

FAIRER SCOTLAND DUTY - ASSESSMENT

Title of policy/ practice/ strategy/ legislation etc.	The Social Security Information-sharing (Scotland) Amendment Regulations 2022
Lead Minister	Ben Macpherson
Lead official	Andrew Hiskett
Directorate Division Team	Social Security Directorate Programme Management & Delivery Information Governance

STAGE 1 – PLANNING

1. What is the aim of your policy/strategy/plan?

Who will it affect (particular groups/businesses/geographies etc)?

What main outcomes do you expect the policy/strategy/plan to deliver?

The Scottish Government is committed to delivering a system of social security founded on core principles of fairness, dignity and respect. The Social Security Information-sharing (Scotland) Regulations 2021 ('the 2021 Regulations') exercised powers conferred by sections 85(2)(g) and (5) of the Social Security (Scotland) Act 2018 ('the 2018 Act') to provide for Scottish Ministers to request and supply information about clients to certain persons as necessary for the delivery of Scottish disability benefits, specifically Child Disability Payment, in 2021. The Social Security Information-sharing (Scotland) Amendment Regulations 2022 ('the Amendment Regulations') will amend the 2021 Regulations for purposes related to the upcoming launch of Adult Disability Payment (ADP) in 2022 to ensure that Scottish individuals who are entitled to adult disability assistance can continue accessing the full range of benefits and welfare services that those on UK Personal Independence Payment (PIP) can access after ADP replaces PIP in Scotland in 2022.

Specifically the Amendment Regulations will amend the 2021 Regulations in order to:

- i). update the definition of suppliers of Accessible Vehicles and Equipment (AVE) in Regulation 2 to include ADP as part of the accreditation scheme.
- ii). amend Regulation 4 to update the definition of the function under which Scottish Ministers may share social security information with local authorities in order to determine whether an individual is entitled to a "blue badge". The updated definition will include a statutory reference to the relevant consequential amendments that will make ADP a qualifying criterion for "blue badges".
- iii). add a new function under Regulation 4 which allows for local authorities to request social security information from Scottish Ministers in relation to assessing an individual's income when determining how much the individual should be charged for social care services funded by the local authority.

These updates will enable AVE suppliers and local authorities to continue requesting information about an individual's adult disability assistance entitlements after ADP replaces PIP in Scotland in 2022. Having this information is essential for them to be able to continue providing essential services such as awarding blue badges or accurately assessing an individual's income to ensure they are charged fairly for social care services provided by their local authority.

2. What is your timeframe for completing the Fairer Scotland assessment?

The assessment will be completed by end of September 2021, ready for the associated regulations to be laid in the Scottish Parliament in December 2021.

3. Who else in the organisation will be involved in the assessment and what roles will they be playing? We'd expect involvement from policy and analytical teams as a minimum. It is rarely appropriate for one person to conduct the assessment alone.

The assessment is led by the Information Governance team in the Social Security Directorate's (SSD) Programme Management and Delivery division. There is input from the Disability Benefits team in the SSD Social Security Policy division who provide policy and analytical advice.

STAGE 2 - EVIDENCE

4. What does the evidence suggest about existing inequalities of outcome, caused by socio-economic disadvantage, in this specific policy area? You might want to think about:

- People on low incomes
- People living in deprived areas (and within particular communities of place and interest)
- People with no / low wealth or in debt
- People in material deprivation
- People from different social classes

Research has shown that poverty disproportionately affects people who have a disability, with disabled people experiencing higher poverty rates than the rest of the population.¹, Disabled people make up 28% of people in poverty UK-wide, and a further 20% of people in poverty live in a household with a disabled person. This statistic is largely replicated in Scotland where around 410,000 households in

¹ <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

poverty (42% of all households in poverty) include a disabled person or are disabled themselves.²

Scotland-wide, there are higher levels of child material deprivation in households containing a disabled person, at 20% compared to households without a disabled person (at 8%). There are higher rates of food insecurity among disabled people (18%) compared to non-disabled people (5%). There is a higher likelihood of living in relative poverty after housing costs with a disabled person in the household (24% of families with a disabled person compared to 17% of families with no disabled members).

