability to challenge a decision

17.22. There should always be the opportunity for a claimant to challenge the decision regarding an overpayment debt. In order to have the opportunity to challenge a decision, the claimant will require clear information regarding what the overpayment is in relation to, and the reasons why the Agency has reached the decision it has reached.

17.23. The Agency should not recover overpayments if the claimant wishes to appeal and should instead wait until the outcome of the appeal before recovery of overpayments begins. CAS supports the current approach in which the claimant has one month from receiving the letter regarding their overpayments in which to challenge the decision before the Department begins to recover overpayments. The Agency should *not* begin to recover overpayments immediately, as is the case under Universal Credit.

“Tell clients when an overpayment has been made, so that they can challenge if necessary. This should be done swiftly and prior to the recovery process.”

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

17.24. The consultation document includes the following paragraph:

“We understand that even a relatively small reduction in benefit has the potential to negatively impact an individual’s financial wellbeing. For this reason, we are considering the role that financial advice might play in supporting individuals who are being asked to repay overpayments from their benefits.”

17.25. CAS is very critical of this suggestion. If the Government recognises that recovering overpayments will cause financial hardship, then a different approach to debt collection is required. As the biggest provider of independent benefits advice and the network which provided the Money Advice Service for many years, we have substantial evidence which shows that no amount of budgeting advice will fix the fact that people do not have enough to live on if you start recovering benefits from them at an aggressive rate.

17.26. Financial advice and budgeting support *is* useful for some people, and establishing links with the organisations that provide these services is certainly something which the Scottish Government should be exploring, but budgeting advice is not something that should be provided to alleviate financial hardship caused by the Government’s debt collection practices.

18. Fraud

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

- 18.1. **Yes - CAS welcomes the Scottish Government's approach which draws a distinction between overpayments and fraud, but recommends that the Government consults further on the best way to identify circumstances in which people have deliberately provided incorrect information or withheld relevant information.**
- 18.2. Responses from CAB advisers suggests that one of the most common circumstances in which overpayments are recovered from an individual is due to individuals being unaware of the rules or making an error. However, CAS would like to raise the concern that it is incredibly difficult to make an assessment of people's intentions. Under the current system, many cases which are categorised as 'fraud' are in fact unintentional errors or a lack of understanding.

"It should need to be deliberate, on the balance of probabilities, to be deemed 'fraud'. However, the problem is, that included amongst the actions that the DWP consider to be fraud is 'not declaring a pension'. A joint bank account can also be viewed as fraud."

- 18.3. The Scottish Government must carefully consider the methods it will use for identifying the difference between intentional fraud and unintentional error, and what types of evidence could be used to identify one or the other.

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

- 18.4. **CAS recommends that the Scottish Government collects and reports fraud and error statistics separately.**
- 18.5. In the reporting of their official statistics, the DWP conflates fraud and error statistics. This leads to an overestimation of the fraud figures, which can lead to damaging negative perceptions of benefit claimants in the media and amongst the public. It is of utmost importance that fraud and error statistics are collected and reported separately in order provide a more accurate picture, which will also help the agency to develop an appropriate strategy to preventing and tackling fraud.

How could the new Scottish social security system "design out" errors and reduce the potential for fraud at the application stage?

- 18.6. **CAS recommends that the Scottish Government seeks to better understand the circumstances in which people currently commit fraud, and their reasons for doing so in order to develop an adequate strategy for preventing fraud.**

18.7. CAS recommends that the Scottish Government works with other public sector services and third sector services to raise awareness and ensure that people are reminded of their responsibilities at every possible opportunity.

18.8. One aspect of the approach to fraud as outlined by the Scottish Government above is: “maintaining comprehensive procedures for preventing and detecting fraud.” CAS is of the view that this is the most important aspect of the strategy proposed, and in order to prevent fraud it is necessary to understand the circumstances in which people commit fraud. As a trusted, independent advice network, the Scottish CAB Service is well placed to understand the circumstances in which people commit fraud. Through an our ‘Designing a Social Security System for Scotland’ online survey and consultation events, CAS asked CAB advisers to respond to the question “in what circumstances do people commit benefit fraud?” drawing on their experiences as advisers.