If disability benefits are not counted towards household income, this rises to 30%. 'Family' in these circumstances referred to the core family in a household, comprising one or two adults and children, if any.

There is also a positive correlation between disability and unemployment. Recent statistics have found that, compared to non-disabled people in the United Kingdom (81.7), disabled people had a significantly lower rate of employment (53.6%). In Scotland, a recent publication identified that 45.6% of disabled people were employed compared to 81.1% of non-disabled individuals. In 2018, almost half of disabled people between 16-64 in Scotland were economically inactive (49.7%), compared with 15.9% of non-disabled people.

Disability and unemployment / under-employment are positively correlated. 14% of 'workless families' (defined as families where parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have one or more children with a disability or long-term illness.

A further 17% of 'struggling to get by' families (unemployed or working part-time, half of which are single-parent families) have one or more children with a disability or long-term illness.³ Child material deprivation in households containing a disabled person reaches 20% compared to 8% of households without a disabled person.

Even where one or more parent in the household is in employment, within families with a disabled child, the same level of income secures a lower standard of living than it would for a disabled person.

Research conducted by the Papworth Trust⁴ showed that the annual cost of bringing up a disabled child is three times greater than for a non-disabled child. Disabled

² https://www.npi.org.uk/files/3414/7087/2429/Disability_and_poverty_MAIN_REPORT_FINAL.pdf

³ <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/5/>

⁴ <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition.⁵ Travel costs too, may be higher as families have to afford the cost of taxis to and from hospital where it is not possible to use public transport (and/or public transport may not be available).

5. What does the evidence suggest about any possible impacts of the policy/programme/decision, as currently planned, on those inequalities of outcome?

The Scottish Government has sought the views of people with lived experience of engaging with the current UK benefits system in relation to the development of Scottish disability assistance. Social Security Experience Panels made up of over 2,400 people from across Scotland were set up for this purpose. This has allowed the Scottish Government to reflect the needs of individuals in the design of Scotland's social security system in relation to ADP. Providing a social security system that meets the expectations and needs of individuals will naturally lead to a range of positive impacts on people experiencing socio-economic disadvantage, as these services are specifically targeted to supporting the disadvantaged.

In addition, the Disability and Carers Benefits Expert Advisory Group (DACBEAG), which is independent of the Scottish Government, was formed to provide recommendations and advice to Scottish Ministers on the development of policy related to Disability and Carer's Assistance. DACBEAG is comprised of experts from a range of professional backgrounds including the Director of Policy of Inclusion Scotland and the Associate Director for Scotland of the Joseph Rowntree Foundation. The Cabinet Secretary for Social Security and Older People responded to those recommendations in October 2019⁶.

The need for establishing data sharing legal gateways for ADP is based on avoiding any disadvantage to Scottish individuals as a result of the devolution of Scottish disability assistance. Without these legal gateways, organisations who require information about an individual's disability assistance entitlements would lose access to that information when ADP launches. This is because the existing gateways that enabled them to get the information from the UK Department for Work and Pensions (DWP) would no longer be functional, since information about disability assistance entitlements will be held by Social Security Scotland rather than DWP. As a result, those organisations will not be able to provide the same level of support to a Scottish ADP recipient who applies for a 'passported' welfare service as they could to a UK PIP recipient. It is therefore necessary to put legal gateways in place to enable those

⁵ <https://www.jrf.org.uk/income-and-benefits/>

⁶ <https://www.gov.scot/publications/disability-and-carers-benefits-expert-advisory-group---supporting-evidence-response-to-advice/>

organisations to share information with Social Security Scotland in the same way and for the same purposes as they already do with DWP, to protect Scottish ADP recipients from disadvantage.

6. Is there any evidence that suggests alternative approaches to the policy/programme/decision? E.g. Evidence from around the UK? International evidence?

No evidence of alternative approaches elsewhere has been identified, however other options have been considered. One option would be to not share information for 'passported' benefits, however this would result in individuals who receive ADP having greater difficulty accessing those benefits, because they would be unable to get help when asked to supply information that demonstrates their eligibility. This not only costs time and potentially money to gather the necessary details, it also places unnecessary stress on clients who may be vulnerable owing to their disability, and is therefore not considered to be fair.