18.9. Advisers tended to recognise that any system that pays cash will be open to exploitation and fraud, but a number responded that it was rare to come across a client who had knowingly committed fraud. For example, one respondent said she had only had one client in many years who intentionally committed fraud to increase their income though claiming Housing Benefit for three properties.

“To be frank, I personally think that the numbers in this area are small, but those that do are doing so quite knowingly.”

18.10. However, for those who had come across the phenomenon, the most common circumstances in which people committed fraud are listed below, and it can be seen that this list includes both intentional and unintentional causes of fraud.

- Claiming as a single person when part of a couple, particularly when the individuals in question do not live together on regular basis (mentioned by three respondents)
- Cases where circumstances change but the benefits agency is not notified (mentioned by three respondents)
- Not declaring private pensions (mentioned by three respondents)
- Not reporting changes in health (mentioned by two respondents)
- Not reporting changes in caring responsibilities (mentioned by two respondents)
- Claiming whilst receiving some other income
- People trying to hide cash in other people’s bank accounts
- Those who will *“do it because they can”*

Lack of awareness and ignorance of the rules

18.11. However, according to CAB advisers, by far the most common circumstance in which people commit ‘fraud’ is a lack of awareness and ignorance of the rules. This was mentioned by more than a third of respondents (36%), and a

number thought this was due to the difficulties inherent in trying to navigate a complex system of rules, and a lack of awareness of the importance of communicating changes of circumstances:

“Lack of understanding of the impact of change of circumstance to their benefit situation; deliberate fraudulent action very rare”

“Mainly due to error - they didn't realise they should have contacted someone about the change or didn't think it would have effected their benefit.”

18.12. Circumstances noted by advisers in which people are more likely to be unaware of the rules or their responsibilities in relation to them included:

- Confusion when it comes to Housing Benefit and housing providers. Many clients think that they should inform the housing provider with relevant changes rather than the council who is responsible for issuing the payments.
- Not understanding the rules around capital.
- Those who are undergoing relationship breakdown/reconciliation and do not realise they have a responsibility to contact the agency about the change of living arrangements.

18.13. The Scottish Government should work with other public sector services and third sector services to raise awareness and ensure that people are reminded of their responsibilities at every possible opportunity. A better understanding of the circumstances in which people currently commit fraud will help to target awareness raising resources at relevant points of contact with benefit claimants. For example, based on the above responses, the Government might consider providing information to housing providers and services who offer counselling services to couples undergoing relationship breakdown.

18.14. One issue that advisers raised is that terms and conditions are not always explained clearly by the agency. For example, some clients accidentally find themselves committing fraud because the DWP do not explore all income, particularly small private annuities and pensions. Also, some advisers were concerned that terms are sometimes vague and open to interpretation:

“How can someone ascertain whether they are providing regular and substantive care?”

18.15. Another common pitfall is that benefit claimants might tell one agency about a change of circumstances but fail to tell another, assuming that Local Authorities, the DWP and HMRC share information of this kind. This is likely to become a bigger issue with devolution of some aspects of the social security system but not others, as people are likely to get confused about which agency they are required to inform.

18.16. Four survey respondents also raised concerns about benefit claimants being influenced by other individuals, myths and the media. For example, one said:

“[People are sometimes] the victims of popular myth – ‘we are not co-habiting because my partner has a separate address at a parent’s house’”

Financial hardship and fraud

18.17. Some of the drivers for fraud are broad systemic issues that require a different approach to prevention and enforcement. One fifth of respondents made comments about clients knowingly committing fraud because they are struggling to manage on income from benefits or income from employment, or because they are “desperate” (a word used by three respondents).

“People commit benefit fraud because they are poor. We don’t see organised benefit fraud – it’s about individuals in poverty”

“Being on benefits means they do not have enough money so will take a chance to earn more”

“Due to cuts, Universal Credit is not as effective at dealing with the losses incurred if a client does find work”

“Those who see it as their only option to keep the lights on.”

18.18. It is clear that committing benefit fraud is not the answer to addressing poverty or “desperate” situations in which people are struggling to manage on their income, and in many cases can increase the financial burden on an individual or family if they receive a civil penalty and have to repay overpayments from their benefit payments. However, the Scottish Government should consider these comments in their approach to a) preventing, b) investigating and c) enforcing its fraud strategy.

18.19. Finally, one adviser raised concerns about financial abuse

“In my experience the people most likely to commit fraud are people with young children who are not being supported by their partner. Often it will be a couple who should, in theory, share finances, but in reality one party is withholding money from the other and that person feels as if they have no choice but to claim single person benefits so they can feed their children.”

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

18.20. Yes, the Scottish Government should adopt the DWP’s ‘Code of Practice on Obtaining Information’¹²⁷.

18.21. Fraud investigators should only have the power to obtain information from third parties when they are ‘authorised’ to do so by the Minister, and these

¹²⁷ DWP’s Social Security Fraud Act 2001, Code of Practice on Obtaining Information www.gov.uk/government/uploads/system/uploads/attachment_data/file/509652/code-of-practice-on-obtaining-information-social-security-fraud-act-2001.pdf

officers should be fully trained in investigation practices, data protection and human rights legislation.

18.22. As stated in paragraph 1.6, Authorised Officers should only use these powers as an absolute last resort, and should consider whether there are less intrusive means of gathering the information, such as through contacting the claimant directly. In order to ensure that these powers are used with the highest degree of dignity and respect, CAS is of the view that the claimant should in the majority of cases be notified in writing that, unless they provide the information themselves within a given timeframe, the Authorised Officers will seek to gather the information from third parties.

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

18.23. The Code of Practice referred to only provides details regarding what powers Authorised Officers are granted and how these powers should be used with regards to obtaining information from third parties. This document does not provide details of the powers granted to fraud investigators more generally¹²⁸, such as the power to enter premises and the power of surveillance. These are aspects of fraud investigations which should be used as a last resort, and proportionate to the offence in question, balancing the individual's right to privacy with the responsibility on investigators to fully investigate the case. All powers granted to investigators and Authorised Officers should be within a Human Rights framework.

What are your views on conducting interviews under caution?

18.24. If interviews under caution are to play a role in the Scottish Social Security System, they should be guided by the principles already committed to for the Scottish Social Security System, but also, the following principles which ensure good investigative practice:

- The aim of investigative interviewing is to obtain accurate and reliable accounts from victim's witnesses or suspects about matters under investigation
- Investigators must act fairly when questioning victims, witnesses and suspects. Vulnerable people must be treated with particular consideration at all times
- Interviewing should be approached with an investigation mind-set. Accounts obtained from the person who is being interviewed should always be tested against what the investigator already knows or what can reasonably be established¹²⁹

¹²⁸ Fraud Guide: staff guide – Department for Work and Pensions
www.gov.uk/government/uploads/system/uploads/attachment_data/file/523527/fraud-guide-feb-2016.pdf

¹²⁹ Fraud Guide: staff guide Interviews Under Caution, 01 Planning and Preparation, page 515 – Department for Work and Pensions

18.25. However, good investigative technique should not be followed at the expense of respect for the dignity of the individual in question.

What improvements could be made around conducting interviews under caution?

18.26. CAS recommends that interviews under caution are carried out with respect for the dignity of the claimant and with a presumption of innocence at the outset.

18.27. CAS recommends that people are always told that they have the right to advice and advocacy when undergoing fraud investigation.