Other options could involve being more proactive with sharing information when an individual is awarded ADP, for example by automatically passing that information to potentially relevant persons in case the client applies for other services from those persons in the future. There are numerous privacy risks associated with these options which make them unfair and potentially harmful to the client,.

The chosen option of amending the existing legal gateways to cover ADP while also keeping the existing privacy protections in place within the 2021 Regulations is considered the fairest option.

7. What key evidence gaps are there? Is it possible to collect new evidence quickly in areas where we don't currently have any? For example, through consultation meetings, focus groups or surveys?

Evidence on existing inequalities in Scotland and the benefits of social security is holistic and current. Consultation and user research is a fundamental factor of social security service design and is used whenever evidence is needed on a particular issue or demographic.

8. How could you involve communities of interest (including those with lived experience of poverty and disadvantage) in this process? The voices of people and communities are likely to be important in identifying any potential improvements to the programme/policy/decision.

As described above, Experience Panels were assembled to inform development of the social security system in Scotland and ensure service design is shaped by the experiences, needs and priorities of people who would use those services. The Panels were made up of more than 2,400 people in Scotland, all of whom had some previous experience of accessing benefits. A survey⁷ in 2018 revealed the following demographic makeup:

- 96% identified as ‘white’ ethnicity, while 2% identified as a minority ethnic group
- 83% said they had a disability or long-term health condition

The Panels had representation across all regions of Scotland, including island communities.

STAGE 3 – ASSESSMENT AND IMPROVEMENT

9. What options could strengthen this programme/policy/decision in terms of its impacts on inequalities of outcome?

The policy is intrinsically linked to social security. The potential impacts on people experiencing inequalities of outcome have been considered and the Amendment Regulations will simply build on top of the existing Scottish social security legislative framework, which has in turn been informed by the recommendations of clients and stakeholders. This policy is believed to be the best option for providing positive impacts to disadvantaged people.

10. What are the pros and cons of these options?

The chosen option is believed to provide the best balance of pros and cons, namely:

Pros	Cons
<ul style="list-style-type: none"> • Clients are empowered to control how their information will be collected and used. Only information that is relevant and necessary will be shared. 	<ul style="list-style-type: none"> • None anticipated

⁷ <https://www.gov.scot/publications/social-security-experience-panels-panels-experiences-far/pages/1/>

<ul style="list-style-type: none"> • Clients are encouraged to make use of welfare services they are entitled to, knowing that Scottish Ministers will support them by supplying information to the provider of that service if requested 	
<ul style="list-style-type: none"> • Local authorities are enabled to obtain accurate and up-to-date information about a client's income when assessing how much the client should contribute towards the costs of local authority-funded social care, leading to fairer charges. 	

11. How could the programme/policy/decision be adjusted to address inequalities associated with particular groups? Particular communities of interest or communities of place who are more at risk of inequalities of outcome?

People in communities of interest and communities of place have been involved in consultations that have informed the policy development, and adjustments have been considered at all stages of development of the policy.

STAGE 4 - DECISION

12. What changes, if any, will be made to the proposal as a result of the assessment? Why are these changes being made and what are the expected outcomes?

No changes have been identified as a result of this assessment because the impacts on disadvantaged people have been carefully assessed throughout the development of the policy. As aforementioned, the policy is a minor amendment to existing information-sharing gateways so as to ensure that Scottish individuals who are entitled to adult disability assistance can continue accessing the full range of benefits and welfare services without any interruption or disadvantage after ADP launches.

13. If no changes are proposed, please explain why.

Social security is a service that is directly targeted towards disadvantaged people and is designed to reduce the amount of disadvantage they face. The Amendment Regulations are necessary to prevent Scottish individuals and local authorities from becoming disadvantaged by the devolution of Scottish disability assistance. This policy has been developed as part of the wider development of the devolved Scottish social security system and any changes that can be made to improve the system (and thus reduce socio-economic disadvantage) have already been assessed and factored into this policy.

**Sign off of the Fairer
Scotland Assessment
template**

Name: Ian Davidson

Job title: Deputy Director, Social Security Policy