18.28. Through our 'Designing a Social Security System for Scotland' online survey and consultation events, CAB advisers provided their views around how fraud investigations could be improved:

- The importance of making people aware that they can access advice, advocacy and representation;
- Improvements to communications to make sure people understand what is happening and what is expected of them, for example, making the language used in the initial letter clear and accessible;
- Two survey respondents mentioned that improvements could be made to speed of processing;
- Three respondents mentioned that investigations could be improved by cultivating a culture of fairness and trust, and treating people with respect;
- A quarter of survey respondents mentioned the presumption of innocence: that people should be treated as 'innocent until proven guilty'

Penalties

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

18.29. CAS recommends that civil penalties should be used only where it is unambiguous that the individual *deliberately* provided incorrect information to the agency or deliberately withheld information.

18.30. CAS recommends that people are always informed that they are required to pay a civil penalty and should have the opportunity to challenge the decision.

18.31. Under the current legislation people can have a civil penalty applied if they 'negligently' make an incorrect statement, or negligently give incorrect information. Civil penalties should be used only where it is unambiguous that

the individual *deliberately* provided incorrect information to the agency or deliberately withheld information. As has been noted above, it is difficult to assess intention, especially in circumstances in which people fail to inform the agency of relevant information, so the Scottish Government will need to decide which types of evidence could be used as proof of intention.

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

18.32. CAS accepts that the £50 penalty that is currently imposed is a reasonable penalty for those who currently commit benefit fraud. However, as with overpayments, this penalty should be collected with consideration of the individual's circumstances and their ability to repay. The penalty should not be imposed if it will cause financial hardship.

18.33. Comments from the adviser consultation events showed that CAB advisers felt there should be penalties for those who commit deliberate fraud, but discretion should be maintained and that penalties should not be imposed until the process of investigation is complete.

“[The Scottish Government should] ensure that those who do commit benefit fraud are made accountable and face a suitable penalty for it.”

19. Safeguarding your information

Identity Management and Privacy Principles

Should the existing Scottish Government approach to Identity Management and Privacy Principles be adopted for use in our social security system? (Yes/No) Please explain your answer

If yes, should our existing Identity Management and Privacy Principles be adapted in any way? (Yes/No) Please explain how

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

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

19.1. Yes, the existing Identity Management and Privacy Principles as outlined in the consultation document would appear to be appropriate and proportionate.

19.2. In general a balance must be struck between ensuring the privacy of individuals' information – which in many cases related to social security will be extremely sensitive – and enabling reasonable and appropriate sharing of information that facilitates a dignified and respectful experience for users. As detailed below and elsewhere in this response, CAS supports controlled sharing of information, such as a 'Tell Us Once' system to avoid delays and people being required to give the same information multiple times to the same Agency, or other public sector organisations.

Do you perceive any risks to the individual? What solutions might be considered to mitigate against these?

19.3. In consultation with CAB advisers, the main risk identified was of out-of-date or wrong information being held and shared between agencies. This has caused issues for CAB clients in other scenarios in the past, and any system must be easily able to correct errors, and ensure that errors are corrected everywhere the information has been previously shared.

19.4. Other risks identified by CAB advisers included concerns about misuse by agencies using information for purposes it was not intended and concerns about breaches of confidentiality or privacy.

Better information sharing

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. (Yes/No) Please explain your answer

- 19.5. Yes, CAS supports strictly controlled information sharing to make the application process easier.**
- 19.6. In our 'Designing a Social Security System for Scotland' online survey, 79% of CAB advisers who participated agreed that data sharing should be enabled to make the application process easier, and to enhance the user experience. As outlined elsewhere in this response, CAS recommends that the right to give permission to allow data sharing to ensure efficiency and correct decision making for benefits eligibility should be included in a Social Security Charter.
- 19.7. As detailed in the 'Outcomes and the user experience' section of this response, A number of clients who participated in the client focus groups said that, in the current system when contacting the agency to get help with a particular issue with regards to their claims, they found they needed to go over their circumstances again and again as they were passed through several different departments.
- 19.8. As a result, a number of clients said they would prefer to have one designated worker who would understand their circumstances and have easy access to their records.
- 19.9. One common complaint of advisers and clients alike is that benefit agency staff are not always able to access all the information relevant to that person's case. For example, it is sometimes not possible for DWP staff to see if a client has sent additional evidence or has communicated a change in circumstances. The Scottish Government must introduce an IT system which allows for all Agency staff dealing with user enquiries to access all relevant information relating to the claimants circumstances. Claimants should also receive written acknowledgement when they communicate a change of circumstances, so they know they have fulfilled that responsibility.
- 19.10. Ideally, there should be a 'tell us once' system in which information on changes of circumstances gets shared between different agencies, as claimants will often inform one agency of a change in circumstances, which they assume will be shared with all agencies involved.
- 19.11. The system should also allow for 'implicit consent' to allow trusted intermediaries to act on a client's behalf, and allow non-sensitive information to be disclosed without the client being required to be present.

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? (Yes/No) Please explain your answer

19.12. Yes, although care must be taken to ensure that information shared is in the best interests of service users and used to enhance their experience, rather than in an attempt to make cash savings at their expense.

19.13. CAS supports the Scottish Government's aim of continuous service improvement, and we would support the use of evidence and feedback to do so. As detailed in our responses to the 'Managing overpayments and debt' and 'Fraud' sections of this response, CAS recommends a 'tell us once' system to reduce overpayments and a tiered approach to investigating the circumstances any overpayment has arisen from.

19.14. Information should not however be misused to 'fish' for people who may have been overpaid a benefit payment in attempts to lower social security spending by making the system off-putting. Lessons should be learned from the recent example of Concentrix work for HMRC, where attempts to achieve 'value for money' came at the expense of people who require support from the social security system.¹³⁰

Digital First

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

19.15. CAS recommends that the Scottish Government avoid a 'digital by default' strategy, and instead ensures that claimants have access to a number of different communication methods.

19.16. As detailed in the 'Outcomes and the user experience' and 'Disability benefits' sections of this response, whilst CAS agrees that people should be offered an online option for applying for and managing claims for Scottish social security benefits, it should be as part of a range of equal options, including interacting with the agency by phone and in person.

19.17. Adopting a 'digital by default' or 'digital first' approach risks excluding the majority of people who require support from the system from accessing it. Evidence from people who visit a CAB for advice on a benefits issue has

¹³⁰ Concentrix scandal, HMRC and tax credits: Committee issues statement – UK Parliament Work and Pensions Committee, October 2016 <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news-parliament-2015/concentrix-hmrc-tax-credits-statement-16-17/>

consistently shown that the majority could not make or manage a claim online without help.^{131 132}

- 19.18. In 2015, 59% of CAB clients with a benefits issue who participated in our research would be could not make a claim online without support, with 19% unable to use a computer at all.¹³³ For people who were in receipt of a disability benefit, likely to be the largest group of users of the new system, this rose to 77% who would be unable to make a claim without support (including 52% who said they would not be able make a claim at all). 35% of respondents who received a disability benefit were unable to use a computer at all.
- 19.19. Evidence from the rollout of Universal Credit, which adopts a ‘digital by default’ approach has resulted in an increase in the number of users who require support to make and manage claims due to being unable to access, or unable to use an online system.¹³⁴ This is particularly pronounced in East Lothian and Inverness, where Universal Credit has been introduced for all claimants, including vulnerable people. Citizens advice bureaux in those areas have reported a dramatic increase in issues involving helping people to make or manage a benefit claim, due to the ‘digital by default’ system.
- 19.20. On this basis, CAS would strongly recommend the new system does not pursue a ‘digital first’ approach which would serve the interests of administrative convenience, rather than users of the system, and as such is inconsistent with the principles of dignity and respect, and an evidence-led system.

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)?

- 19.21. The consultation document does not make clear whether this refers to a secure email address being set up for each user of the system to check, for officials to share information with other public agencies, to receive incoming requests from users, or any other system.
- 19.22. As such, it is difficult for CAS to comment on the proposal without further information. However, as detailed above, any online-only system is likely to exclude a majority of people who are supported by the social security system.

¹³¹ Offline and Left Behind – Citizens Advice Scotland, 2013 www.cas.org.uk/publications/offlineand-left-behind

¹³² Bridging the Digital Divide – Citizens Advice Scotland, May 2016 www.cas.org.uk/publications/bridging-digital-divide

¹³³ Ibid

¹³⁴ Learning From Testing Times: Early Evidence of the Impact of Universal Credit in Scotland’s CAB Network – Citizens Advice Scotland, June 2016 <http://www.cas.org.uk/publications/learning-testing-times>

CAS would recommend the Scottish Government ensure that people can check and correct information by phone, in writing or face-to-face, as well as online. As detailed above, CAS recommends the Scottish Government does not adopt a 'Digital by Default' strategy.

20. Uprating

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

- 20.1. **CAS would recommend devolved benefits are uprated in line with inflation as measured by the Retail Prices Index (RPI) as a base, with additional uprating based on the annual increase in particular costs that the benefit is intended to meet the cost of.**
- 20.2. The Office for National Statistics recommended in 2013 that the UK Government retain RPI as the measure for uprating purposes, rather than switching to the Consumer Prices Index (CPI).¹³⁵ As the RPI includes rises in housing costs in the prices included, unlike the CPI, it takes better account of the actual living costs of people in receipt of the devolved benefits, and accommodates any rises in rent or Council Tax.
- 20.3. In particular, a rise in the cost of energy bills is likely to have a particular effect on the value of Winter Fuel and Cold Weather Payments, and is one of the key additional costs used as a proxy for disability benefits. As outlined in our response to section 9, the increasing cost of burials and cremations has led to an increase in funeral poverty, and it would be essential that this be fully accounted for when uprating funeral payments.

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.

- 20.4. As outlined above, we would recommend that rises in the costs of specific items or services that particular benefits are intended to help meet the cost of are used to uprate the benefit further, if they are higher than inflation. The following are examples of costs that could be used to trigger additional uprating.
- **Annual energy bills** – Disability benefits, Carers benefits, Winter Fuel Payments, Cold Weather Payments
 - **Costs of funerals**, specifically the costs recommended for inclusion in section 9 of this response – Funeral Payments
 - **Fuel costs** – Disability benefits and Carers benefits (due to additional transport costs being one of the key costs met by the benefit).

¹³⁵ National Statistician announces outcome of consultation on RPI – Office for National Statistics, January 2013
<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/rel/mro/news-release/rpirecommendations/rpinewsrelease.html>

- **Average public transport costs** - Disability benefits and Carers benefits (due to additional transport costs being one of the key costs met by the benefit).

Appendix A – Consultation activities with CAB clients and advisers

2016

CAB client focus groups

Fourteen Citizens Advice Bureau across Scotland carried out focus groups with clients on specific areas of the consultation, including fixing the principles in legislation, outcomes and the user experience, carers benefits, the Best Start Grants. Participating bureaux were provided with a focus group toolkit which included guidance on how to arrange and carry out the focus groups as well as specific questions relating to the topic. In total, CAB consulted with 144 clients.

CAB	Number of clients	Topic
Airdrie CAB	10	Best Start Grant
Caithness CAB	10	User experience
Central Borders CAB	9	Best Start Grant
Clackmannanshire CAB	8	Carers benefits
Coatbridge CAB	14	User experience
Dumfries CAB	10	User experience
Dalkeith CAB	12	User experience
Drumchapel CAB	6	User experience
East Ayrshire CAB	6	Carers benefits
Grangemouth CAB	8	Claimant Charter
Motherwell CAB	11	Claimant Charter
Nairn CAB	14	User experience
Parkhead CAB	20	Carers benefits
West Dunbartonshire CAB	6	Carers benefits

Regional events

CAS hosted three regional events in Edinburgh, Glasgow and Inverness which were attended by staff and volunteers from citizens advice bureaux across Scotland as well as Scottish Government officials. At each regional event, advisers had the opportunity to discuss different topics, and the views and experiences shared were collated by CAS to inform this response to the consultation.

Location	Participants	Discussion topics
Serenity Café, Edinburgh	21	Fixing the principles in legislation Delivery options Overpayments and debt Fraud
RSS Centre, Glasgow	15	Advice and representation Equality and low income Fixing the principles in legislation
Eden Court, Inverness	12	Carers benefits Benefit delivery in rural areas Disability benefits Cold Weather Payments Winter Fuel Payments

In addition to these regional events, CAS also hosted an adviser focus group at our offices in Edinburgh, to seek advisers and tribunal representatives views regarding how the complaints, reviews and appeals process should work under the new system. This was attended by 11 CAB advisers.

Adviser surveys

During September and October 2016, CAS carried out an online survey of CAB advisers on 'Designing a New Social Security System for Scotland' which included 60 questions about on number of consultation topics. The survey was answered by 43 respondents from 25 bureaux across Scotland, from Dumfries and Galloway to Caithness. The majority of respondents were advisers, welfare rights advisers and managers, but the survey was also completed by specialists such as Armed Services Support Service staff, Kinship Care Project staff, Debt Advisers and Money Advice staff.

To inform CAS's response to the Second Independent Review of Personal Independence Payment, CAS conducted an adviser survey which was carried out in August 2016 and received a total of 61 responses from 40 CAB offices, which represents 65% of the bureaux across Scotland. This survey has also been referred to throughout the consultation response.

Policy Forum

In July 2016, CAS hosted a meeting of representatives from bureaux who make up the Policy Forum – a Standing Committee to the Board of Directors. This meeting was attended by 18 CAB managers, staff and volunteers, who discussed the implications of the devolved social security powers for advice, representation and advocacy carried out by the Scottish CAB Service. The report from this event was sent directly to the Scottish Government, but has also informed CAS's response to the consultation.

2015

In December 2015, CAS published a suite of five reports named *Fair, Equal and Responsive: Designing a Social Security System for Scotland*.¹³⁶ These reports provided recommendations to the Scottish Government on how it might use the new social security powers based on extensive consultation activities with bureaux carried out that year. These consultation activities included:

- A survey conducted in 30 citizens advice bureaux during either the week of 3 – 7 August or 10 – 14 August. CAB clients during that week were asked to complete a paper-based survey, asking them about: their digital skills and access; how frequently they budget, and why they plan this way and how often they would prefer to receive benefit payments. A total of 601 CAB clients completed the survey over the fortnight.

‘Empowering Scotland’ consultation on disability benefits

- Focus groups run by bureaux during September 2015. Bureaux were offered a small grant to conduct a focus group with clients with a disability or health condition, advisers and/or representatives from local agencies. 10 bureaux organised a focus group.
- Client interviews conducted during September 2015. Bureaux were offered a small grant to conduct 10 telephone or face-to-face interviews with clients with a disability or health condition. 7 bureaux conducted these interviews.
- Additional interviews conducted during September – October 2015. Participating bureaux were offered a small grant to carry out a further 8 telephone or face-to-face interviews with clients. 9 bureaux conducted these additional interviews.
- A full-day focus group was held at CAS with 14 benefits advisers from different bureaux.
- An online adviser survey between 18 September – 9 October 2015. Bureaux advisers were invited to respond to an online survey (via SurveyMonkey). 37 advisers responded.

¹³⁶ Fair, Equal and responsive: Designing a Social Security System for Scotland – Citizens Advice Scotland, December 2015 www.cas.org.uk/publications/fair-equal-and-responsive

Appendix B – Existing residency rules that apply to benefits to be devolved

Immigration status

To be eligible for one of the benefits being devolved, an individual must first satisfy the criteria regarding immigration status, and then satisfy the criteria regarding the residency rules. Different types of immigration status include:

British Nationals and people with right of abode	Residency rules apply
European Economic Area and Swiss Nationals	Residency rules apply
People with leave to enter or remain	May be someone defined as 'subject to immigration control' (see below) depending on whether or not they are defined as having recourse to public funds
People without leave	Defined as being 'a person subject to immigration control' (see below)
Asylum seekers	Defined as being 'a person subject to immigration control' unless granted leave that does not prevent them from accessing public funds (for example, granted refugee leave, humanitarian protection, discretionary leave or indefinite leave)

For benefits and Tax Credits purposes, you are a person subject to immigration control if you are not an EEA national and you:

- Require leave to enter or remain in the UK, but do not have it; or
- Have leave to enter or remain in the UK which is subject to the condition that you do not have 'recourse to public funds'; or
- Have leave to enter or remain in the UK, given as the result of a maintenance undertaking; or
- Have leave to remain in the UK solely because you are appealing against a refusal to vary your previous leave.

People subject to immigration control and the devolved benefits

If someone is a person subject to immigration control they are excluded from claiming AA, CA, DLA or PIP and Social Fund Payments (Funeral Payments, Cold Weather and Winter Fuel Payments and Sure Start Maternity Grants) **unless** they fall into an exempt group:

- Your leave is as a result of a maintenance undertaking;
- You are a family member of an EEA national;
- Nationals of Algeria, Morocco, San Marino, Tunisia and Turkey

- You are covered by a reciprocal agreement;
- You have been in receipt of benefits since 1996.

If someone is included in one of the exempt groups, they will also have to fulfil the residency criteria before being eligible for the benefit in question.

Residency rules for the benefits to be devolved

	Disability and Carers Benefits		Social fund payments			
	IIDB*	DLA, AA, PIP, CA	Funeral Payments	Winter Fuel Payments	Cold Weather Payments	Sure Start Maternity Grants
Presence						
Past presence					Unknown	
Ordinary residence			**		Unknown	
Habitual residence		***		****	Unknown	
Right to reside					Unknown	

* Being an employment-related benefit, Industrial Injuries Disablement Benefit has no residency rules attached.

** Specific rules apply regarding where the funeral takes place

*** For these benefits you are treated as present and habitually resident if you are abroad in your capacity as a serving member of the forces, or you are living with someone who is and s/he is your spouse or other member of your family. Also, if someone's claim for AA, DLA or CA began before the 8 April 2013, the previous requirement to be ordinarily resident rather than habitually resident continues to apply unless your award is revised or superseded.

**** Someone may be entitled to a Winter Fuel Payment if instead of being ordinarily resident in Great Britain they are habitually resident in another EEA country or Switzerland

Habitual Residence Test for the benefits to be devolved

To be entitled to one of these benefits, you must be habitually resident in the 'common travel area' (i.e., the UK, Ireland, the Channel Islands and the Isle of Man). To satisfy the habitual residence test for AA, DLA, PIP and CA, you must be 'habitually resident in fact'.

There is no definition of habitual residence in the regulations. However, there is a considerable amount of case law on the meaning of 'habitual residence'. To count as 'habitually resident in fact':

- You must be resident in the common travel area
- Your residence must be voluntary

- You must have a settled intention to make the common travel area your home for the time being based on evidence of
 - the reasons for coming to the common travel area
 - the steps taken to prepare to come to the common travel area
 - the strength of ties to the common travel area (e.g. family, work)
- In most cases, you must have resided in the common travel area for an 'appreciable period of time' (not a set period of time, depends on the circumstances)

Decisions regarding habitual residence are made on the 'balance of probabilities' and all aspects of the claimant's circumstances must be taken into account.